ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA
Regular Session, 1973
First Extraordinary Session, 1973
First Extraordinary Session, 1972
FOREWORD

This volume contains the acts of the First Regular Session and the First Extraordinary Session of the 61st West Virginia Legislature, the First Extraordinary Session of 1972, and resolutions of general interest adopted during these sessions.

Regular Session, 1973

The first regular session of the 61st Legislature convened on January 10, 1973, and following election of officers of the two houses, the opening and publishing of the returns of the election of state officers held on the 7th day of November, 1972, all as prescribed by Section 18, Article VI, of the Constitution of the State, the adoption of rules to govern the proceedings of the two houses and separately and concurrently acting on certain other matters incident to organization, took an adjournment until February 14, 1973, as provided by the aforesaid section of the Constitution. Reconvening on February 14, pursuant to the adjournment, the constitutional 60-day limitation on the session ended at midnight April 14, 1973. However, the session having been extended by proclamation of the Governor for the purpose of passing the annual Budget Bill, final adjournment did not come until April 17, 1973.

Bills totaling 1423 were introduced in the two houses during the session (849 House and 574 Senate), the largest number introduced in the history of the Legislature. The Legislature passed 167 bills, 105 House and 62 Senate. The Governor approved 144 bills and vetoed 25. However, two bills disapproved were amended, repassed and subsequently approved by the Governor, leaving a net total of 23 bills lost through veto. The number of vetoes this session also establishes a record, surpassing the 14 vetoed by Governor M. M. Neely in 1943.

There were 117 concurrent resolutions during the session, 64 House and 53 Senate, of which 17 House and 16 Senate were adopted. Twenty-four House Joint and 17 Senate Joint Resolutions were introduced proposing amendments to the State Constitution. The Legislature adopted two House Joint Resolutions—HJR 5 and HJR 7—proposing a Vietnam Veterans Bonus Amendment and Homestead Exemption Amendment, respectively; and one Senate Joint Resolution—SJR 17, proposing a $500 million Road Bond Amendment. The House had 53 House Resolutions and the Senate had 16 Senate Resolutions, of which 37 House and 16 Senate were adopted.

The Senate failed to pass 78 House Bills passed by the House and 55 Senate Bills failed passage by the House. Three House bills, two Senate bills and one House Joint Resolution died in conference.

During the session, 255 House Bills (29.9%) and 183 Senate Bills (31.8%) were reported from the respective standing committees of the two houses.
Foreward

First Extraordinary Session, 1973

The first extraordinary session of the 61st Legislature convened on May 22, 1973, and adjourned sine die July 13, 1973. During the session two adjournments were taken for more than three days— from June 8 to June 26 and from June 28 to July 9.

There were 170 bills introduced in the two houses—91 House and 79 Senate—dealing with the 24 items of business set forth in the proclamation of the Governor convening the session. The Legislature passed 38 bills—24 House and 14 Senate. The Governor approved 35 bills and vetoed five. However, two bills disapproved and returned by the Governor were amended and repassed, and subsequently approved, leaving a net total of three bills lost through veto. The bills vetoed and not again considered by the Legislature were H. B. 265, dedicating personal income tax for servicing school building bonds; S. B. 51, consumer credit and protection; and S. B. 55, Industrial Development Authority.

There were 24 concurrent resolutions introduced during the session, nine House and 15 Senate, of which three House and nine Senate were adopted. Seven House Joint and five Senate Joint Resolutions were introduced proposing amendments to the State Constitution. Only one joint resolution was adopted—HJR 3—the Sheriff's Succession Amendment. The House had 18 House Resolutions and the Senate had 17 Senate Resolutions, of which seven House and 14 Senate were adopted.

The Senate failed to pass 25 House Bills passed by the House and four Senate Bills communicated to the House were not passed.

Four House Bills were rejected on passage: H 222, appropriation for tuition support of students enrolled in institutions of higher learning; H 223, appropriation for state aid to schools; H 225, appropriation to Commission on Postmortem Examination; and H 246, supplementary appropriation to Public Land Corporation—historic sites and Blennerhassett Island acquisition.

Fifty-six House Bills (61%+ ) and 21 Senate Bills (26%+ ) were reported from the respective standing committees of the two houses.

Five bills—two House and three Senate were left on the Senate Calendar upon adjournment of the session. No bills were left on the House Calendar.

First Extraordinary Session, 1972

The Legislature convened for the First Extraordinary Session of 1972 on April 19, 1972, and after an adjournment from April 22 to June 7, adjourned sine die on June 9, 1972.
A total of 45 bills were introduced during the session—23 House Bills and 22 Senate Bills. Six House Bills and six Senate Bills were passed, all of which were approved by the Governor.

There were three House Joint, nine House Concurrent and 14 House Resolutions offered during the session. Three House Concurrent and 13 House Resolutions were adopted. The Senate had four Joint, four Senate Concurrent and 11 Senate Resolutions introduced, of which one Joint, two Concurrent and 11 Senate Resolutions were adopted. The Senate Joint Resolution adopted ratified a proposed amendment to the Constitution of the United States relating to equal rights for men and women.

Four Senate Bills, passed by the Senate, failed passage by the House.

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C. A. BLANKENSHIP, Clerk
House of Delegates
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REGULAR SESSION, 1973

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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<td>Charles Donley (D)</td>
<td>Weisburg</td>
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<td>Cabell</td>
<td>Roy A. Edwards, Jr. (R)</td>
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(D) Democrats ........................................ 57
(R) Republicans ...................................... 43

Total .................................................. 100
MEMBERS OF THE SENATE

REGULAR SESSION, 1973

OFFICERS
President—W. T. Brotherton, Jr., Charleston
Clerk—Howard W. Carson, Fayetteville
Sergeant at Arms—John E. Howell, Charleston
Doorkeeper—Gerald L. Chafin, Delbarton

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(†) Elected in 1972 for unexpired term.
(∗) Elected in 1970. All others elected in 1972.

(D) Democrats 24
(R) Republicans 10
Total 34
STANDING COMMITTEES OF THE SENATE

AGRICULTURE
Beall (Chairman), Susman (Vice Chairman), Dillon, Gainer, Hatfield, Neeley, Oates, Williams, Jones, Leonard and Rogerson.

CONFIRMATIONS
Benson (Chairman), Dillon (Vice Chairman), Darby, Davis, Galperin, Hamilton, Wallace, Ward, Willis, Gilligan, Harman, Leonard and Rogerson.

EDUCATION
Nelson (Chairman), Willis (Vice Chairman), Beall, Benson, Dillon, Galperin, McGraw, Oates, Sharpe, Wallace, Deem, Gilligan, Hubbard, Jones and Poffenbarger.

ELECTIONS
Williams (Chairman), McGraw (Vice Chairman), Galperin, Hamilton, Huffman, Moreland, Nelson, Palumbo, Deem, Jones and Leonard.

FINANCE
Fanning (Chairman), Susman (Vice Chairman), Beall, Darby, Dillon, Gainer, Galperin, Huffman, McGraw, Neeley, Sharpe, Williams, Willis, Gilligan, Harman, Hinkle, Leonard and Rogerson.

HEALTH
Wallace (Chairman), Darby (Vice Chairman), Galperin, Hatfield, Moreland, Sharpe, Harman, Jones and Leonard.

INSURANCE AND CORPORATIONS
Neeley (Chairman), Williams (Vice Chairman), Benson, Hamilton, Huffman, Moreland, Oates, Susman, Ward, Deem, Kusic, Poffenbarger and Rogerson.

INTERSTATE COOPERATION
Gainer (Chairman), Moreland (Vice Chairman), Neeley, Nelson, Susman, Harman and Poffenbarger. (The President is a nonvoting member.)

JUDICIARY
Palumbo (Chairman), Oates (Vice Chairman), Benson, Davis, Gainer, Hamilton, Hatfield, Moreland, Neeley, Nelson, Wallace, Ward, Willis, Deem, Hubbard, Jones, Kusic and Poffenbarger.
SENATE COMMITTEES

LABOR
Oates (Chairman), Sharpe (Vice Chairman), Darby, Dillon, Huffman, Ward, Harman, Kusic and Leonard.

LOCAL GOVERNMENT
Galperin (Chairman), Huffman (Vice Chairman), Benson, Dillon, Moreland, Willis, Hinkle, Kusic and Poffenbarger.

MILITARY
Moreland (Chairman), Neeley (Vice Chairman), Davis, Hatfield, McGraw, Williams, Harman, Hinkle and Poffenbarger.

MINES AND MINING
Susman (Chairman), Fanning (Vice Chairman), Benson, Gainer, Hamilton, Williams, Willis, Deem and Kusic.

NATURAL RESOURCES
Gainer (Chairman), Benson (Vice Chairman), Beall, Dillon, Fanning, Galperin, McGraw, Oates, Palumbo, Susman, Willis, Deem, Hubbard, Kusic and Rogerson.

PUBLIC INSTITUTIONS
Sharpe (Chairman), Hatfield (Vice Chairman), Darby, Davis, McGraw, Nelson, Wallace, Gilligan, Harman, Hinkle and Leonard.

RULES
Brotherton (ex officio Chairman), Fanning, Gainer, Moreland, Palumbo, Susman, Ward, Deem, Hubbard and Poffenbarger.

TRANSPORTATION
Dillon (Chairman), Hamilton (Vice Chairman), Beall, Davis, Gainer, Huffman, Neeley, Nelson, Palumbo, Sharpe, Wallace, Williams, Deem, Gilligan, Hinkle, Jones, Poffenbarger and Rogerson.

JOINT COMMITTEES

ENROLLED BILLS
Darby (Chairman), Davis (Vice Chairman), Beall, Leonard and Rogerson.

GOVERNMENT AND FINANCE
Brotherton (ex officio Chairman), Fanning, Palumbo, Sharpe, Ward, Deem and Hubbard.

JOINT RULES
Brotherton (ex officio Chairman), Ward and Hubbard.

PURCHASING PRACTICES AND PROCEDURES COMMISSION
Brotherton (Chairman), McGraw, Nelson, Harman and Hubbard.
STANDING COMMITTEES OF THE
HOUSE OF DELEGATES

1973

AGRICULTURE AND NATURAL RESOURCES
Hawse (Chairman), Ballouz (Vice Chairman), Belknap, Brenda, Bumgarner, Cline, Gilliam, Goodwin, Merritt, Neal, Shiflet, Van Meter, White, Whitlow, Withrow, Butcher, Everson, Files, McCuskey, McCutcheon, Mulneix, Ours, Polen, Prunty and Swann.

BANKING AND INSURANCE
Hager (Chairman of Banking), Cookman (Chairman of Insurance), Shingleton (Vice Chairman), Belknap, Bumgarner, Cline, Hawse, Myles, Pauley, Peak, Reed, Scott, Shiflet, Tucker, Van Meter, Beneke, Calendine, Carmichael, Gillispie, Hawkins, Karickhoff, Paterno, Romine, Teets and Zakaib.

CONSTITUTIONAL REVISION
Tucker (Chairman), Colombo (Vice Chairman), Ballouz, Bumgarner, Carey, Dinsmore, Donley, Hatfield, Jolliffe, Morasco, Rollins, Savilla, Sommerville, Stalnaker, Underwood, Copenhaver, Field, Holt, Jones (Kanawha), McCuskey, McCutcheon, Mulneix, Potter, Smirl and Stone.

EDUCATION
Lohr (Chairman), Pauley (Vice Chairman), Allen, Ballouz, Carey, Donley, Given, Goodwin, Mathis, McKenzie, Neal, Peak, Polan, Stacy, Tonkovitch, Beneke, Calendine, Edwards, Everson, Greer, Harman, Holt, Jones (Monongalia), Karickhoff and Shaffer.

FINANCE
Pauley (Chairman), Colombo (Vice Chairman), Belknap, Brenda, Cookman, D’Aurora, Hager, Kincaid, Mathis, Moler, Morasco, Reed, Savilla, Toney, Whitlow, Butcher, Grewe, Herndon, Kopelman, Ours, Paterno, Romine, Stafford, Teets and Terry.

HEALTH AND WELFARE
Withrow (Chairman), D’Aurora (Vice Chairman), Brenda, Bumgarner, Lohr, Moore, Neal, Peak, Queen, Rutledge, Stacy, Stalnaker, Tonkovitch, Van Meter, White, Calendine, Edwards, Field, Gillispie, Greer, Jeter, McCuskey, Moats, Paterno and Shaffer.

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HOUSE COMMITTEES

INDUSTRY AND LABOR

Kopp (Chairman), Rutledge (Vice Chairman,) Allen, Carey, Christian, Colombo, D’Aurora, Gilliam, Given, Hatfield, McKenzie, Moore, Morasco, Prestera, White, Beneke, Carmichael, Copenhaver, Harman, Hawkins, Jeter, Kopelman, McCutcheon, Shaffer and Stafford.

INTERSTATE COOPERATION

Kopp (Chairman), Cookman, Hawse, Queen, Harman, Mulneix and Potter. (The Speaker is a nonvoting member).

JUDICIARY

Sommerville (Chairman), Queen (Vice Chairman), Christian, Davidson, Dinsmore, Jolliffe, Kopp, Merritt, Moore, Myles, Prestera, Scott, Shingleton, Tucker, Underwood, Field, Jones (Kanawha), Moats, Mulneix, Polen, Potter, Shaw, Smirl, Stone and Zakaib.

POLITICAL SUBDIVISIONS

Dinsmore (Chairman), Merritt (Vice Chairman), Carey, Davidson, Hatfield, Kincaid, Mathis, McKenzie, Moler, Polan, Shingleton, Stacy, Stalnaker, Toney, Underwood, Carmichael, Gillispie, Grewe, Hawkins, Haynes, Herndon, Meadows, Stone, Teets and Terry.

ROADS AND TRANSPORTATION

Goodwin (Chairman), Donley (Vice Chairman), Allen, Belknap, Christian, Davidson, Gilliam, Hager, Hatfield, Hawse, Mathis, Paulley, Prestera, Savilla, Stalnaker, Copenhaver, Files, Haynes, Herndon, Jones (Monongalia), Karickhoff, Meadows, Moats, Prunty and Swann.

RULES

McManus (ex officio Chairman), Burke, Kopp, Lohr, Myles, Shiflet, Sommerville, Jones (Kanawha), Ours, Polen, Potter and Seibert.

STATE AND FEDERAL AFFAIRS

Scott (Chairman), Whitlow (Vice Chairman), Colombo, Dinsmore, Gilliam, Jolliffe, Kincaid, McKenzie, Moler, Polan, Reed, Rollins, Sommerville, Tonkovich, Files, Haynes, Holt, Jeter, Meadows, Prunty, Shaw, Smirl, Swann and Zakaib.
ENROLLED BILLS
Christian (Chairman), McKenzie, Neal, Smirl and Swann.

GOVERNMENT AND FINANCE
McManus (ex officio chairman), Lohr, Myles, Pauley, Sommerville, Ours and Seibert.

JOINT RULES
McManus (ex officio Chairman), Myles and Seibert.

SELECT COMMITTEE
REDISTRICTING
Cline (Chairman), Given (Vice Chairman), Belknap, Brenda, Burke, Cookman, Kincaid, Kopp, Lohr, Merritt, Pauley, Queen, Rollins, Toney, Tucker, Butcher, Grewe, Harman, Jones (Kanawha), Jones (Monongalia), Ours, Polen, Potter, Romine and Terry.

PURCHASING PRACTICES AND PROCEDURES COMMISSION
McManus (Chairman), Cline, Myles, Butcher and Seibert.
AN ACT to amend and reenact section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to administration of estates and trusts; personal representatives; appraisers; and authority of appraisers to act throughout the state.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. PERSONAL REPRESENTATIVES.

§44-1-14. Appraisal of estates in duplicate; disposition; authority of appraisers to act throughout the state.

1. The real and personal estate of every deceased person shall be appraised as follows: The court or clerk by whose order any person is authorized to act as personal representative shall, upon the qualification of such personal representative, appoint not less than three nor more than five appraisers, any three of whom may act, in the county in which the will of the deceased is probated or administration is granted upon his estate, and a like number in every other county in which there may be any real or personal estate of the deceased: Provided, That at the request of the personal representative, the appraisers appointed
in the county in which the will of the deceased is probated
or administration is granted upon his estate shall have the
authority to act in any county in the state in which there may
be any real or personal estate of the deceased and the court or
clerk shall so designate in the order of appointment, and, in
such event, it shall be unnecessary to appoint appraisers in
every other county in which there may be any real or personal
estate of the deceased. Such appraisers, after first taking an
oath for the purpose, shall list and appraise at its real
and actual value all the real estate and all the tangible
property of every description owned by the deceased at the time
of his death and located in each county or the counties, as the
case may be, and they shall also list and appraise all his in-
tangible property of every description, including moneys,
credits, investments, annuities, insurance policies, judgments,
and decrees for moneys, notes, bonds, accounts and all other
evidences of debt, whether owing to him by persons or corpora-
tions in or out of the state, and the number and value, including
both the par value, if any, and the actual value, of any shares
of capital stock owned by him in any corporation, whether
located in this state or elsewhere. Such appraisers shall
designate such intangible property as good, bad or doubtful
as to them may appear to be correct, and by whom owing
and when payable, and from what time such of them as are
interest-bearing bear interest. Every note, bond or evidence of
debt shall have endorsed thereon the word "appraised," under
which each acting appraiser shall sign his name. No judgment
shall be rendered by any of the courts of the state upon such
note, bond or evidence of debt unless and until the same shall
be first shown to have been listed by the appraisers: Provided,
however, That any note, bond or evidence of debt which bears
the endorsement by the appraisers, as above required, shall
need no further proof that the same was listed. The several
appraisements and lists aforesaid shall be executed in duplicate
and shall be signed by the appraisers who made the same, and
be forthwith returned to the commissioner of accounts to
whom the estate of such deceased person has been referred
as provided in section one, article two of this chapter. Said
commissioner of accounts shall inspect such appraisements, see
that the same are in proper form, and, within ten days after
they are received and approved by him, deliver one copy of the
same to the clerk of the county court, who shall record the
same, with the certificate of approval, and mail one copy of
the same to the tax commissioner of West Virginia. The date
of return of an appraisement shall be entered by such clerk
in his record of fiduciaries. Every such appraisement and list
shall be prima facie evidence of the value of the estate
embraced therein, and that the personal estate embraced
therein came to the hands of the personal representative.
Such appraisers shall each receive a fee of not less than one
dollar nor more than five dollars per day, to be fixed by said
commissioner in accordance with the amount of the estate
and the work involved in making the appraisement, and their
actual expenses necessarily incurred in making such appraise-
ment, and such fees and expenses and the commissioner's
approval thereof shall be noted in the commissioner's certifi-
cate. No person shall be permitted by any means whatsoever to
avoid the appraisement and listing of his estate as herein
provided, nor shall his personal representative be permitted
to do so. Any personal representative who fails, refuses or
declines to comply with the provisions of this section shall
be guilty of a misdemeanor, and, upon conviction, shall be
fined not less than twenty-five dollars nor more than five
hundred dollars.

CHAPTER 2

(Senate Bill No. 130—By Mr. Gainer and Mr. Deem)

(Passed March 24, 1973; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact section three, article five, chapter
forty-four of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to appointment of
a nonresident individual, nonresident banking institution, or
corporation without principal office or place of business in
this state, as executor, administrator, curator, guardian or
committee; broadening said section so as to authorize cer-
tain nonresidents to qualify and serve as executors under
wills of resident decedents upon furnishing of bond; relating
to the penalty of any such bond; relating to the removal of personal estate of a resident decedent from this state; specifying that the liability of a nonresident executor and his surety shall be joint and several; relating to service of notice or process on nonresident executors; providing for appointment of the clerk of county court as statutory attorney in fact upon whom notice or process in any action or proceeding against a nonresident executor or with respect to estate may be served; specifying manner of, and records with respect to, service upon such clerk; requiring the forwarding of a copy of notice or process to nonresident executor and his receipt or refusal thereof, providing limitation on time of service; providing that manner of service is cumulative; providing for fees; relating to criminal offenses; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. GENERAL PROVISIONS AS TO FIDUCIARIES.

§44-5-3. Appointment of nonresident; bond; service of notice and process; fees; penalty.

1 Notwithstanding any other provision of law, no person
2 not a resident of this state nor any nonresident banking
3 institution nor any corporation having its principal office
4 or place of business outside this state shall be appointed
5 or act as executor, administrator, curator, guardian or com-
6 mittee, except that a testator who is a nonresident of this
7 state at the time of his death may name, and there may
8 be appointed and act, a nonresident as his executor, and
9 except that for the guardian of an infant who is a non-
10 resident of this state there may be appointed and act the
11 same person who is appointed guardian at the domicile of
12 the infant: Provided, That whenever the will of a decedent
13 who was a resident of this state at the time of his death, 14 hereinafter in this section referred to as “resident dece-
15 dent,” designates an individual, who is the husband, wife,
16 father, mother, brother, sister, child, grandchild or sole
beneficiary of such resident decedent, as executor, then such
designated individual may qualify and act as such executor
notwithstanding the fact that he is a nonresident. Nonresi-
dent executors of resident decedents shall give bond with
corporate surety thereon, qualified to do business in this
state, in such penalty as may be fixed pursuant to the pro-
visions of section seven, article one of this chapter except
that such penalty shall not be less than (1) double the value
of the personal estate and (2) double the value of any real
property authorized to be sold under the will or the value of
any rents and profits from any real property which the will
authorizes such nonresident executor to receive. The per-
sonal estate of a resident decedent may not be removed
from this state until the inventory or appraisement of the
resident decedent's estate has been filed and any new or
additional bond required to satisfy the penalty specified
above in this section has been furnished. The liability of
such nonresident executor and such surety shall be joint
and several and a civil action on any such bond may be
instituted and maintained against the surety, notwithstand-
ing any other provision of this code to the contrary, even
though no civil action has been instituted against the non-
resident executor.

When a nonresident qualifies as an executor pursuant
to the provisions of this section, he thereby constitutes
the clerk of the county court wherein the will was ad-
mitted to probate, or his successor in office, his true and
lawful attorney in fact upon whom may be served all
notices and process in any action or proceeding against
him as executor or with respect to such estate, and such
qualification shall be a signification of such executor's
agreement that any such notice or process, which is
served in the manner hereinafter in this section provided,
shall be of the same legal force and validity as though
said executor were personally served with notice and pro-
cess within this state. Service shall be made by leaving
the original and two copies of any notice or process,
 together with a fee of five dollars, with the clerk of such
county court, whereupon such clerk shall endorse upon
one copy thereof the day and hour of service and shall
file such copy in his office and said service shall con-  
stitute personal service upon such nonresident executor:  
Provided, however, That the other copy of such notice  
or process shall be forthwith sent by registered or certi-  
fied mail, return receipt requested, deliver to addressee  
only, by said clerk to the nonresident executor at the address  
last furnished by him to said clerk and either (a) such non-  
resident executor’s return receipt signed by him or (b) the  
registered or certified mail bearing thereon the stamp of the  
post-office department showing that delivery therefor was  
refused by such nonresident executor is appended to the  
original notice or process and filed therewith in the office of  
the clerk of the court from which such notice or process was  
issued. No notice or process shall be served on such clerk of  
the county court or accepted by him less than twenty days  
before the return day thereof. The clerk of such county court  
shall keep a record in his office of all such notices and  
process and the day and hour of service thereof. The pro-  
vision for service of notice or process herein provided is  
cumulative and nothing herein contained shall be construed  
as a bar to service by publication where proper or to the  
service of notice or process in any other lawful mode or  
manner. The fee of five dollars shall be deposited in the  
county treasury.

Any nonresident executor who removes from this state the  
personal estate of a resident decedent without complying with  
the provisions of this section shall be guilty of a misdemeanor,  
and, upon conviction thereof, shall be punished by a fine of  
not more than one thousand dollars or by confinement in the  
county jail for not more than one year, or, in the discretion  
of the court, by both such fine and imprisonment.

CHAPTER 3

(Senate Bill No. 84—By Mrs. Leonard)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, article twenty,  
chapter nineteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to agriculture; dogs protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; removal of age requirement.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 20. DOGS.

§19-20-12. Dogs protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties.

Any dog which is registered, kept and controlled as provided in this article or any dog, irrespective of age, which shall be owned and kept by any person shall be protected by law; and any person who shall unlawfully steal, kill or injure, administer poison to or knowingly expose the same so that it shall be taken by any such dog, or shall, in any other manner, intentionally and unlawfully cause the death or injury of any such dog shall be guilty of a misdemeanor, and, if such dog be of the assessed value of more than twenty dollars, shall, upon conviction, be imprisoned in the county jail for a period not in excess of twelve months, or fined not in excess of two hundred dollars, or both, in the discretion of the court; and if such dog be of twenty dollars or less in assessed value, such person shall be imprisoned in the county jail for a period not in excess of six months, or fined not in excess of fifty dollars, or both, in the discretion of the court. Any person whose dog shall be killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure such dog, but in no case can recovery be had in excess of the assessed value of such dog. In no case can any action under the provisions of this section be maintained if the dog concerned shall not have been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

It shall be the duty of all members of the department of
public safety, sheriffs, constables and police officers to aid in the enforcement of the provisions of this article, and for services rendered in the enforcement thereof such persons shall be entitled to fees in the amounts set forth in section eight. Such fees shall be paid by the county court from the dog and kennel fund.

CHAPTER 4

(House Bill No. 825—By Mr. Mulneix and Mr. Hawse)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the qualifications and terms of supervisors of soil conservation districts; their powers and duties and per diem allowances.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 21A. SOIL CONSERVATION DISTRICTS.

§19-21A-7. Supervisors to constitute governing body of district; qualifications and terms of supervisors; powers and duties.

1 The governing body of the district shall consist of the supervisors, appointed or elected, as provided in preceding sections.
2 The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder, and must be legal residents and landowners of the district.
3 The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of
each supervisor shall be three years, except that the supervisors who are first appointed shall be designated to serve for terms of one and two years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected, or appointed. In case a new county or portion thereof is added to a district the committee may appoint a supervisor to represent it until such time as the next regular election of supervisors for the district takes place. In case a vacancy occurs among the elected supervisors of a district the committee shall appoint a successor from the same county to fill the unexpired term. Such appointment shall be made from a name or list of names submitted by local farm organizations and agencies. When any county or portion thereof lying within the boundaries of a district shall have in effect eight hundred or more signed agreements of cooperation with occupiers of land located within said county, then at the next regular election of supervisors the land occupiers within said county or portion thereof are entitled to elect two supervisors to represent the county instead of one for the term and in the manner previously prescribed. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, and a per diem not to exceed twelve dollars when engaged in the performance of his duties.

The supervisors may with the approval of the state committee employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may delegate to their chairman, to one or more supervisors or to one or more agents, or employees, such administrative powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this article.
The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of a district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

CHAPTER 5

(House Bill No. 1278—By Mr. Speaker, Mr. McManus)

[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article twenty-nine-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county airports; their authority to employ attorneys.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 29A. COUNTY AIRPORT AUTHORITIES.


1 A county airport authority is hereby given power and authority as follows:

2 (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 including attorneys 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 water-
works, 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; and

(12) To expend its funds in the execution of the powers and authority herein given.

CHAPTER 6

(Com. Sub. for House Bill No. 615—By Mrs. Smirl and Mr. Rollins)

[Passed March 1, 1973; in effect from passage. Approved by the Governor.]

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-b, relating generally to airport security; setting forth certain legislative findings and a statement of purpose; defining terms; granting plenary power and authority to airport operator to manage and control airport, to promulgate rules and regulations concerning same and to enforce such rules and regulations; providing criminal offenses and penalties; relating to jurisdiction of justices of the peace; requiring rules and regulations as to airport security; authorizing airport police officers; relating to arrangements and compensation for airport police officers; vesting in airport operators and airport police officers plenary power and authority to enforce federal, state and local laws, ordinances, rules and regulations, including rules and regulations of airport operator; requiring an airport police officer to qualify, to wear a uniform, badge or other indicia of authority and to carry a deadly weapon; relating to termination of assignment and relief from duty of airport police officers; relating to power and
authority of airport police officers; exempting airport police officers from requirement for license to carry deadly weapon; relating to insurance coverage of or bond for airport police officers; and requiring certain security measures.

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-b, to read as follows:

ARTICLE 29B. AIRPORT SECURITY.

§8-29B-1. Legislative findings and purpose.

The Legislature hereby finds and declares that there is an ever increasing need to eliminate the highjacking of aircraft, air piracy and other criminal and terrorist activities involving air passengers, airport personnel, aircraft and airport property and facilities. This article is enacted in view of this finding and the purpose of this article is to facilitate the providing of airport security.

§8-29B-2. Definitions.

As used in this article:

(1) "Aircraft" means any contrivance now known, or hereafter invented, and used for flight in the air and which is operated by an air carrier holding a certificate issued by the civil aeronautics board of the department of transportation of the United States.

(2) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, as defined above, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(3) "Airport operator" means a governing body, regional
airport authority or county airport authority, under articles twenty-eight, twenty-nine or twenty-nine-a of this chapter, or a board, commission, authority or committee operating under any local act of the Legislature, charged with the operation and management of an airport.

(4) "Airport police officer" means any individual assigned, appointed or designated by an airport operator, to serve as a police officer at an airport.

§8-29B-3. Rules and regulations; penalties.

Each airport operator shall have plenary power and authority to manage and control the airport under its jurisdiction, to promulgate rules and regulations concerning the management and control of such airport and to enforce any such rules and regulations so promulgated. Any rules and regulations promulgated shall be printed and posted in a conspicuous public place on the airport premises. The violation of any such rule or regulation shall constitute a misdemeanor, and any person convicted of any such violation shall be punished by a fine of not less than five dollars nor more than one hundred dollars or by imprisonment in jail for a period not exceeding thirty days, or by both such fine and imprisonment. Justices of the peace of the county shall have concurrent jurisdiction with the circuit court and other courts of record having criminal jurisdiction of any misdemeanor offenses arising under this article. Violation of any such rule or regulation which also constitutes the violation of any federal or state law or municipal ordinance may be prosecuted and punished as a violation of such federal or state law or municipal ordinance rather than under the provisions of this article. It shall be the duty of every airport operator in this state to promulgate all rules and regulations deemed necessary for airport security.

§8-29B-4. Arrangements for airport police officers; uniform and badge; firearm required.

(a) To enforce any federal or state law or rules and regulations relating to airports and airport security and any rules and regulations promulgated by the airport operator, to protect air passengers, airport personnel, aircraft and the airport and to preserve law and order in connection therewith, the airport operator shall have plenary power and authority to
make arrangements for one or more airport police officers, pursuant to the provisions of subsections (b) and (c) of this section.

(b) In those instances in which the airport operator is the governing body of a municipality, and if requested by such airport operator, one or more police officers of such municipality shall be assigned by the mayor thereof to serve as an airport police officer or officers. In those instances in which the airport operator is the governing body of a county or is a county airport authority, and if requested by such airport operator, one or more deputy sheriffs of such county may be assigned by the sheriff of such county, in his discretion, to serve as airport police officer or officers. Compensation for the performance of duties by any such officer assigned as an airport police officer shall be paid as agreed between the airport operator and the mayor or sheriff, as the case may be.

(c) In lieu of or in addition to obtaining one or more airport police officers pursuant to the provisions of subsection (b) of this section and in all instances in which the airport operator is other than as specified in said subsection (b), the airport operator may provide for the appointment and supervision of, or contract for the furnishing by any private security force and the designation by such airport operator of, one or more airport police officers, and pay the agreed compensation thereto or therefor. Any person appointed or designated as an airport police officer pursuant to the provisions of this subsection (c) shall, before entering upon the performance of his duties, qualify in the same manner as is required of a constable by the taking and filing of an oath of office as required by article one, chapter six of this code and by the filing of an official bond as required by article two of said chapter six.

(d) The airport operator may terminate the assignment of an airport police officer assigned pursuant to the provisions of subsection (b) of this section by notice to the mayor or sheriff, as the case may be, who made the assignment, and the airport operator may relieve any person appointed or designated, pursuant to the provisions of subsection (c) of this section, from his duty as an airport police officer, by filing a notice to such effect in the office in which such person's oath of office as an airport police officer was officially filed.
(e) The airport operator shall specify a uniform, badge or other indicia of authority to be worn by all airport police officers while on duty: Provided, That as to any airport police officer who is either a municipal police officer or deputy sheriff, the uniform, badge or other indicia of authority specified shall be the uniform, badge or other indicia of authority worn by such individual as a municipal police officer or deputy sheriff, as the case may be.

(f) Every airport police officer shall be trained in the use of firearms and shall, unless otherwise provided by rules and regulations promulgated by the airport operator, carry a firearm at all times while on duty.

§8-29B-5. Jurisdiction of airport police officers; insurance coverage; bonds.

In any area under the jurisdiction and control of the airport operator, or in connection with the airport, or in pursuit of one or more individuals therefrom, any airport police officer shall have (1) all of the power and authority which a regularly appointed deputy sheriff of a county in this state has in enforcing the criminal laws of this state; (2) full power and authority to enforce any and all federal laws and rules and regulations relating to airports, air passengers, baggage inspection, the screening of air passengers and other airport security measures; (3) full power and authority to enforce any and all rules and regulations promulgated by the airport operator; and (4) the power to search persons, packages, containers and baggage and the power to arrest persons: Provided, That the foregoing provisions of this section shall under no circumstances whatever be construed as in any way limiting the power and authority of a municipal police officer or deputy sheriff who has been assigned to serve as an airport police officer which he has by virtue of his being a municipal police officer or deputy sheriff, and under no circumstances whatever shall the assignment or appointment or designation of one or more airport police officers at an airport be deemed in any way to supersede or limit the power and authority of other peace officers to preserve law and order at such airport.

Consistent with the provisions of section five, article seven, chapter sixty-one of this code, any municipal police officer or deputy sheriff assigned as an airport police officer pursuant to
the provisions of subsection (b), section four of this article, and (notwithstanding any provision of this code to the contrary) any person appointed or designated as an airport police officer pursuant to the provisions of subsection (c), section four of this article, shall not be required to obtain a state license to carry a deadly weapon, as provided for in section two, article seven of said chapter sixty-one. Any municipal police officer or deputy sheriff assigned as an airport police officer pursuant to the provisions of subsection (b), section four of this article shall not be required to furnish any bond under section five, article seven of said chapter sixty-one other than the bond furnished thereunder as such municipal police officer or deputy sheriff. When one or more policies of public liability insurance are obtained providing insurance coverage for legal liability of an airport police officer for bodily injury, personal injury or damage (including, but not limited to, false arrest and false imprisonment) and property damage, and affording said airport police officer insurance coverage against any and all legal liability arising from, growing out of, or by reason of or in any way connected with, any acts or omissions of said airport police officer in the performance of his official duties, and so long as the coverage aforesaid remains in full force and effect as to such airport police officer, then the bond specified in section five, article seven of said chapter sixty-one shall not be required as to such airport police officer; otherwise such bond shall be required and must be furnished.

§8-29B-6. Required security measures.

1 In addition to any and all other security measures which may be required by an airport operator, and unless otherwise provided by rules and regulations promulgated by such airport operator, at least one airport police officer must be present prior to, at the point of, and throughout the final passenger screening process prior to the boarding of an aircraft at an airport (other than a charter or commuter flight), and such police officer shall be present continuously until all doors on such aircraft being boarded are closed and such aircraft has taxied away from the boarding area. An airport police officer shall have the same duty and responsibility in the event such aircraft returns to the boarding area prior to takeoff.
AN ACT to amend and reenact section seven, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the classification of alcoholic liquor agencies; compensation and bond of agent; increase in the maximum compensation.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-7. Agencies classified; compensation and bond of agent.

1 The commissioner shall classify state agencies into not more than five groups with respect to volume of business. An agent shall be compensated in a fixed sum, uniform within each group, and in an amount to be fixed by the commissioner, but not more than six thousand dollars in any one year.

2 Each agent shall give bond in an amount fixed by the commissioner conditioned upon the faithful observance of the provisions of this chapter, compliance with the rules and regulations of the commissioner, and the accounting for and paying over of all moneys coming into his custody by virtue of his agency. An agent shall not, at any time, have on hand a stock of alcoholic liquors greater in value than the amount of his bond.

CHAPTER 8

(House Bill No. 1290—Originating in the House Committee on the Judiciary)

[Passed April 13, 1973 in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four, seven and fourteen, article four; and sections four and sixteen, article five, all of
chapter fifty-eight of the code of West Virginia, 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 and the time therefor; 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; relating to appeals from, or writs of error or supersedeas to, any judgment, decree or order rendered or made by a circuit court, including an order of rejection, and the time therefor; requiring a notice of intent in criminal cases to be filed within sixty days after judgment is entered by a circuit court; relating to the contents of such notice of intent; relating to process upon any appeal, writ of error or supersedeas; and relating to the time for presentation of the record giving a bond in any such case.

Be it enacted by the Legislature of West Virginia:

That sections four, seven and fourteen, article four; and sections four and sixteen, article five, all of 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.
5. Appellate Relief in Supreme Court of Appeals.

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.

§58-4-7. Order showing action of circuit court on petition; second petition; application to supreme court of appeals or judge thereof.

§58-4-14. Time for presenting 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 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 and reextend such period for such additional period or periods, not to exceed a total extension of four months, as in his opinion may be necessary for preparation of the transcript, if the request for such transcript was made by the party seeking such judicial review within sixty days after such judgment, decree or order was rendered or made. Such judge may also extend and reextend such period for such additional period or periods of time not to exceed a total extension of four months, upon petition made prior to the expiration of the initial four month period for good cause shown and if the request for such transcript was made by the party seeking such judicial review within sixty days after such judgment, decree or order was rendered or made.

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.

§58-4-7. Order showing action of circuit court on petition; second petition; application to supreme court of appeals or judge thereof.

The circuit court or the judge thereof, upon consideration of the petition, shall enter an order granting or refusing it. If the circuit court or judge deems the judgment, decree or order of such court of limited jurisdiction to be plainly right, and rejects it on that ground, and the order of rejection so states, no further petition shall afterwards be presented to the circuit court or judge for the same purpose; but in any case where the circuit court or judge rejects the petition, the petition and order of rejection, together with the record of the cause, may, within four months from the date of the order of rejection, be presented to the supreme court of appeals, or any judge thereof in vacation, for an appeal from, or writ of error or supersedeas to, such order of rejection, and, if allowed,
the same proceedings may be had thereon as if the same were
a petition originally from the circuit court of such county to
the supreme court of appeals: Provided, That the judge of the
circuit court which rejected the petition may, prior to the
expiration of such period of four months by order entered of
record extend and reextend such period for such additional
period or periods, not to exceed a total extension of one month,
as in his opinion may be necessary for preparation of the
transcript of the proceeding in the circuit court, if the request
for such transcript was made by the party seeking judicial
review in the supreme court of appeals within thirty days after
the entry of such order of rejection. Such judge may also
extend and reextend such period for such additional period
or periods of time not to exceed a total extension of four
months, upon petition made prior to the expiration of the
initial four month period for good cause shown and if the
request for such transcript was made by the party seeking
judicial review in the supreme court of appeals within thirty
days after the entry of such order of rejection. After the
petition has been rejected by the circuit court or judge, the
clerk of the circuit court shall, as soon as may be, upon
request of the petitioner, transmit to the clerk of the supreme
court of appeals, or such judge of said court as the petitioner
shall designate, if said court be not then in session, by United
States registered mail or valued express, the petition, the
record of the cause as presented to the circuit court or judge,
and the order of rejection. Before such petition, record and
order are transmitted as aforesaid, the petitioner shall deposit
with the clerk of the circuit court a sufficient sum of money
to defray the costs of transmission and return of the record,
and the making of a transcript of the record, or file with the
clerk a bond conditioned to pay the same, in a penalty and with
sureties to be fixed and approved by such clerk, who shall
endorse on the petition that such deposit has been made or
such bond filed. If the appeal or writ of error prayed for be
granted, the clerk of the supreme court of appeals shall, im-
mediately after the issuance of the appellate process, return
the record to the clerk of the circuit court, by mail or express,
as aforesaid; and such circuit clerk shall forthwith make a
transcript, as provided in section seven of article five of this
chapter, of so much of the record as is required for the pur-
poses of the appeal or writ of error and transmit the same to
the clerk of the supreme court of appeals. Insofar as provision
therefor is not made by existing law, the compensation of the
clerk of the circuit court for services rendered hereunder
shall be fixed by the judge of the circuit court. If the prayer
of the petition be not granted by the supreme court of appeals
or judge thereof, the petition and record shall be returned as
aforesaid, and the clerk of the circuit court shall repay to the
petitioner, or his attorney, the money deposited with him, if
any, less his fees and expenses, and the petition and record
shall be returned to the office of the clerk of the court of
limited jurisdiction. The rejection of such petition by a judge of
the supreme court of appeals in vacation shall not prevent the
presentation of such petition to such court when in session.

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

1 No process shall issue upon any appeal, writ of error or
supersedeas allowed by a circuit court, or in the case of an
order of rejection the supreme court of appeals, or judge of
either of such courts to or from a judgment, decree or order, if,
when the record is delivered to the clerk of the appropriate
court, four months (or the extended period or periods, if any,
allowed by order pursuant to either section four or section
seven of this article, as the case may be) shall have elapsed
since the date of such judgment, decree or order; but the ap-
peal, 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.

ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF AP-
PEALS.

§58-5-4. Time for appeal or writ of error; notice of intent to file petition in
criminal cases to be filed with clerk stating grounds.

§58-5-16. Time for presenting record and giving bond.

§58-5-4. 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 for an appeal from, or writ
of error or supersedeas to, any judgment, decree or order, whether the state be a party thereto or not, which shall have been rendered or made more than eight months before such petition is presented: Provided, That the judge of the circuit court may, prior to the expiration of such period of eight months, by order entered of record extend and reextend such period for such additional period or periods, not to exceed a total extension of four months, as in his opinion may be necessary for preparation of the transcript, if the request for such transcript was made by the party seeking such judicial review within sixty days of the entry of such judgment, decree or order. Such judge may also extend and reextend such period for such additional period or periods of time not to exceed a total extension of four months, upon petition made prior to the expiration of the initial eight month period for good cause shown and if the request for such transcript was made by the party seeking such judicial review within sixty days of the entry of such judgment, decree or order.

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

§58-5-16. Time for presenting record and giving bond.

No process shall issue upon any appeal, writ of error or supersedeas allowed from or to a final judgment, decree or order, if, when the record is delivered to the clerk of the appellate court, eight months (or the extended period or periods, if any, allowed by order pursuant to section four of this article) shall have elapsed since the date of such final judgment, decree or order; but the appeal, writ of error or supersedeas shall be dismissed whenever it appears that eight months or the extended period or periods, if any, as the case may be, have 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 9
(Com. Sub. for Senate Bill No. 434—By Mr. Hubbard)
[Passed April 10, 1973; in effect from passage. Approved by the Governor.]

AN ACT transferring amounts between items of the total appropriation for certain state spending units as appropriated by chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, as amended.

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 160, Account No. 190, Account No. 240, Account No. 376, Account No. 430, Account No. 431, Account No. 432, Account No. 565, Account No. 616, Account No. 828, Account No. 8285 and Account No. 829, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, as amended, be transferred to read as follows:

<table>
<thead>
<tr>
<th>FISCAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>18—Treasurer's Office</strong></td>
</tr>
<tr>
<td>Acct. No. 160</td>
</tr>
<tr>
<td>2 Other Personal Services $ 178,220</td>
</tr>
<tr>
<td>3 Current Expenses      $ 47,468</td>
</tr>
</tbody>
</table>

| **19—State Commissioner of Public Institutions** |
| Acct. No. 190           |
| 4 Other Personal Services $ 474,900 |
| 5 Current Expenses      $ 145,900 |

<table>
<thead>
<tr>
<th>LEGAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>22—Attorney General</strong></td>
</tr>
<tr>
<td>Acct. No. 240</td>
</tr>
<tr>
<td>2 Other Personal Services $ 619,280</td>
</tr>
<tr>
<td>4 Equipment             $ 39,500</td>
</tr>
</tbody>
</table>
49—Huttonsville Correctional Center
Acct. No. 376
1 Personal Services $747,744
2 Current Expenses 350,750
3 Repairs and Alterations 61,750
4 Equipment 92,500

70—Hopemont State Hospital
Acct. No. 430
1 Personal Services $1,935,577
2 Current Expenses 410,125

71—Pinecrest State Hospital
Acct. No. 431
1 Personal Services $1,573,188
2 Current Expenses 533,500

72—Denmar State Hospital
Acct. No. 432
1 Personal Services $1,209,613
2 Current Expenses 347,000

97—Department of Natural Resources
Acct. No. 565
8 Clarke-McNary Fire Prevention $490,000
14 Work Incentive Program 164,000

117—Insurance Commissioner
Acct. No. 616
1 Personal Services $372,415
2 Current Expenses 98,000

130—Public Service Commission
Acct. No. 828
3 Current Expenses $126,735
7 Public Employees Health Insurance 20,500

131—Public Service Commission—
Gas Pipeline Division
Acct. No. 8285
2 Current Expenses $18,850
6 Public Employees Health Insurance 1,664
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-three shall be available for expenditure upon the effective date of this act.

CHAPTER 10

(Com. Sub. for Senate Bill No. 51—By Mr. Brotherton, Mr. President)

[Passed April 17, 1973; in effect from passage. Approved by the Governor April 21, 1973, after reducing certain items, deleting certain items and portions thereof, and making other modifications. Subsequently certain deletions, reductions and disapprovals by the Governor were invalidated by the Supreme Court of Appeals. See Clerk’s note on this page.]

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

Clerk’s note.—On July 3, 1973, the Supreme Court of Appeals in a mandamus proceeding in an action styled State ex rel. William T. Brotherton, Jr., etc. et al., v. C. A. Blankenship, Clerk, etc., held the actions of the Governor as to Account Nos. 110, 111, 114, 160 and 250 invalid and commanded the Clerk of the House of Delegates to publish such accounts as passed by the Legislature, ordered the publication of Account No. 295 published as shown on page 48, and ordered Item XI and Item XVI, Section 4, published as passed by the Legislature for the reason that with respect to these items the Governor failed to assign a reason for his actions. All other accounts were ordered published as altered and approved by the Governor. Following these accounts altered and approved by the Governor is a parenthetical note indicating the effect of his actions.

The actions of the Governor with respect to this bill, together with his objections, are contained in a letter directed to the Secretary of State bearing date of April 21, 1973. For the communication of the Governor to the Secretary of State, see Journal of the House of Delegates of April 17, 1973.
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 appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year one thousand nine hundred seventy-four.

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

“Governor” shall mean the Governor of the State of West Virginia;

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

The “fiscal year one thousand nine hundred seventy-four” shall mean the period from July first, one thousand nine hundred seventy-three through June thirtieth, one thousand nine hundred seventy-four;

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated “from collections” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Chapter 5A, Article 2 of the Code of West Virginia.

1 Section 3. Classification of Appropriations.—An appropriation for:

“Personal Services” shall be expended only for the payment of salaries, wages, fees and other compensation for skill, work, or employment, except from the appropriations made to the spending units of State Government, there may
be transferred upon approval of the Governor, to a special
account an amount sufficient to match Federal Funds under
any Federal Acts.

Unless otherwise specified, appropriations for personal ser-
vice shall include salaries of heads of spending unit;
“Current Expenses” shall be expended only for operating
cost other than personal services or capital outlay;
“Repairs and Alterations” shall include all expenditures for
materials, supplies and labor used in repairing and altering
buildings, grounds and equipment, other than personal services;
“Equipment” shall be expended only for things which have
an appreciable and calculable period of usefulness in excess
of one year;
“Buildings” shall include construction and alteration of struc-
tures and the improvements of lands, sewer and water im-
provements, and shall include shelter, support, storage, pro-
tection, or the improvement of a natural condition;
“Lands” shall be expended only for the purchase of lands or
interest in lands.

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

Sec. 4. Method of Expenditure.—Money appropriated by
this act, unless otherwise specifically directed, shall be appro-
priated 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.

§1. Appropriations from general revenue.

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Department of agriculture (meat inspection)—Acct. No. 514 ..................................... 69
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grounds building)—Acct. No. 518 .................................................................................. 69
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<th>Account Number</th>
</tr>
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<tr>
<td>Antiquities commission</td>
<td>478</td>
</tr>
<tr>
<td>Bureau of labor and department of weights and measures</td>
<td>450</td>
</tr>
<tr>
<td>Council of State Governments</td>
<td>472</td>
</tr>
<tr>
<td>Department of banking</td>
<td>480</td>
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<tr>
<td>Department of commerce</td>
<td>465</td>
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<tr>
<td>Department of mines</td>
<td>460</td>
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<tr>
<td>Interstate commission on Potomac river basin</td>
<td>473</td>
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<tr>
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<td>477</td>
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<tr>
<td>Ohio river basin commission</td>
<td>469</td>
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<tr>
<td>Ohio river valley water sanitation commission</td>
<td>474</td>
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<td>475</td>
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<td>470</td>
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<td>West Virginia nonintoxicating beer commissioner</td>
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<td>West Virginia racing commission</td>
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<td>West Virginia state aeronautics commission</td>
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### CHARITIES AND CORRECTION

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<thead>
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<tbody>
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<td>384</td>
</tr>
<tr>
<td>Forestry camp for boys No. 1 (Davis)</td>
<td>371</td>
</tr>
<tr>
<td>Huttonsville Correctional Center</td>
<td>376</td>
</tr>
<tr>
<td>West Virginia children's home</td>
<td>380</td>
</tr>
<tr>
<td>West Virginia forestry camp No. 2 (Leckie)</td>
<td>373</td>
</tr>
<tr>
<td>West Virginia industrial home for girls</td>
<td>372</td>
</tr>
<tr>
<td>West Virginia industrial school for boys</td>
<td>370</td>
</tr>
<tr>
<td>West Virginia penitentiary</td>
<td>375</td>
</tr>
<tr>
<td>West Virginia state prison for women</td>
<td>374</td>
</tr>
</tbody>
</table>

### CONSERVATION AND DEVELOPMENT

<table>
<thead>
<tr>
<th>Agency/Commission</th>
<th>Account Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of natural resources</td>
<td>565</td>
</tr>
<tr>
<td>Geological and economic survey commission</td>
<td>520</td>
</tr>
<tr>
<td>Public land corporation</td>
<td>566</td>
</tr>
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<table>
<thead>
<tr>
<th>Agency/Commission</th>
<th>Account Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of archives and history</td>
<td>340</td>
</tr>
<tr>
<td>Department of education</td>
<td>286</td>
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<tr>
<td>Department of education (aid for exceptional children)</td>
<td>296</td>
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<tr>
<td>Educational broadcasting authority</td>
<td>291</td>
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<tr>
<td>State board of education (early childhood aides)</td>
<td>297</td>
</tr>
<tr>
<td>State board of education (to implement federal vocational education Act)</td>
<td>293</td>
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<td>State board of education (vocational division)</td>
<td>294</td>
</tr>
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<td>State board of education (vocational division—adult basic education)</td>
<td>289</td>
</tr>
<tr>
<td>State department of education (state aid to schools)</td>
<td>295</td>
</tr>
</tbody>
</table>

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The above table lists the account numbers for various agencies and commissions, along with their associated departments. Each entry indicates the account number associated with the corresponding entity. For instance, the Antiquities commission is associated with account number 478, while the Bureau of labor and department of weights and measures is linked to account number 450. This structured list format helps in quickly referencing specific organizations and their respective account numbers for financial tracking or budgeting purposes.
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Governor's office (custodial fund)—Acct. No. 123 38
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| Guthrie Center—Acct. No. 418 | 58 |
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| Pinecrest state hospital—Acct. No. 431 | 62, 92 |
| Roney’s Point branch hospital—Acct. No. 417 | 58 |
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§9. Special revenue appropriations.
§10. Specific funds and collection accounts.
§11. Appropriation for refunding erroneous payments.
§12. Sinking fund deficiencies.
§13. Appropriations from taxes and license fees.
§15. Appropriations for local governments.
§16. Total appropriations.
§17. General school fund.

Section 1. Appropriations from General Revenue.—From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in Chapter 5A, Article 2 of the Code of West Virginia, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred seventy-four.

**LEGISLATIVE**

1—Senate

Acct. No. 101

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>1973-74</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Compensation of Members</td>
<td>$155,000</td>
</tr>
<tr>
<td>2 Compensation and per diem of officers and employees</td>
<td>300,000</td>
</tr>
<tr>
<td>3 Expenses of Members</td>
<td>113,500</td>
</tr>
<tr>
<td>4 Current Expenses and Contingent Fund</td>
<td>200,000</td>
</tr>
<tr>
<td>5 To pay cost of printing the 1973 edition of Blue Book</td>
<td>55,000</td>
</tr>
</tbody>
</table>

The distribution of which shall be 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 1972-73 are to remain in full force and effect, and are hereby reappropriated to June 30, 1974.

Any balances so reappropriated may be transferred and credited to the 1973-74 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 with approval of the President is authorized to draw his requisitions upon the Auditor, payable out of the Current Expenses and 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, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisition for same to be accompanied by the bills to be filed with the Auditor.

The President of the Senate, upon recommendation of the Clerk of the Senate, shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President of the Senate, shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the Clerk of the Senate upon approval of the President of the Senate. The Clerk is hereby authorized to draw his requisitions for the payment of all such staff personnel upon the State Auditor, payable out of the appropriation for Current Expenses and Contingent Fund of the Senate for such services.

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 employees.
### 2—House of Delegates

**Acct. No. 102**

#### Fiscal Year 1972-73

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses and Contingent Fund</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

#### Fiscal Year 1973-74

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation of Members</td>
<td>$420,000</td>
</tr>
<tr>
<td>Compensation and per diem of officers and employees</td>
<td>$300,000</td>
</tr>
<tr>
<td>Expenses of Members</td>
<td>$300,000</td>
</tr>
<tr>
<td>Current Expenses and Contingent Fund</td>
<td>$275,000</td>
</tr>
</tbody>
</table>

| Total                                            | $1,295,000|

The appropriations for the House of Delegates for the fiscal year 1972-73 are to remain in full force and effect, and are hereby reappropriated to June 30, 1974. Any balances so reappropriated may be transferred and credited to the 1973-74 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. 3, adopted January 10, 1973, payable from the per diem of officers and
employees fund or 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 1972-73

1. To pay the cost of legislative printing $ 40,000

Fiscal Year 1973-74

2. To pay the cost of legislative printing $ 270,000
3. Commission on Interstate Cooperation $ 35,000
4. Joint Committee on Government and Finance $ 2,678,500
5. Other Legislative Committees $ 10,000

The appropriations for Joint Expenses for the fiscal year 1972-73, are to remain in full force and effect and are hereby reappropriated to June 30, 1974. Any balances so reappropriated may be transferred and credited to the 1973-74 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.

4—Supreme Court of Appeals

Acct. No. 110

Salaries of Judges $ 175,000
2 Other Personal Services $ 263,377
3 Current Expenses $ 50,750
### 5—Judicial—Auditor's Office

#### Acct. No. 111

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries of Judges</td>
<td>$867,000</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$183,400</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$45,400</td>
</tr>
<tr>
<td>Judges Retirement System</td>
<td>$450,000</td>
</tr>
<tr>
<td>Criminal Charges</td>
<td>$640,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,185,800</strong></td>
</tr>
</tbody>
</table>

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.

(Line 5, $640,000, deleted, and total in line 6 changed to $1,545,800. Governor's action invalidated by the Court.)

### 6—State Law Library

#### Acct. No. 114

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$75,521</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$10,750</td>
</tr>
<tr>
<td>Equipment</td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$136,271</strong></td>
</tr>
</tbody>
</table>

(Line 1 reduced from $75,521 to $70,521, and total reduced from $136,271 to $131,271. Governor's action invalidated by the Court.)

### 7—Judicial Council

#### Acct. No. 118

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To pay expenses of Members of the Council</td>
<td>$12,000</td>
</tr>
</tbody>
</table>
### EXECUTIVE

#### 8—Governor's Office

<table>
<thead>
<tr>
<th>Acct. No. 120</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Salary of Governor</td>
</tr>
<tr>
<td><strong>2</strong> Other Personal Services</td>
</tr>
<tr>
<td><strong>3</strong> Current Expenses</td>
</tr>
<tr>
<td><strong>4</strong> Equipment</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining at the close of the fiscal year 1972-73 from the appropriation “Publication of Governor's Papers and Inaugural Expense” is hereby reappropriated for expenditure during the fiscal year 1973-74.

Any unexpended balance remaining in the appropriation “Governor's Office-Disaster Relief-Federal Matching” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

#### 9—Governor's Office—Custodial Fund

<table>
<thead>
<tr>
<th>Acct. No. 123</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Total</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Acct. No. 124</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Total</td>
</tr>
</tbody>
</table>

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.

Any unexpended balance remaining in this appropriation at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.
11—Governor’s Office—Federal-State Coordination

Acct. No. 125

1  Total ________________________________ $ 1,250,000

2  Any unexpended balance remaining in this account at the
close of the fiscal year 1972-73 is hereby reappropriated for
expenditure during the fiscal year 1973-74.

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

Acct. No. 126

1  Total ________________________________ $ 50,000

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 ___________________________ $ 22,500
2  Other Personal Services ____________________________ 634,550
3  Current Expenses ________________________________ 172,940
4  Equipment ________________________________ 39,700
5  Microfilm Program ________________________________ 10,000

6  Total ________________________________ $ 879,690

14—Auditor’s Office—Social Security

Acct. No. 151

1  To match contributions of state employees for
social security ________________________________ $ 5,100,000

2  The above appropriation is intended to cover the state’s
share of social security costs for those spending units operat-
ing from General Revenue Fund. The State Department of
Highways, Department of Motor Vehicles, Workmen’s Com-
penation Commission, Public Service Commission, and other
departments operating from Special Revenue Fund and/or
Federal Funds shall pay their proportionate share of the
social security cost for their respective divisions.
11 Any unexpended balance remaining in this appropriation
12 at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

15—Treasurer's Office

Acct. No. 160

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of State Treasurer</td>
<td>$22,500</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$202,585</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$40,900</td>
</tr>
<tr>
<td>Equipment</td>
<td>$27,500</td>
</tr>
<tr>
<td>Board of Investments</td>
<td>$3,000</td>
</tr>
<tr>
<td>Total</td>
<td>$296,485</td>
</tr>
</tbody>
</table>

($202,585, $40,900, $27,500 and $3,000 in lines 2, 3, 4 and 5, respectively, deleted, and total reduced from $296,485 to $22,500. Governor's action invalidated by the Court.)

16—Treasurer's Office—School Building Sinking Fund

Acct. No. 165

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>School Building Sinking Fund</td>
<td>$0,000,000</td>
</tr>
</tbody>
</table>

(Amount of $4,750,000 for School Building Sinking Fund and qualifying paragraph following deleted.)

17—Sinking Fund Commission

Acct. No. 170

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$39,052</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$3,300</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,500</td>
</tr>
<tr>
<td>Total</td>
<td>$43,852</td>
</tr>
</tbody>
</table>

18—State Tax Department

Acct. No. 180

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$2,499,680</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>1,807,512</td>
</tr>
<tr>
<td>Equipment</td>
<td>53,400</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th></th>
<th>Appropriation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Circuit Breaker Reimbursement</td>
<td>162,350</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>4,522,942</td>
</tr>
</tbody>
</table>

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

19—State Tax Department—Property Appraisal

<table>
<thead>
<tr>
<th></th>
<th>Acct. No. 185</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$920,275</td>
</tr>
<tr>
<td>2</td>
<td>Other Expenses</td>
<td>735,690</td>
</tr>
<tr>
<td>3</td>
<td>Reimbursement to Counties</td>
<td>80,000</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$1,735,965</td>
</tr>
</tbody>
</table>

Any balance remaining in the “Property Appraisal Account” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

20—State Commissioner of Public Institutions

<table>
<thead>
<tr>
<th></th>
<th>Acct. No. 190</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$20,000</td>
</tr>
<tr>
<td>2</td>
<td>Salaries of Board Members—Board of Probation and Parole</td>
<td>40,500</td>
</tr>
<tr>
<td>3</td>
<td>Other Personal Services</td>
<td>$535,040</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>157,400</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>4,000</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$756,940</td>
</tr>
</tbody>
</table>

(Lines 5 through 18, making line item appropriations for various positions, deleted, and line 4 modified to read “Other Personal Services $535,040”, being the total amount of the line item appropriations.)

21—Department of Finance and Administration

<table>
<thead>
<tr>
<th></th>
<th>Acct. No. 210</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$1,026,980</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>538,160</td>
</tr>
</tbody>
</table>
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 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

Any unexpended balance remaining at the close of the fiscal year 1972-73 for "Major Building Repairs" is hereby reappropriated for expenditure during the fiscal year 1973-74.
(Major Building Repairs to include maintenance and repairs to Governor's Mansion.)

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 2A, Section 13 of the
Code of West Virginia.

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.

22—State Board of Insurance

<table>
<thead>
<tr>
<th>Acct. No. 225</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>6</td>
</tr>
</tbody>
</table>

The above appropriation on line 5 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.

Any unexpended balance remaining in the appropriation for "Self-Insurance Fund" at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

Any or all of the funds appropriated for "Self-Insurance Fund" may be transferred to a special account for disbursement for payment of premiums and self-insurance losses.

LEGAL

23—Attorney General

<table>
<thead>
<tr>
<th>Acct. No. 240</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
</tbody>
</table>
### APPROPRIATIONS

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Other Personal Services</td>
<td>719,349</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>91,150</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>16,000</td>
</tr>
<tr>
<td>5 Consumer Protection</td>
<td>00,000</td>
</tr>
</tbody>
</table>

8 To protect the resources or tax structure of the State in controversies or legal proceedings affecting same………………………………………3,250

11 Total..................................................................................................................$ 852,249

12 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.

(Amount of $75,000 in line 5 deleted; lines 6 and 7, prescribing use of the appropriation deleted; and the total reduced from $927,249 to $852,249.)

### 24—Commission on Uniform State Laws

Acct. No. 245

1 Total .......................................................................................................................$ 5,000

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

### INCORPORATING AND RECORDING

### 25—Secretary of State

Acct. No. 250

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Secretary of State</td>
<td>22,500</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>128,300</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>40,455</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>6,000</td>
</tr>
</tbody>
</table>

5 Total.................................................................................................................$ 197,255

($128,300, $40,455 and $6,000 in lines 2, 3 and 4, respectively, deleted, and total reduced from $197,255 to $22,500. Governor's action invalidated by the Court.)
### 10—State Department of Education

#### Acct. No. 277

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher Education Program</td>
<td>$125,000</td>
</tr>
</tbody>
</table>

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

#### Acct. No. 279

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$56,335,725</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>7,186,372</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>2,366,742</td>
</tr>
<tr>
<td>Equipment</td>
<td>3,000,000</td>
</tr>
<tr>
<td>Oak Wilt Research</td>
<td>10,500</td>
</tr>
<tr>
<td>Veterinary Tuition</td>
<td>163,000</td>
</tr>
<tr>
<td>Optometry Tuition</td>
<td>12,500</td>
</tr>
<tr>
<td>Educational T.V.</td>
<td>686,576</td>
</tr>
<tr>
<td>Bureau for Coal Research</td>
<td>325,500</td>
</tr>
<tr>
<td>Forestry Products</td>
<td>131,500</td>
</tr>
<tr>
<td>Regional Research Institute</td>
<td>87,600</td>
</tr>
<tr>
<td>Agriculture Experiment Station—Intensive Horticulture Demonstration</td>
<td>27,700</td>
</tr>
<tr>
<td>Agriculture Experiment Station-Intensive Agriculture-Demonstration Trial</td>
<td>30,000</td>
</tr>
<tr>
<td>Center for Economic Action</td>
<td>48,750</td>
</tr>
<tr>
<td>Community &amp; Development Research</td>
<td>24,500</td>
</tr>
<tr>
<td>Individual Accreditation</td>
<td>200,000</td>
</tr>
<tr>
<td>New Programs</td>
<td>300,000</td>
</tr>
<tr>
<td>Unclassified</td>
<td>350,000</td>
</tr>
<tr>
<td>Title I—Matching Funds</td>
<td>130,000</td>
</tr>
<tr>
<td>Awareness Program</td>
<td>50,000</td>
</tr>
<tr>
<td>Scholarship Program</td>
<td>500,000</td>
</tr>
<tr>
<td>Facilities and Scholarship Administration</td>
<td>50,964</td>
</tr>
<tr>
<td>Total</td>
<td>$72,017,929</td>
</tr>
</tbody>
</table>

(Appropriation of $87,600 to Regional Research Institute, in line 11; $48,750 to Center for Economic Action, in line 16; and $24,500 to Community & Development Research, in line 17, deleted; and total reduced from $72,017,929 to $71,857,079. Action of Governor invalidated by Court.)

### 28—West Virginia Board of Regents

#### Acct. No. 280

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$323,972</td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2 Current Expenses</strong></td>
<td>$103,835</td>
</tr>
<tr>
<td><strong>3 Equipment</strong></td>
<td>$3,600</td>
</tr>
<tr>
<td><strong>4 Total</strong></td>
<td>$431,407</td>
</tr>
</tbody>
</table>

**29—West Virginia University—Medical School**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Personal Services</strong></td>
<td>$3,516,098</td>
</tr>
<tr>
<td><strong>2 Current Expenses</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>3 Repairs &amp; Alterations</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>4 Equipment</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>5 Intern &amp; Residency Support Programs</strong></td>
<td>$300,000</td>
</tr>
<tr>
<td><strong>6 Total</strong></td>
<td>$3,816,098</td>
</tr>
</tbody>
</table>

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

(Amount in line 1 reduced from $3,786,825 to $3,516,098; amounts in lines 2, 3 and 4 of $1,299,955, $214,775 and $350,420, respectively, deleted; and total reduced from $5,951,975 to $3,816,098.)

**30—Department of Education**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Personal Services</strong></td>
<td>$705,884</td>
</tr>
<tr>
<td><strong>2 Current Expenses</strong></td>
<td>$205,450</td>
</tr>
<tr>
<td><strong>3 Equipment</strong></td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>4 National Defense Education Act</strong></td>
<td>$355,554</td>
</tr>
<tr>
<td><strong>5 Statewide Testing Program</strong></td>
<td>$120,900</td>
</tr>
<tr>
<td><strong>6 Safety Education—Aid to Counties</strong></td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>7 State Aid to Children’s Home</strong></td>
<td>$25,000</td>
</tr>
<tr>
<td><strong>8 Regional Educational Service Agency</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>9 Administration of $200,000,000</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>10 Better School Amendment</strong></td>
<td>$000,000</td>
</tr>
<tr>
<td><strong>11 Total</strong></td>
<td>$1,622,788</td>
</tr>
</tbody>
</table>

The above appropriation includes the State Board of Education and their executive offices.

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.

(Amounts of $420,000 in line 8 and $100,000 in line 10 deleted, and total reduced from $2,142,788 to $1,622,788.)
### 31—State Department of Education—School Lunch Program

**Acct. No. 287**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$98,843</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$25,575</td>
</tr>
<tr>
<td>Aid to Counties—Includes hot lunches and canning for hot lunches</td>
<td>$750,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$874,418</td>
</tr>
</tbody>
</table>

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

**Acct. No. 289**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$137,912</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$50,855</td>
</tr>
<tr>
<td>Equipment</td>
<td>$3,575</td>
</tr>
<tr>
<td>Vocational Aid</td>
<td>$400,000</td>
</tr>
<tr>
<td>Adult Basic Education</td>
<td>$250,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$842,342</td>
</tr>
</tbody>
</table>

### 33—Educational Broadcasting Authority

**Acct. No. 291**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$44,150</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$29,500</td>
</tr>
<tr>
<td>Equipment</td>
<td>$2,000</td>
</tr>
<tr>
<td>Regional ETV</td>
<td>$1,198,288</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$1,273,938</td>
</tr>
</tbody>
</table>

For participation in the construction and operation of Regional ETV stations by Marshall University, Concord College, Bluefield 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 $4,000,000
2. Manpower Development Training Act 100,000
3. Total $4,100,000

35—State Board of Education—Vocational Division

Acct. No. 294

1. Total $170,000

Any unexpended balance remaining in the appropriation “Aid to Counties” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

36—State Department of Education—State Aid to Schools

Acct. No. 295

1. State Aid to Schools $166,866,052
2. Total $166,866,052

(Amounts in lines 1 through 5, totaling $178,267,274, deleted, as well as the qualifying paragraph following. Court invalidated action of Governor and ordered account published as above.)

37—Department of Education—Aid for Exceptional Children

Acct. No. 296

1. Personal Services $49,429
2. Current Expenses 20,235
3. Out-of-State Instruction 100,000
4 Aid to Counties ........................................ 2,500,000

5 Total ................................................................... $2,669,664

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

38—State Board of Education—Early Childhood Aides

Acct. No. 297

1 Early Childhood Aides ........................................ $000,000

(Amount of $2,415,235, deleted.)

39—Teacher’s Retirement Board

Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers ........ $14,502,000
2 Employers’ Accumulation Fund—To match
   contributions of members ................................ 3,525,000
3 Expense Fund .......................................................... 35,000

5 Total ................................................................... $18,062,000

(Amount in line 1 reduced from $15,300,000 to $14,502,000, and total
reduced from $18,860,000 to $18,062,000.)

40—West Virginia Schools for the Deaf and the Blind

Acct. No. 333

1 Personal Services ................................................ $1,346,535
2 Current Expenses .................................................. 271,550
3 Repairs and Alterations ........................................ 77,200
4 Equipment .............................................................. 60,000

5 Total ................................................................... $1,755,285

6 Any unexpended balance remaining in the appropriation
7 “Environmental Replacement-Heating Conversion” at the close
8 of the fiscal year 1972-73 is hereby reappropriated for expend-
9 diture during the fiscal year 1973-74.
### Appropriations

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

**Acct. No. 336**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$70,800</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$13,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$18,600</td>
</tr>
<tr>
<td>Equipment</td>
<td>$18,300</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$120,700</strong></td>
</tr>
</tbody>
</table>

#### 42—Department of Archives and History

**Acct. No. 340**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$111,468</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$51,650</td>
</tr>
<tr>
<td>Equipment</td>
<td>$40,955</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$204,073</strong></td>
</tr>
</tbody>
</table>

#### 43—West Virginia Library Commission

**Acct. No. 350**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$417,480</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$147,650</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$3,500</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,000</td>
</tr>
<tr>
<td>Books and Periodicals</td>
<td>$53,169</td>
</tr>
<tr>
<td>Grants-in-Aid</td>
<td>$410,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,036,799</strong></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation “Library Matching Fund” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

The amounts appropriated are intended to fund this account in the absence of receipt of any federal funds; however,
should any federal funds be made available and be received for expenditure in connection with the said account, or any item or items thereof, then such account or item or items thereof shall be reduced accordingly; except to the extent such account or item or items thereof must be maintained to qualify for receipt of such federal funds.

**CHARITIES AND CORRECTION**

*West Virginia Industrial School for Boys*

Acct. No. 370

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services (Regular)</td>
<td>$659,960</td>
</tr>
<tr>
<td>Subtotal</td>
<td>$659,960</td>
</tr>
<tr>
<td>Personal Services (Anthony Correctional Center)</td>
<td>$238,710</td>
</tr>
<tr>
<td>Subtotal</td>
<td>$238,710</td>
</tr>
<tr>
<td>Current Expenses (Regular)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>208,300</td>
</tr>
<tr>
<td>Current Expenses (Anthony Correctional Center)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>94,150</td>
</tr>
<tr>
<td>Total</td>
<td>302,450</td>
</tr>
<tr>
<td>Repairs and Alterations (Regular)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>63,650</td>
</tr>
<tr>
<td>Repairs and Alterations (Anthony Correctional Center)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>14,550</td>
</tr>
<tr>
<td>Total</td>
<td>78,200</td>
</tr>
<tr>
<td>Equipment (Regular)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>30,700</td>
</tr>
<tr>
<td>Equipment (Anthony Correctional Center)</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>14,000</td>
</tr>
<tr>
<td>Total</td>
<td>44,700</td>
</tr>
<tr>
<td>Total</td>
<td>$1,324,020</td>
</tr>
</tbody>
</table>
(Lines 2 through 22 and 25 through 38, making line item appropriations for various positions, deleted, and amount of $659,960 inserted in line 1 and $238,710 inserted in line 24, these being the totals of the line item appropriations deleted.)

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

<table>
<thead>
<tr>
<th>Acct. No. 371</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>13 Current Expenses</td>
</tr>
<tr>
<td>14 Repairs and Alterations</td>
</tr>
<tr>
<td>15 Equipment</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

(Lines 2 through 12, making line item appropriations for various positions, deleted, and line 1 modified by inserting $224,360, being the total amount of the line item appropriations for Personal Services.)

46—**West Virginia Industrial Home for Girls**

<table>
<thead>
<tr>
<th>Acct. No. 372</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>16 Current Expenses</td>
</tr>
<tr>
<td>17 Repairs and Alterations</td>
</tr>
<tr>
<td>18 Equipment</td>
</tr>
<tr>
<td>19 Vocational Training</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

(Lines 2 through 15, making line item appropriations for various positions, deleted, and the amount of $351,415, being the total of the lines stricken, inserted in line 1.)

47—**West Virginia Forestry Camp No. 2 (Leckie)**

<table>
<thead>
<tr>
<th>Acct. No. 373</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>12 Current Expenses</td>
</tr>
<tr>
<td>13 Repairs and Alterations</td>
</tr>
<tr>
<td>14 Equipment</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

(Lines 2 through 11, making line item appropriations for various positions, deleted, and the amount of $223,360, being the total of the lines stricken, inserted in line 1.)
### 48—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>$103,170</td>
</tr>
<tr>
<td>13 Current Expenses</td>
<td>$56,435</td>
</tr>
<tr>
<td>14 Repairs and Alterations</td>
<td>$20,050</td>
</tr>
<tr>
<td>15 Equipment</td>
<td>$10,800</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$190,455</strong></td>
</tr>
</tbody>
</table>

(Lines 2 through 12, making line item appropriations for various positions, deleted, and the amount of $103,170, being the total of the lines stricken, inserted in line 1.)

### 49—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>$1,591,400</td>
</tr>
<tr>
<td>19 Current Expenses</td>
<td>$794,600</td>
</tr>
<tr>
<td>20 Repairs and Alterations</td>
<td>$157,300</td>
</tr>
<tr>
<td>21 Equipment</td>
<td>$143,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,686,300</strong></td>
</tr>
</tbody>
</table>

23 Any unexpended balance remaining in the accounts “Repairs to Roof and Replacement of Windows and Sash (Security Windows);” “Replacement of Sanitary System (Sewers) and Construction of Boiler Plant”; and “Purchase of Building and Land” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

29 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.

(Lines 2 through 18, making line item appropriations for various positions, deleted, and line 1 modified by inserting $1,591,400, being the total of the lines stricken.)

### 50—Huttonsville Correctional Center

Acct. No. 376

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,110,120</td>
</tr>
</tbody>
</table>
21 Current Expenses .................................. 324,372
22 Repairs and Alterations .......................... 65,900
23 Equipment .......................................... 19,000

24 Total .................................................. $ 1,519,392

(Lines 2 through 20, making line item appropriations for various positions, deleted, and the sum of $1,110,120, being the total thereof, inserted in line 1.)

51—West Virginia Children's Home

Acct. No. 380

1 Personal Services ................................. $ 105,300
9 Current Expenses ................................... 57,000
10 Repairs and Alterations ......................... 14,000
11 Equipment ......................................... 14,600

12 Total .................................................. $ 190,900

(Lines 2 through 8, making line item appropriations for various positions, deleted, and the sum of $105,300, being the total thereof, inserted in line 1.)

52—Andrew S. Rowan Memorial Home

Acct. No. 384

1 Personal Services ................................. $ 548,890
13 Current Expenses ................................. 218,356
14 Repairs and Alterations ......................... 38,200
15 Equipment ......................................... 77,000

16 Total .................................................. $ 882,446

(Lines 2 through 12, making line item appropriations for various positions, deleted, and the sum of $548,890, being the total thereof, inserted in line 1.)

HEALTH AND WELFARE

53—State Health Department

Acct. No. 400

1 Personal Services .................................. $ 1,107,065
2 Current Expenses .................................. 177,813
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Equipment</td>
<td>35,415</td>
</tr>
<tr>
<td>4</td>
<td>Emergency Medical Services</td>
<td>45,000</td>
</tr>
<tr>
<td>5</td>
<td>Cancer Control and Treatment</td>
<td>230,000</td>
</tr>
<tr>
<td>6</td>
<td>Local Health Services</td>
<td>1,500,000</td>
</tr>
<tr>
<td>7</td>
<td>Dental Clinics</td>
<td>120,172</td>
</tr>
<tr>
<td>8</td>
<td>Heart Disease Control</td>
<td>125,000</td>
</tr>
<tr>
<td>9</td>
<td>Maternal and Child Healthmobile Medical Examination Clinic</td>
<td>325,000</td>
</tr>
<tr>
<td>10</td>
<td>Home Health Services</td>
<td>41,000</td>
</tr>
<tr>
<td>11</td>
<td>Mobile Chest X-Ray &amp; Diagnostic Services for Tuberculosis Control</td>
<td>80,000</td>
</tr>
<tr>
<td>12</td>
<td>Hospitals and Medical Facilities Construction</td>
<td>17,500</td>
</tr>
<tr>
<td>13</td>
<td>Special Project for Eradication of Tuberculosis</td>
<td>244,000</td>
</tr>
<tr>
<td>14</td>
<td>Environmental Health Services</td>
<td>123,335</td>
</tr>
<tr>
<td>15</td>
<td>Nursing Home Inspection Unit</td>
<td>80,000</td>
</tr>
<tr>
<td>16</td>
<td>Biologicals for Immunization and Venereal Disease</td>
<td>70,000</td>
</tr>
<tr>
<td>17</td>
<td>Early Childhood Development Program</td>
<td>185,746</td>
</tr>
<tr>
<td>23</td>
<td>Total</td>
<td>$4,507,046</td>
</tr>
</tbody>
</table>

**54—Commission on Postmortem Examination**

Acct. No. 401

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$000,000</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation “Commission on postmortem Examination” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

(The sum of $25,000 in line 1 deleted.)

**55—Department of Veterans Affairs**

Acct. No. 403

<table>
<thead>
<tr>
<th></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</td>
</tr>
</tbody>
</table>

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

56—Department of Veterans Affairs

<table>
<thead>
<tr>
<th>Acct. No. 404</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$321,240</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>70,800</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>5,100</td>
</tr>
<tr>
<td>4 To provide Educational Opportunities for Children of War Veterans as provided by chapter thirty-nine, acts of the Legislature, one thousand nine hundred forty-three</td>
<td>15,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$412,140</strong></td>
</tr>
</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 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

57—Department of Welfare

<table>
<thead>
<tr>
<th>Acct. No. 405</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$4,053,188</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>2,271,506</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>58,820</td>
</tr>
<tr>
<td>4 Public Assistance Grants (Classified Aid)</td>
<td>15,000,000</td>
</tr>
<tr>
<td>5 Child Welfare Services</td>
<td>4,827,263</td>
</tr>
<tr>
<td>6 Emergency Assistance Program</td>
<td>1,550,000</td>
</tr>
<tr>
<td>7 Social Security Matching Fund</td>
<td>404,100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$28,164,877</strong></td>
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</table>

58—State Commission on Aging

<table>
<thead>
<tr>
<th>Acct. No. 406</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$46,697</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>36,300</td>
</tr>
<tr>
<td>3 Programs for Elderly</td>
<td>250,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$332,997</strong></td>
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</table>
### 59—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>$1,262,872</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$475,434</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$6,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,744,306</strong></td>
</tr>
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</table>

### 60—Department of Welfare—Medical Programs

**Acct. No. 408**

<table>
<thead>
<tr>
<th>Item</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,395,345</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$281,660</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$15,667</td>
</tr>
<tr>
<td>4 Direct Aid (Medical)</td>
<td>$13,171,849</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$14,864,521</strong></td>
</tr>
</tbody>
</table>

### 61—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>$848,906</td>
</tr>
<tr>
<td>3 Director</td>
<td>$25,000</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$873,906</strong></td>
</tr>
<tr>
<td>62 Less Federal Funds</td>
<td>$116,000</td>
</tr>
<tr>
<td><strong>Subtotal—State Funds</strong></td>
<td><strong>$757,906</strong></td>
</tr>
<tr>
<td>65 Current Expenses</td>
<td>$204,870</td>
</tr>
<tr>
<td>66 Equipment</td>
<td>$13,000</td>
</tr>
<tr>
<td>67 Research and Training</td>
<td>$10,000</td>
</tr>
<tr>
<td>68 Civil Service Costs</td>
<td>$80,000</td>
</tr>
<tr>
<td>69 Division of Health Education</td>
<td>$20,000</td>
</tr>
<tr>
<td>70 Community Mental Retardation Program</td>
<td>$500,000</td>
</tr>
<tr>
<td>71 Alcohol and Drug Abuse Program</td>
<td>$425,000</td>
</tr>
<tr>
<td>72 Community Mental Health Programs</td>
<td>$952,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,962,776</strong></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the account “Mental Health Center-Princeton” at the close of the fiscal year 1972-
76 73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

(Lines 4 through 61, and lines 63 and 64, deleted, and line 1 modified to read "Personal Services __________ $848,906", this being the total of the line item amounts stricken.)

### 62—Commission On Mental Retardation

**Acct. No. 411**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

### 63—Roney's Point Branch Hospital

**Acct. No. 417**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$173,100</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$52,500</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$20,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>$3,750</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$249,350</strong></td>
</tr>
</tbody>
</table>

6 The above appropriation for current expenses includes $15,731 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

### 64—Guthrie Center

**Acct. No. 418**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$448,928</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$182,951</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$42,600</td>
</tr>
<tr>
<td>Equipment</td>
<td>$29,800</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$704,279</strong></td>
</tr>
</tbody>
</table>

40 The above appropriation for current expenses includes $60,000 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 35, making line item appropriations, totaling $448,928, deleted, and this amount inserted in line 1.)

### 65—Colin Anderson Center

**Acct. No. 419**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$3,049,605</td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
</tr>
<tr>
<td>37</td>
</tr>
<tr>
<td>38</td>
</tr>
<tr>
<td>39</td>
</tr>
</tbody>
</table>

40 The above appropriation for current expenses includes $182,500 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 35, making line item appropriations, totaling $3,049,605, deleted, and this amount inserted in line 1.)

### Weston State Hospital

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>40</td>
</tr>
<tr>
<td>41</td>
</tr>
<tr>
<td>42</td>
</tr>
<tr>
<td>43</td>
</tr>
<tr>
<td>45</td>
</tr>
</tbody>
</table>

46 The above appropriation for current expenses includes $650,000 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 39, making line item appropriations, totaling $4,116,939, deleted, and this amount inserted in line 1.)

### Spencer State Hospital

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>39</td>
</tr>
<tr>
<td>40</td>
</tr>
<tr>
<td>41</td>
</tr>
<tr>
<td>42</td>
</tr>
</tbody>
</table>

43 Any unexpended balance remaining in "Boiler Plant" at the close of fiscal year 1972-73, is hereby reappropriated for expenditure during fiscal year 1973-74.
The above appropriation for current expenses includes $295,000 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 38, making line item appropriations, totaling $2,400,974, deleted, and this amount inserted in line 1.)

**68—Huntington State Hospital**

Acct. No. 422

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$2,828,774</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>894,175</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>127,975</td>
</tr>
<tr>
<td>Equipment</td>
<td>69,100</td>
</tr>
<tr>
<td>Student Nurse Affiliation Program</td>
<td>41,000</td>
</tr>
<tr>
<td>Total</td>
<td>$3,961,024</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation “Boiler Plant—Replacement of Existing Boiler” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

The above appropriation for current expenses includes $375,000 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 48, making line item appropriations, totaling $2,828,774, deleted, and this amount inserted in line 1.)

**69—Lakin State Hospital**

Acct. No. 423

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$1,420,962</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>383,905</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>93,900</td>
</tr>
<tr>
<td>Equipment</td>
<td>48,900</td>
</tr>
<tr>
<td>Total</td>
<td>$1,947,667</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation—“Renovation Classroom Building, Construct Ward Building,” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.
The above appropriation for current expenses includes $140,000 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 36, making line item appropriations, totaling $1,420,962, deleted, and this amount inserted in line 1.)

70—Barboursville State Hospital

Acct. No. 424

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$809,539</td>
</tr>
<tr>
<td>22</td>
<td>Current Expenses</td>
<td>197,000</td>
</tr>
<tr>
<td>23</td>
<td>Repairs and Alterations</td>
<td>48,650</td>
</tr>
<tr>
<td>24</td>
<td>Equipment</td>
<td>16,050</td>
</tr>
<tr>
<td>25</td>
<td>Total</td>
<td>$1,071,239</td>
</tr>
</tbody>
</table>

The above appropriation for current expenses includes $82,300 for the purchase of food and/or food products and such appropriation shall not be used for any other purpose.

(Lines 2 through 21, making line item appropriations, totaling $809,539, deleted, and this amount inserted in line 1.)

71—Fairmont Emergency Hospital

Acct. No. 425

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$437,800</td>
</tr>
<tr>
<td>12</td>
<td>Current Expenses</td>
<td>145,140</td>
</tr>
<tr>
<td>13</td>
<td>Repairs and Alterations</td>
<td>22,700</td>
</tr>
<tr>
<td>14</td>
<td>Equipment</td>
<td>17,600</td>
</tr>
<tr>
<td>15</td>
<td>Total</td>
<td>$623,240</td>
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</tbody>
</table>

(Lines 2 through 11, making line item appropriations, totaling $437,800, deleted, and this amount inserted in line 1.)

72—Welch Emergency Hospital

Acct. No. 426

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$647,220</td>
</tr>
<tr>
<td>15</td>
<td>Current Expenses</td>
<td>258,100</td>
</tr>
<tr>
<td>16</td>
<td>Repairs and Alterations</td>
<td>71,000</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Equipment</td>
<td>65,300</td>
</tr>
<tr>
<td>18</td>
<td>Total</td>
<td>1,041,620</td>
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</tbody>
</table>

(Lines 2 through 14, making line item appropriations, totaling $647,220, deleted, and this amount inserted in line 1.)

### 73—Hopemont State Hospital

Acct. No. 430

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>2,120,315</td>
</tr>
<tr>
<td>22</td>
<td>Current Expenses</td>
<td>435,106</td>
</tr>
<tr>
<td>23</td>
<td>Repairs and Alterations</td>
<td>31,700</td>
</tr>
<tr>
<td>24</td>
<td>Equipment</td>
<td>50,750</td>
</tr>
<tr>
<td>25</td>
<td>Total</td>
<td>2,637,871</td>
</tr>
</tbody>
</table>

(Lines 2 through 21, making line item appropriations, totaling $2,120,315, deleted, and this amount inserted in line 1.)

### 74—Pinecrest State Hospital

Acct. No. 431

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
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<tr>
<td>1</td>
<td>Personal Services</td>
<td>2,025,210</td>
</tr>
<tr>
<td>27</td>
<td>Current Expenses</td>
<td>583,605</td>
</tr>
<tr>
<td>28</td>
<td>Repairs and Alterations</td>
<td>39,600</td>
</tr>
<tr>
<td>29</td>
<td>Equipment</td>
<td>83,700</td>
</tr>
<tr>
<td>30</td>
<td>Total</td>
<td>2,732,115</td>
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</table>

(Lines 2 through 26, making line item appropriations, totaling $2,025,210, deleted, and this amount inserted in line 1.)

### 75—Denmar State Hospital

Acct. No. 432

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>1,535,155</td>
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<tr>
<td>21</td>
<td>Current Expenses</td>
<td>383,000</td>
</tr>
<tr>
<td>22</td>
<td>Repairs and Alterations</td>
<td>35,700</td>
</tr>
<tr>
<td>23</td>
<td>Equipment</td>
<td>90,995</td>
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<td>24</td>
<td>Total</td>
<td>2,044,850</td>
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(Lines 2 through 20, making line item appropriations, totaling $1,535,155, deleted, and this amount inserted in line 1.)
76—State Board of Education—Rehabilitation Division

<table>
<thead>
<tr>
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<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$770,717</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$188,000</td>
</tr>
<tr>
<td>3</td>
<td>Rehabilitation Center</td>
<td>$763,232</td>
</tr>
<tr>
<td>4</td>
<td>Case Services</td>
<td>$1,492,014</td>
</tr>
<tr>
<td>5</td>
<td>Supervisory Services for Vending Stand Program</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>for the Blind</td>
<td>$67,816</td>
</tr>
<tr>
<td>7</td>
<td>Training and Special Projects</td>
<td>$94,928</td>
</tr>
<tr>
<td>8</td>
<td>Social Security Matching Fund</td>
<td>$61,500</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
<td>$3,438,207</td>
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</table>

BUSINESS AND INDUSTRIAL RELATIONS

77—Bureau of Labor and Department of Weights and Measures

<table>
<thead>
<tr>
<th>Acct. No. 450</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$627,500</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$219,880</td>
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<td>Equipment</td>
<td>$12,350</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$859,730</td>
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</table>

78—Department of Mines

<table>
<thead>
<tr>
<th>Acct. No. 460</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$1,701,367</td>
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<tr>
<td>2</td>
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<td>$339,310</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$50,500</td>
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<tr>
<td>4</td>
<td>Total</td>
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</table>

79—Department of Commerce

<table>
<thead>
<tr>
<th>Acct. No. 465</th>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$517,981</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$1,143,992</td>
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</table>


<table>
<thead>
<tr>
<th></th>
<th>Appropriations</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Equipment</td>
<td>45,000</td>
</tr>
<tr>
<td>4</td>
<td>Mt. State Forest Festival</td>
<td>25,000</td>
</tr>
<tr>
<td>5</td>
<td>Alpine Festival</td>
<td>5,000</td>
</tr>
<tr>
<td>6</td>
<td>West Virginia Historical Drama Association</td>
<td>55,000</td>
</tr>
<tr>
<td>7</td>
<td>Calhoun County Wood Festival</td>
<td>2,500</td>
</tr>
<tr>
<td>8</td>
<td>Arts and Humanities Fund</td>
<td>263,580</td>
</tr>
<tr>
<td>9</td>
<td>New Martinsville Regatta</td>
<td>2,500</td>
</tr>
<tr>
<td>10</td>
<td>Braxton County Regatta</td>
<td>4,000</td>
</tr>
<tr>
<td>11</td>
<td>Mothers Day Founder Festival</td>
<td>5,000</td>
</tr>
<tr>
<td>12</td>
<td>White Water Weekend</td>
<td>3,000</td>
</tr>
<tr>
<td>13</td>
<td>Cherry River Festival</td>
<td>2,000</td>
</tr>
<tr>
<td>14</td>
<td>Oil and Gas Festival</td>
<td>2,500</td>
</tr>
<tr>
<td>15</td>
<td>National Youth Science Camp</td>
<td>100,000</td>
</tr>
<tr>
<td>16</td>
<td>Independence Hall, Wheeling, West Virginia</td>
<td>125,000</td>
</tr>
<tr>
<td>17</td>
<td>Mountain Heritage Arts &amp; Craft Fair</td>
<td>2,500</td>
</tr>
<tr>
<td>18</td>
<td>Wellsburg July 4th Celebration</td>
<td>1,000</td>
</tr>
<tr>
<td>19</td>
<td>Sternwheel Regatta</td>
<td>1,000</td>
</tr>
<tr>
<td>20</td>
<td>Sistersville Outboard Regatta</td>
<td>1,000</td>
</tr>
<tr>
<td>21</td>
<td>Total</td>
<td>$2,315,053</td>
</tr>
</tbody>
</table>

The above appropriations, Mountain State Forest Festival, Alpine Festival, White Water Weekend, Oil and Gas Festival, West Virginia Water Festival, Calhoun County Wood Festival, Cherry River Festival, New Martinsville Regatta, Mothers Day Founder’s Festival, Braxton County Regatta, Mountain Heritage Arts and Crafts Fair, Wellsburg July 4th Celebration, Sternwheel Regatta, Sistersville Outboard Regatta, and West Virginia Historical Drama Association shall be expended only upon authorization of the Commerce Commissioner and in accordance with the provisions of Chapter 5A of the Code of West Virginia.

All Federal moneys received as reimbursements to the Department of Commerce, for moneys expended from the General Revenue fund for Arts and Humanities are hereby reappropriated for the purpose as originally made, including Personal Services, Current Expenses and Equipment.
Any unexpended balance remaining in the appropriation "Independence Hall, Wheeling, West Virginia" at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

Any unexpended balance remaining in the account "National Youth Science Camp" at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

80—Ohio River Basin Commission
Acct. No. 469

1 Total $ 20,500

81—State Commission on Manpower, Technology and Training
Acct. No. 470

1 Personal Services $ 23,560
2 Current Expenses 7,500
3 Equipment 600

4 Total $ 31,660

82—Council of State Governments
Acct. No. 472

1 Total $ 21,900

83—Interstate Commission on Potomac River Basin
Acct. No. 473

1 West Virginia's contribution to Potomac River Basin Interstate Commission $ 12,450

84—Ohio River Valley Water Sanitation Commission
Acct. No. 474

1 West Virginia's contribution to the Ohio River Valley Water Sanitation Commission $ 23,804
### Appropriations

**85—Southern Regional Education Board**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 475</td>
<td></td>
</tr>
<tr>
<td>1 West Virginia's contribution to Southern Regional Education Board</td>
<td>$75,000</td>
</tr>
<tr>
<td>2 To be expended upon requisition of the Governor</td>
<td></td>
</tr>
</tbody>
</table>

**86—West Virginia Air Pollution Commission**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 476</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$351,745</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>113,200</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>8,880</td>
</tr>
<tr>
<td>4 Total</td>
<td>$473,825</td>
</tr>
</tbody>
</table>

**87—Interstate Education Compact**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 477</td>
<td></td>
</tr>
<tr>
<td>1 West Virginia’s contribution to Interstate Education Compact</td>
<td>$9,500</td>
</tr>
</tbody>
</table>

**88—Antiquities Commission**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 478</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$20,724</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>6,916</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>1,500</td>
</tr>
<tr>
<td>4 Total</td>
<td>$29,140</td>
</tr>
</tbody>
</table>

**89—Department of Banking**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. No. 480</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$187,400</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>67,300</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>3,912</td>
</tr>
<tr>
<td>4 Total</td>
<td>$258,612</td>
</tr>
</tbody>
</table>
90—West Virginia State Aeronautics Commission

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$29,973</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$20,405</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,000</td>
</tr>
<tr>
<td>4 Aerial Markers</td>
<td>$1,200</td>
</tr>
<tr>
<td>5 Civil Air Patrol Expenses</td>
<td>$17,000</td>
</tr>
<tr>
<td>6 Airport Matching Fund</td>
<td>$900,000</td>
</tr>
<tr>
<td>7 Total</td>
<td>$970,578</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation “Airport Matching Fund” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during fiscal year 1973-74.

91—West Virginia Nonintoxicating Beer Commissioner

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$188,015</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$70,000</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$3,000</td>
</tr>
<tr>
<td>4 Total</td>
<td>$261,015</td>
</tr>
</tbody>
</table>

92—West Virginia Racing Commission

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$282,900</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$38,230</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,500</td>
</tr>
<tr>
<td>4 Total</td>
<td>$323,630</td>
</tr>
</tbody>
</table>

AGRICULTURE

93—Department of Agriculture

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$22,500</td>
</tr>
</tbody>
</table>
2 Other Personal Services ____________________________ 913,489
3 Current Expenses ____________________________ 505,726
4 Equipment ____________________________ 26,672
5 Marijuana and Multiflora Rose Eradication Program ____________________________ 60,000

7 Total ____________________________ $ 1,528,387

8 Out of the above funds a sum may be used to match Federal Funds for the eradication and control of pest and plant diseases and for Consumer Protection.
9 Any unexpended balance remaining in "Eradication Program" and "Laboratory Facility" at the close of fiscal year 1972-73, is hereby reappropriated for expenditure during fiscal year 1973-74.

(Amount in line 2 reduced from $990,184 to $913,489, and total appropriation reduced from $1,605,082 to $1,528,387.)

94—Department of Agriculture—Soil Conservation Committee

Acct. No. 512

1 Personal Services ____________________________ $ 133,875
2 Current Expenses ____________________________ 53,575
3 Watershed Program ____________________________ 550,000

4 Total ____________________________ $ 737,450

5 Any unexpended balance remaining in the Watershed Program at the end of the fiscal year 1972-73 is hereby reappropriated for expenditure during fiscal year 1973-74.

95—Department of Agriculture—Division of Rural Resources

Acct. No. 513

1 Matching Fund ____________________________ $ 443,630
2 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.
96—Department of Agriculture—Meat Inspection

Acct. No. 514

1 Unclassified $320,000

2 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.

3 Any unexpended balance remaining in the appropriation
4 “Meat Inspection” at the close of the fiscal year 1972-73 is
5 hereby reappropriated for expenditure during the fiscal year
6 1973-74.

97—Department of Agriculture—Agricultural Awards

Acct. No. 515

1 West Virginia State Fair $30,000
2 Agricultural Awards 44,000
3 Black Walnut Festival 3,500
4 Apple Festival 1,500
5 Marshall Fair 2,500
6 Strawberry Festival 4,950
7 Town and Country Days 2,250
8 Webster Logging Festival 2,000
9 Paden City Labor Day Festival 2,000
10 Jackson County Junior Fair 1,350
11 Buckwheat Festival 3,000
12 Potato Festival 1,350
13 Mason County Fair 3,150
14 Tyler County Fair 1,500
15 Wyoming County Labor Day Festival
16 (4-H Awards) 1,800
17 Lincoln County Tomato Festival 1,000

18 Total $105,850

98—Department of Agriculture

Acct. No. 518

1 West Virginia State Fair
2 Grounds Building $200,000
### CONSERVATION AND DEVELOPMENT

99—*Geological and Economic Survey Commission*

**Acct. No. 520**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$377,492</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>127,750</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>8,000</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>53,975</td>
</tr>
<tr>
<td>5 Cooperative Mapping and Water Studies Program</td>
<td>193,801</td>
</tr>
<tr>
<td>6 Coal Quality and Reserve Study</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$861,018</strong></td>
</tr>
</tbody>
</table>

Of the above appropriation for "Cooperative Mapping and Water Studies Program," the sum of $65,000 may be used to cooperate with the United States Geological Survey in Ground Waters Resources Study.

100—*Department of Natural Resources*

**Acct. No. 565**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$3,159,884</td>
</tr>
<tr>
<td>76 Current Expenses</td>
<td>827,415</td>
</tr>
<tr>
<td>77 Repairs and Alterations</td>
<td>293,695</td>
</tr>
<tr>
<td>78 Equipment</td>
<td>399,000</td>
</tr>
<tr>
<td>79 Subsistence for Conservation Officers</td>
<td>342,188</td>
</tr>
<tr>
<td>80 Debt Service</td>
<td>675,000</td>
</tr>
<tr>
<td>81 N.Y.C. Program</td>
<td>33,000</td>
</tr>
<tr>
<td>82 Clarke-McNary Fire Prevention</td>
<td>550,000</td>
</tr>
<tr>
<td>83 Wonderful West Virginia</td>
<td>150,000</td>
</tr>
<tr>
<td>84 Water Resources Board</td>
<td>13,802</td>
</tr>
<tr>
<td>85 U.S. Geological Survey</td>
<td>52,500</td>
</tr>
<tr>
<td>86 Rabies Control</td>
<td>34,302</td>
</tr>
<tr>
<td>87 Work Incentive Program</td>
<td>260,000</td>
</tr>
<tr>
<td>88 French Creek Game Farm</td>
<td>73,467</td>
</tr>
<tr>
<td>89 Berkeley Springs State Park</td>
<td>107,687</td>
</tr>
<tr>
<td>90 Reclamation Board of Review</td>
<td>15,000</td>
</tr>
<tr>
<td>91 Coal Refuse Disposal Control Act</td>
<td>102,305</td>
</tr>
<tr>
<td>92 West Virginia Water Development Authority</td>
<td>25,000</td>
</tr>
</tbody>
</table>
93 A.R.A.-E.D.A. Park Program ........................................ 100,840

94 Total ........................................................................... $7,215,085

95 Out of the above appropriation for “Subsistence for Conservation Officers,” subsistence shall be paid at the rate of seven dollars and fifty cents 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.

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

97 Any unexpended balance remaining in the appropriations “Capital Improvements, State Parks, Cacapon State Park Golf Course”, “Grave Creek Mound Park, Panther State Forest, Piney Creek Watershed, Land Purchase and Development of Sandstone Falls, Purchase of Land at Pipestem State Park, and Land Purchase and Upgrading Facilities at Laurel Lake” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

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

(Lines 2 through 75, making line item appropriations, totaling $3,159,884, deleted, and this amount inserted in line 1.)

101—Public Land Corporation

Acct. No. 566

1 Any unexpended balance remaining in the appropriation for “Public Land Corporation” at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

PROTECTION

102—Department of Public Safety

Acct. No. 570

1 Personal Services ..................................................... $5,580,852

2 Current Expenses ..................................................... 2,296,519
### Appropriations

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repairs and Alterations</td>
<td>137,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>787,978</td>
</tr>
<tr>
<td>Emergency Fund</td>
<td>5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$8,807,349</strong></td>
</tr>
</tbody>
</table>

#### 103—Adjutant General—State Militia

**Acct. No. 580**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$115,295</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>229,410</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>24,500</td>
</tr>
<tr>
<td>Equipment</td>
<td>7,200</td>
</tr>
<tr>
<td>Compensation of Commanding Officers, Clerical</td>
<td>95,960</td>
</tr>
<tr>
<td>Allowances and Uniform Allowances</td>
<td></td>
</tr>
<tr>
<td>Property Maintenance</td>
<td>284,700</td>
</tr>
<tr>
<td>State Armory Board</td>
<td>1,083,709</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,840,774</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 581**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$51,680</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>17,090</td>
</tr>
<tr>
<td>Equipment</td>
<td>2,400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$71,170</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 585**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To pay the per diem of members and other</td>
<td>6,000</td>
</tr>
<tr>
<td>general expenses</td>
<td></td>
</tr>
<tr>
<td>From Collections</td>
<td>6,000</td>
</tr>
</tbody>
</table>
106—State Board of Professional Foresters

Acct. No. 586

1 To pay the per diem of members and other general expenses ............................................ $ 700
2 From Collections ................................................................. 700
3

107—West Virginia Board of Examiners for Practical Nurses

Acct. No. 587

1 To pay the per diem of members and other general expenses ............................................. $ 35,360
2 From Collections ................................................................. 35,360
3

108—State Board of Chiropractic Examiners

Acct. No. 588

1 To pay the per diem of members and other general expenses ............................................. $ 700
2 From Collections ................................................................. 700
3

109—State Board of Pharmacy

Acct. No. 590

1 To pay the per diem of members and other general expenses ............................................. $ 40,000
2 From Collections ................................................................. 40,000
3

110—State Board of Osteopathy

Acct. No. 591

1 To pay the per diem of members and other general expenses ............................................. $ 2,356
2 From Collections ................................................................. 2,356
3

111—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
3 From Collections 25,000

112—State Board of Registration for Professional Engineers

Acct. No. 594

1 To pay the per diem of members and other
2 general expenses $38,475
3 From Collections 38,475

113—State Board of Architects

Acct. No. 595

1 To pay the per diem of members and other
2 general expenses $10,500
3 From Collections 10,500

114—State Veterinary Board

Acct. No. 596

1 To pay the per diem of members and other
2 general expenses $1,000
3 From Collections 1,000

115—State Board of Law Examiners

Acct. No. 597

1 To pay the per diem of members and other
2 general expenses $6,000

116—Human Rights Commission

Acct. No. 598

1 Personal Services $152,522
Current Expenses

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Equipment</td>
<td>$3,235</td>
</tr>
<tr>
<td>3 Total</td>
<td>$222,052</td>
</tr>
</tbody>
</table>

117—West Virginia State Board of Sanitarians

Acct. No. 599

1 To pay the per diem of members and other general expenses $800
2 From Collections $800

118—West Virginia Public Employees Retirement Board

Acct. No. 614

1 Employers Accumulation Fund $2,695,000
2 Expense Fund 50,000
3 Total $2,745,000

The above appropriation is intended to cover the state’s share of the West Virginia Public Employees Retirement cost in accordance with Chapter 5, Article 10 of the Code of West Virginia for those departments operating from General Revenue Fund. The State Department of Highways, Department of Motor Vehicles, State Tax Department—Gasoline Tax Division, Workmen’s Compensation Commission, Public Service Commission, and other departments operating from Special Revenue Funds and/or Federal Funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made such payments may be made from the balances in the various Special Revenue Funds in excess of specific appropriations.

(Amount in line 1 reduced from $3,547,500 to $2,695,000, and total appropriation reduced from $3,597,500 to $2,745,000.)

119—West Virginia Public Employees Insurance Board

Acct. No. 615

1 Expense Fund $60,000
2 Public Employees Health Insurance—State
3 Contribution .................................................. 14,000,000

4 Total .......................................................... $14,060,000

5 The above appropriation is intended to cover the state’s
6 share of Public Employees Health Insurance costs for those
7 spending units operating from General Revenue Fund. The
8 State Department of Highways, Department of Motor Vehicles,
9 Workmen’s Compensation Commission, Public Service Com-
10 mission, and other departments operating from Special Re-
11 venue Fund and/or Federal Funds shall pay their proportion-
12 ate share of the Public Employees Health Insurance cost for
13 their respective divisions. When specific appropriations are
14 not made such payments may be made from the balances in
15 the various Special Revenue Funds in excess of specific ap-
16 propriations.
17
18 Any or all of the above appropriation may be transferred
19 to a Special Revenue account for disbursement.

120—Insurance Commissioner

Acct. No. 616

1 Personal Services ............................................. $ 430,249
2 Current Expenses ........................................... 112,950
3 Repairs and Alterations .................................. 4,500
4 Equipment ..................................................... 5,250

5 Total .......................................................... $ 552,949

Sec. 2. Appropriations from Other Funds.—From the
2 funds designated there is hereby appropriated conditionally
3 upon the fulfillment of the provisions set forth in Chapter
4 5A, Article 2 of the Code of West Virginia, the following
5 amounts, as itemized, for expenditure during the fiscal year
6 one thousand nine hundred seventy-four.

121—State Department of Highways

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1 Federal-Aid Construction—Interstate Program ..$139,000,000
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Federal-Aid Construction—ABC Program</td>
<td>25,000,000</td>
</tr>
<tr>
<td>3</td>
<td>Appalachian Program</td>
<td>100,000,000</td>
</tr>
<tr>
<td>4</td>
<td>Interstate Maintenance</td>
<td>4,000,000</td>
</tr>
<tr>
<td>5</td>
<td>Maintenance—Expressway, Trunkline and Feeder</td>
<td>26,000,000</td>
</tr>
<tr>
<td>6</td>
<td>Maintenance—State Local Service</td>
<td>32,000,000</td>
</tr>
<tr>
<td>7</td>
<td>Nonfederal Aid Construction</td>
<td>20,000,000</td>
</tr>
<tr>
<td>8</td>
<td>Emergency Road Operations</td>
<td>8,000,000</td>
</tr>
<tr>
<td>9</td>
<td>Scenic Highway</td>
<td>2,400,000</td>
</tr>
<tr>
<td>10</td>
<td>Forest Highway</td>
<td>600,000</td>
</tr>
<tr>
<td>11</td>
<td>General Operations</td>
<td>23,000,000</td>
</tr>
<tr>
<td>12</td>
<td>Equipment Purchases</td>
<td>1,000,000</td>
</tr>
<tr>
<td>13</td>
<td>Inventory Purchases</td>
<td>1,000,000</td>
</tr>
<tr>
<td>14</td>
<td>Debt Service</td>
<td>49,500,000</td>
</tr>
<tr>
<td>15</td>
<td>Total</td>
<td>$431,500,000</td>
</tr>
</tbody>
</table>

It is the intent to appropriate and make available for expenditure, the balances and all revenues and income of the state road fund, including the proceeds from the sale of bonds, for the maintenance, construction and re-construction of state roads and for other purposes in accordance with the provisions of Chapter 17, Code of West Virginia, one thousand nine hundred thirty-one, as amended.

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

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, however, That the operation of such revolving funds shall not cause expenditures in excess of the foregoing appropriations.

There is hereby appropriated, within the above line items, sufficient moneys for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Chapter 14, Article 2, Sections 7 and 8, Code of West Virginia, one thousand nine hundred thirty-one, as amended.

Out of the above appropriations there shall be an amount
41 of $25,000 for a feasibility study on Route 10 between Logan
42 and Man, West Virginia, and an amount of $25,000 for a
43 feasibility study on Route 9 in Berkeley and Jefferson
44 Counties.

122—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$950,838</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$1,066,140</td>
</tr>
<tr>
<td>Equipment</td>
<td>$30,000</td>
</tr>
<tr>
<td>Purchase of License Plates</td>
<td>$285,000</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$64,000</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>$109,000</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>$32,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,536,978</strong></td>
</tr>
</tbody>
</table>

123—State Tax Department—Gasoline Tax Division

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$290,230</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$118,307</td>
</tr>
<tr>
<td>Equipment</td>
<td>$4,620</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$17,758</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>$14,100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$445,015</strong></td>
</tr>
</tbody>
</table>

124—Department of Education—Veterans Education

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$110,179</td>
</tr>
</tbody>
</table>
### Other Expenses

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Other Expenses</td>
<td>27,600</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>137,779</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.

125—*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>28,120</td>
</tr>
</tbody>
</table>

126—*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>75,609</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>20,530</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>500</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>4,081</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>6,585</td>
</tr>
<tr>
<td>6 Public Employees Health Insurance</td>
<td>1,470</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>108,775</strong></td>
</tr>
</tbody>
</table>

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

127—*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</td>
</tr>
</tbody>
</table>
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.

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

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.

128—Auditor's Office—Land Department Operating Fund

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

<p>| 1 | Personal Services | $27,090 |
| 2 | Current Expenses  | 16,000  |
| 3 | Microfilm Program | 5,000   |</p>
<table>
<thead>
<tr>
<th>4</th>
<th>Public Employees Health Insurance</th>
<th>900</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Total</td>
<td>$48,990</td>
</tr>
</tbody>
</table>

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

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

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

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

| 1 | Personal Services | $217,645 |
| 2 | Current Expenses  | 12,900  |
| 3 | Equipment         | 5,000   |
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4 Social Security Matching Fund 13,100
5 Public Employees Retirement Matching Fund 21,425
6 Public Employees Health Insurance 12,540

7 Total $ 282,610

8 The total amount of this appropriation shall be paid from Special Revenue Fund as provided by Chapter 5A, Article 2 of the Code of West Virginia.

9 The above appropriation includes salaries and operating expenses.

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

11 Special funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Finance and Administration and approval of the Governor.

130—Department of Finance and Administration—Information System Services Division Fund

Acct. No. 8151-01

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services $ 1,800,000
2 Current Expenses 2,685,282
3 Equipment 95,600
4 Social Security Matching Fund 105,300
5 Public Employees Retirement Matching Fund 171,000
6 Public Employees Health Insurance 63,000

7 Total $ 4,920,182

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

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$232,343</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$35,190</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$12,000</td>
</tr>
<tr>
<td>4</td>
<td>Social Security Matching Fund</td>
<td>$14,000</td>
</tr>
<tr>
<td>5</td>
<td>Public Employees Retirement Matching Fund</td>
<td>$23,000</td>
</tr>
<tr>
<td>6</td>
<td>Public Employees Health Insurance</td>
<td>$5,000</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$321,533</td>
</tr>
</tbody>
</table>

8 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 amendment upon request of the Commissioner of Agriculture and approval of the Governor.

132—State Committee of Barbers and Beauticians

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$76,885</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$37,700</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$1,000</td>
</tr>
<tr>
<td>4</td>
<td>Social Security Matching Fund</td>
<td>$4,512</td>
</tr>
<tr>
<td>5</td>
<td>Public Employees Retirement Matching Fund</td>
<td>$7,648</td>
</tr>
<tr>
<td>6</td>
<td>Public Employees Health Insurance</td>
<td>$1,650</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$129,395</td>
</tr>
</tbody>
</table>

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.
### 133—Public Service Commission

**Acct. No. 828**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$48,000</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$946,400</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$222,850</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$17,085</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$45,700</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$88,600</td>
</tr>
<tr>
<td>7 Public Employees Health Insurance</td>
<td>$22,750</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,391,385</strong></td>
</tr>
</tbody>
</table>

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

### 134—Public Service Commission—
Gas Pipeline Division

**Acct. No. 8285**

**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>$76,812</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$39,100</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$3,600</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$7,400</td>
</tr>
<tr>
<td>6 Public Employees Health Insurance</td>
<td>$1,800</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$133,712</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of receipts collected for or by the
10 Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies.

135—Public Service Commission—Motor Carrier Division

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$351,756</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$115,500</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,060</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$21,500</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>$37,950</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>$10,750</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$542,516</strong></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 motor carriers as authorized by law.

136—Department of Natural Resources

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$1,643,698</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$474,729</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$126,252</td>
</tr>
<tr>
<td>Equipment</td>
<td>$207,034</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$92,190</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>$60,000</td>
</tr>
<tr>
<td>Land Purchase and Buildings</td>
<td>$312,100</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>$161,333</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,077,336</strong></td>
</tr>
</tbody>
</table>
The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected by the Department of Natural Resources. Expenditures shall be limited to the amounts appropriated except for Federal Funds received and Special Funds collected at state parks. Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Natural Resources and approval of the Governor.

137—Department of Public Safety—Inspection Fees

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$183,433</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>108,125</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>7,100</td>
</tr>
<tr>
<td>Equipment</td>
<td>16,000</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>1,622</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>7,500</td>
</tr>
<tr>
<td>Total</td>
<td>$323,780</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected for inspection stickers as provided by law. Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Public Safety and approval of the Governor for the purpose of repairs to, or construction of police barracks.

(The words “and the first order of priority for construction shall be $75,000 each for the construction of a police barracks at Pineville, West Virginia, and Grantsville, West Virginia” stricken from the end of the last paragraph.)

138—West Virginia Alcohol Beverage Control Commission

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Commissioner</td>
<td>$20,000</td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Other Personal Services</td>
<td>4,946,125</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>2,099,000</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>30,500</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>103,500</td>
</tr>
<tr>
<td>5</td>
<td>Social Security Matching Fund</td>
<td>287,250</td>
</tr>
<tr>
<td>6</td>
<td>Public Employees Retirement Matching Fund</td>
<td>472,000</td>
</tr>
<tr>
<td>7</td>
<td>Public Employees Health Insurance</td>
<td>240,000</td>
</tr>
<tr>
<td>8</td>
<td>Automation and Conversion of A.B.C. State</td>
<td>869,020</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
<td>$ 9,067,395</td>
</tr>
</tbody>
</table>

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

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

---

### 139—West Virginia Civil Service System

Acct. No. 840

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$ 294,359</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>127,650</td>
</tr>
<tr>
<td>3</td>
<td>Social Security Matching Fund</td>
<td>17,863</td>
</tr>
<tr>
<td>4</td>
<td>Public Employees Retirement Matching Fund</td>
<td>30,630</td>
</tr>
<tr>
<td>5</td>
<td>Public Employees Health Insurance</td>
<td>10,400</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$ 480,902</td>
</tr>
</tbody>
</table>

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

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.

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

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service $ 550,418

The total amount of this appropriation shall be paid from the nonrevolving Capital Improvement Fund created by the 1959 Legislature, as amended.

Any unexpended balances remaining in the appropriations, "Miscellaneous Small Projects, Utilities, Roads and Parking, Creative Arts, and the Medical Center — Repairs and Alterations" at the close of the fiscal year 1972-73 are hereby reappropriated for expenditure during fiscal year 1973-74.

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

Acct. No. 8535

TO BE PAID FROM SPECIAL REVENUE FUND

1 Miscellaneous Projects $ 700,000
2 Property Acquisition 100,000
3 Campus Long-Range Land Utilization and Facilities Master Planning, Phase 3 of 3 200,000
4 Shepherd College, Academic Facilities Development, Phase 1 of 3 1,200,000
5 West Liberty State College, Science Facility Development 2,000,000
6 Fairmont State College, Administration Building Alterations, Phase 2 of 2 134,000
7 Glenville State College, Verona Maple Hall Alterations, Phase 2 of 2 428,000
8 Shepherd College, Gymnasium Addition, Phase 2 of 2 163,000
Marshall University, Academic Facilities Development, Phase 2 of 4 1,000,000
Parkersburg Community College, Learning Resources Center and Technical Instructional Facility, Phase 2 of 2 315,000
Glenville State College, Outdoor Athletic Facilities, Phase 2 of 2 193,000
Fairmont State College, Field House Development, Phase 1 of 2 225,000
Fairmont State College, Rough Grading, Roads, Parking and Field Development 180,000
Shepherd College, Outdoor Athletic Facilities 75,000
Shepherd College, Parking 150,000
Glenville State College, Locker House Development 252,000

Total $7,315,000

The total amount of this appropriation shall be paid from the Capital Improvement Fund created by the 1971 Legislature. The appropriation is to be paid on a cash basis and made available from date of passage; items are to be started as funds become available and then only in listed order of priority: Provided, however, That whenever the amount in the Capital Improvement Fund shall be sufficient to cover all capital expenditures authorized above, then the listed projects shall be considered of equal priority.

Any unexpended balances remaining in the 1972-73 year appropriation are hereby reappropriated for expenditure during the fiscal year 1973-74 except the appropriation heretofore authorized by the Legislature for expenditure during the fiscal year 1972-73, set forth in the Budget Bill, Regular Session, 1972, Section 2, Appropriation From Other Funds, pages 53 and 54, inclusive, Board of Regents—State System Special Capital Improvement Fund, Account Number 8535, lines 12 and 13 are hereby voided.

142—Board of Regents—Special Capital Improvement Fund

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

Debt Service $1,928,078
The total amount of this appropriation shall be paid from the nonrevolving Capital Improvement Fund created by the 1959 Legislature, as amended.

Any unexpended balances remaining in prior years and 1972-73 appropriations are hereby reappropriated for expenditure during the fiscal year 1973-74 except the appropriation heretofore authorized by the Legislature for expenditure during the fiscal year 1971-72, set forth in the Budget Bill, Regular Session, 1971, Section 2, Appropriations From Other Funds, pages 51 through 53, inclusive, Board of Regents—Special Capital Improvement Fund, Account Number 854, lines 23 and 24 are hereby voided.

143—West Virginia University—Medical School

Acct. No. 873

TO BE PAID FROM MEDICAL SCHOOL FUND

1 Personal Services $15,216,668
2 Current Expenses 4,722,969
3 Repairs and Alterations 811,807
4 Equipment 1,325,118
5 Intern and Residency Support Program for Community Hospitals 331,700

Total $22,408,262

From the above appropriation there shall be expended the sum of $290,000 for a family practice program.

Special funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Board of Regents and approval of the Governor.

(Appropriations of $16,409,602, $5,332,488, $1,083,133, $1,447,876 and $24,604,799 in lines 1, 2, 3, 4 and 7, respectively, reduced to $15,216,668, $4,722,969, $811,807, $1,325,118 and $22,408,262.)

144—Workmen's Compensation Commission

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1 Personal Services $1,329,770
2 Current Expenses 568,275
<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment</td>
<td>27,880</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>72,000</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>130,600</td>
</tr>
<tr>
<td>Public Employees Health Insurance</td>
<td>38,000</td>
</tr>
<tr>
<td>U. S. Department of Labor Statistics</td>
<td>35,525</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,202,050</strong></td>
</tr>
</tbody>
</table>

There is hereby authorized to be paid out of the above appropriation for current expenses the amount necessary for the premiums on bonds given by the State Treasurer as bond custodian for the protection of the Workmen’s Compensation Fund. This sum shall be transferred to the Board of Insurance.

Sec. 3. Supplemental and Deficiency Appropriations.—From the State Fund, General Revenue, except as otherwise provided, there are hereby appropriated the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred seventy-three to supplement the 1972-73 appropriations, and to be available for expenditure upon date of passage.

145—Supreme Court of Appeals

<table>
<thead>
<tr>
<th>Acct. No. 110</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses $10,000</td>
</tr>
<tr>
<td>2 Equipment $77,000</td>
</tr>
<tr>
<td><strong>Total</strong> $87,000</td>
</tr>
</tbody>
</table>

146—State Auditor’s Office

<table>
<thead>
<tr>
<th>Acct. No. 150</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses $10,940</td>
</tr>
</tbody>
</table>

147—Commissioner of Public Institutions

<table>
<thead>
<tr>
<th>Acct. No. 190</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses $20,000</td>
</tr>
</tbody>
</table>
148—*Department of Finance & Administration*

Acct. No. 210

1 Current Expenses $ 17,500
2 Postage $ 30,000

3 Total $ 47,500

149—*Secretary of State*

Acct. No. 250

1 Other Personal Services $ 7,500

150—*West Virginia Penitentiary*

Acct. No. 375

1 Current Expenses $ 60,000
2 Repairs and Alterations $ 30,000

3 Total $ 90,000

151—*Department of Mental Health*

Acct. No. 410

1 Roney’s Point Branch Hospital $ 20,000
2 To complete construction of the Community Mental Retardation Center $ 50,000
3 To match existing Federal Funds for construction of a Comprehensive Community Mental Health Center $ 200,000

7 Total $ 270,000

152—*Colin Anderson Center*

Acct. No. 419

1 Current Expenses $ 54,810
153—Weston State Hospital

Acct. No. 420

1 Current Expenses $ 54,733

154—Spencer State Hospital

Acct. No. 421

1 Current Expenses $ 11,000

155—Huntington State Hospital

Acct. No. 422

1 Current Expenses $ 13,000

156—Lakin State Hospital

Acct. No. 423

1 Current Expenses $ 10,000

157—Pinecrest State Hospital

Acct. No. 431

1 Repairs and Alterations $ 85,000

2 The above appropriation is to be expended for the purpose
3 of making the necessary repairs to and reconstruction of the
4 available space at Pinecrest Hospital designed to accommodate
5 the patients that will be transferred to the hospital.
6
7 Any unexpended balance remaining in this appropriation at
8 the close of the fiscal year 1972-73 is hereby reappropriated
9 for expenditure during the fiscal year 1973-74.

158—Department of Natural Resources

Acct. No. 565

1 French Creek Game Farm Exhibit Trailer $ 24,000
2 U. S. Geological Survey $ 10,000
3 West Virginia Water Development Authority ___________________________ 25,000

4 Total ___________________________ $ 59,000

5 Any unexpended balance remaining in the above appropriation to "French Creek Game Farm Exhibit Trailer" at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during fiscal year 1973-74.

159—Adjutant General

Acct. No. 580

1 Current Expenses ___________________________ $ 17,040

160—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1 Current Expenses ___________________________ $ 138,000
2 Public Employees Health Insurance ____________ 7,500

3 Total ___________________________ $ 145,500

161—West Virginia Alcohol Beverage Control Commission

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1 Current Expenses ___________________________ $ 651,000
2 Public Employees Health Insurance ____________ 90,000

3 Total ___________________________ $ 741,000

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 1973-74, out of surplus funds only, subject to the terms, conditions, and priority schedule set forth in this section.

The Governor, in his Executive Budget for the Fiscal Year
8 July 1, 1973 through June 30, 1974, on Page IV, General
9 Revenue Statement, stated that surplus revenues available for
10 appropriation from the State Fund, General Revenue will be
11 $27,138,842 by the end of the 1972-73 fiscal year. It is the
12 intent and mandate of this Legislature that the following
13 itemized appropriations made by this section shall be payable
14 only from the surplus accrued as of June 30, 1973.
15 In the event that surplus revenues as of June 30, 1973
16 are not sufficient to meet all appropriations made by this
17 section, then the appropriation shall be available, in priority
18 order as listed, only to the extent of the total actual surplus

Item I. *West Virginia Schools for the Deaf and the Blind*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Remodel and building addition to Primary Building</td>
<td>$350,000</td>
</tr>
<tr>
<td>2</td>
<td>Remodel to meet State Fire Marshal's requirements</td>
<td>167,000</td>
</tr>
<tr>
<td>3</td>
<td>Complete ground floor new dormitories</td>
<td>152,000</td>
</tr>
<tr>
<td>4</td>
<td>Equipment for new dormitories</td>
<td>100,000</td>
</tr>
<tr>
<td>5</td>
<td>Environmental Replacement Phase 2</td>
<td>750,000</td>
</tr>
</tbody>
</table>

Total: $1,519,000

Item II. *Colin Anderson Center*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>New Dormitory</td>
<td>$2,000,000</td>
</tr>
</tbody>
</table>

Item III. *Department of Finance and Administration*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Major Building Repairs</td>
<td>$1,500,000</td>
</tr>
</tbody>
</table>

Item IV. *Department of Mines*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Special Mine Drainage Program</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

Item V. *Division of Vocational Rehabilitation*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Rehabilitation Center Construction</td>
<td>$602,000</td>
</tr>
</tbody>
</table>

Item VI. *West Virginia Library Commission*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Unclassified</td>
<td>$1,250,000</td>
</tr>
</tbody>
</table>

Item VII. *Department of Commerce*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Independence Hall, Wheeling,</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>---------</td>
</tr>
<tr>
<td>2</td>
<td>West Virginia</td>
<td>$100,000</td>
</tr>
<tr>
<td>3</td>
<td>West Virginia's Participation</td>
<td>$0,000</td>
</tr>
<tr>
<td>4</td>
<td>National Bicentennial</td>
<td>$0,000</td>
</tr>
<tr>
<td>5</td>
<td>Industrial Development</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>6</td>
<td>Revolving Fund</td>
<td>$50,000</td>
</tr>
<tr>
<td>7</td>
<td>General Adam Stephen Home</td>
<td>$1,650,000</td>
</tr>
</tbody>
</table>

(The amount of $100,000 for the State's participation in the National Bicentennial, and the provision that $34,500 from the appropriation be expended for the Battle of Point Pleasant Bicentennial Commission, deleted; and the total of item reduced from $1,750,000 to $1,650,000.)

**Item VIII. West Virginia State Aeronautics Commission**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wyoming County Airport</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

**Item IX. Weston State Hospital**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Land acquisition</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

**Item X. West Virginia Board of Regents (Control)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Jackson's Mill 4-H Camp</td>
<td>$500,000</td>
</tr>
<tr>
<td>2</td>
<td>For Repairs and Renovation and the purchase of Equipment</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

**Item XI. State FFA-FHA Camp and Conference Center**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Construction of two additional cottages. Renovation of Main Lodge, recreational facilities</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

(The words "Construction of two additional cottages. Renovation of Main Lodge, recreational facilities" stricken by Governor. The Governor's action was invalidated by the Court.)

**Item XII. State Department of Highways**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Park Roads</td>
<td>$1,115,000</td>
</tr>
<tr>
<td>2</td>
<td>A. Panther State Park</td>
<td>$60,000</td>
</tr>
<tr>
<td>3</td>
<td>B. North Bend State Park</td>
<td>$50,000</td>
</tr>
<tr>
<td>4</td>
<td>C. Twin Falls State Park</td>
<td>$750,000</td>
</tr>
<tr>
<td>5</td>
<td>D. Tygart Lake State Park</td>
<td>$80,000</td>
</tr>
<tr>
<td>6</td>
<td>E. Pricketts Fort State Park</td>
<td>$10,000</td>
</tr>
<tr>
<td>7</td>
<td>F. Blackwater Falls State Park</td>
<td>$100,000</td>
</tr>
<tr>
<td>8</td>
<td>G. Kanawha State Forest</td>
<td>$50,000</td>
</tr>
<tr>
<td>9</td>
<td>H. Plum Orchard Lake</td>
<td>$15,000</td>
</tr>
</tbody>
</table>

**Item XIII. Commissioner of Public Institutions**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$4,330,121</td>
</tr>
</tbody>
</table>


A. *West Virginia Industrial School for Boys*

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Chapel</td>
<td>$150,000</td>
</tr>
<tr>
<td>Exit Lights</td>
<td>$7,943</td>
</tr>
<tr>
<td>Fire Alarm System</td>
<td>$36,519</td>
</tr>
<tr>
<td>Enclose Stairwell</td>
<td>$7,603</td>
</tr>
<tr>
<td>Emergency Lights</td>
<td>$7,691</td>
</tr>
<tr>
<td>Wire Glass Windows</td>
<td>$1,624</td>
</tr>
<tr>
<td>Fire Extinguishers</td>
<td>$240</td>
</tr>
<tr>
<td>Fire Escape</td>
<td>$10,707</td>
</tr>
<tr>
<td>Transoms</td>
<td>$360</td>
</tr>
<tr>
<td><strong>Anthony Correctional Center</strong></td>
<td></td>
</tr>
<tr>
<td>Laundry Equipment</td>
<td>$11,300</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$233,987</td>
</tr>
</tbody>
</table>

B. *West Virginia Industrial Home for Girls*

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Alarm System</td>
<td>$33,892</td>
</tr>
<tr>
<td>Emergency Lights</td>
<td>$9,060</td>
</tr>
<tr>
<td>Enclose Stairwell</td>
<td>$5,572</td>
</tr>
<tr>
<td>Fire Escape</td>
<td>$16,424</td>
</tr>
<tr>
<td>Replace Door Security</td>
<td>$2,872</td>
</tr>
<tr>
<td>Fire Door</td>
<td>$4,833</td>
</tr>
<tr>
<td>Exit Lights</td>
<td>$4,344</td>
</tr>
<tr>
<td>Electrical Repairs</td>
<td>$6,300</td>
</tr>
<tr>
<td>Water System</td>
<td>$45,000</td>
</tr>
<tr>
<td>Furnish Sutton Cottage</td>
<td>$47,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$175,297</td>
</tr>
</tbody>
</table>

C. *West Virginia Penitentiary*

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>To complete major renovation</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Automatic Sprinkler System</td>
<td>$30,000</td>
</tr>
<tr>
<td>Bathroom Fixtures</td>
<td>$35,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$1,165,000</td>
</tr>
</tbody>
</table>

D. *Huttonsville Correctional Center*

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paint and Body Shop</td>
<td>$25,000</td>
</tr>
<tr>
<td>Renovate Storage Building to make Welding Shop</td>
<td>$25,000</td>
</tr>
<tr>
<td>Pave Roadways</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$80,000</td>
</tr>
</tbody>
</table>
E. Andrew S. Rowan Memorial Home

1 Elevator Jefferson Hall  
2 Construction  

F. Fairmont Emergency Hospital

1 Construction  

G. Welch Emergency Hospital

1 Construction  1,000,000  
2 Roofing main Hospital Building, 
3 Nursing Home and installing 
4 copper gutters on both  135,000  
5 New Sewage System  50,000  
6 Installation New Tile, Main Hospital Building  10,000  
8 Remodeling Nurses' Home to house Administrative Offices 
9 and two apartments  50,000  
11 Total  1,245,000  

H. Hopemont State Hospital

1 Automatic Sprinkler System for Morgan Hall (Nurses' Home)  40,000  
3 Storage Building  12,000  
4 X-Ray Renovation  28,000  
5 Total  80,000  

I. Pinecrest State Hospital

1 Fire Alarm System  88,718  
2 Emergency Lights  19,665  
3 Fire Doors  22,760  
4 Emergency Generator  61,050  
5 Waterline  48,000  
6 Total  240,193  

J. Denmar State Hospital

1 Emergency Lights  12,402  
2 Fire Alarm System  43,242  
3 Total  55,644
Item XIV. Department of Mental Health $1,287,578

A. Huntington State Hospital

1 Replace existing steam and condensate lines.
2 New construction $180,000
3 Engineer’s Fee 6,500 186,500

B. Huntington State Hospital

1 Laundry Building
2 New construction $147,000
3 Engineer’s Fee 12,000 159,000
4 Equipment 21,000 170,000
5 Hospital Therapeutic Center 181,578
6 Total 361,578

C. Roney’s Point Branch Hospital

1 Sewage Treatment Plant
2 New construction $42,000
3 Engineer’s Fee 3,200 45,200

D. Colin Anderson Center

1 Addition to Special Education Building
2 New construction $250,000
3 Architect’s Fee 20,000 270,000

E. Colin Anderson Center

1 Install large screens on Crib Ward Building 27,000

F. Lakin State Hospital

1 Repair erosion damage to the sewage plant 25,000

G. Colin Anderson Center

1 Two residential type cottages
2 New construction $360,000
3 Engineer’s Fee 12,300 372,300
Item XV. Department of Natural Resources $ 4,807,500

A. Cass Scenic Railroad
1. Construct and equip new shop building $ 700,000
2. Purchase residence and lot 25,000
3. Land purchase—Bald Knob and Mill Property 210,000 935,000*

B. Cacapon State Park
1. Completion of golf course sand, etc. 45,000*

C. Grandview State Park
1. Tie-in to public water supply system $ 50,000
2. Installation of Aerobic sewage treatment system 75,000
3. Complete land acquisition and parking 100,000 225,000*

D. North Bend State Park
1. Construct residence $ 40,000
2. Construct 25 vacation cabins 1,000,000 1,040,000

E. Cedar Creek State Park
1. Construct Picnic Shelter $ 15,000
2. Construct Garage and workshop 20,000
3. Campground expansion 125,000
4. Construct game courts 25,000
5. Restoration of ponds 30,000
6. Land Purchase 50,000 265,000*

F. Camp Creek State Forest
1. Construct dam on Farley's Branch. Bureau of Outdoor Recreation Reimbursement is available for development of new picnic area around dam 50,000
G. *Blackwater Falls State Park*

1. Construct recreation building in day-use area $120,000
2. Construct picnic shelter $15,000
3. Construct contact station with laundry facilities and camping area $30,000
4. Construct tennis courts & miniature golf course $30,000
5. Air condition first floor of lodge $75,000 270,000*

H. *Hawks Nest State Park*

1. Construct Campground 175,000*

I. *Pricketts Fort State Park*

1. Construct boat docks & concession buildings $75,000
2. Construct waterline to connect park facilities to city water system $15,000 90,000*

J. *Babcock State Park*

1. Land purchase $75,000
2. Rebuild old water-powered grist mill on Glade Creek $75,000
3. Renovation of Administration Building to improve restaurant facilities and construct trading post in basement $35,000
4. Water System renovation $15,000 200,000*

K. *Tygart Lake State Park*

1. Relocate present trailer park and camping area from present location to Henderson Rock area on Pleasant Creek, and provide 100 trailer sites, adequate campsites with water, sewers and a disposal system. $90,000
2. Construct ten additional cabins
Ch. 10] Appropriations

9 on location of present trailer 140,000
10 sites __________________ 140,000
11 Construct an additional twenty rooms to lodge .............. 140,000
12 Sewage Facilities, Marina
13 & Camp Grounds .......... 60,000
14 Resurface Lodge Parking Lot .. 30,000 460,000

L. Grave Creek Mound State Park
1 Museum building and inter-
2 pretation; general develop-
3 ment and land purchase .................. 350,000

M. Point Pleasant Battle Monument
1 Lighting and Landscaping .................. 40,000

N. Chief Logan State Park
1 Covered picnic shelter .................. 10,000

O. Beech Fork Lake
1 Feasibility study .................. 15,000

P. Department of Natural Resources
1 Repairs, Replacement of
2 Equipment and Furnishings
3 at State Parks & State Forests .................. 400,000

Q. Panther State Forest
1 Paving ................................... 22,500

R. Lost River State Park
1 Park Improvements .................. 75,000

S. Watters-Smith State Park
1 Park Improvements .................. 50,000

T. Moncove Lake
1 Camping and picnic facilities .................. 50,000

U. Big Ditch Recreation Area
1 Picnic and Camp Site Facilities .................. 25,000
V. Plum Orchard Lake

1 Campsites ........................................................................ 15,000

(Note in lines 2 and 3 as follows: "*Denotes federal reimbursement from Bureau Outdoor Recreation. deleted by the Governor.")

Item XVI. Public Land Corporation

1 Blennerhassett Island .......................................................... $ 200,000

(The words "Blennerhassett Island" stricken from bill by the Governor. This action was invalidated by the Court.)

Item XVII. Governor’s Office—

Office Federal-State Relations

1 To provide moneys to be matched from any source available, for the purchase of at least one emergency medical service vehicle for each county .................................................. $ 1,000,000

Sec. 5. Awards for Claims Against the State.—From the funds designated there are hereby appropriated for the remainder of the fiscal year 1972–73 and to remain in effect until June 30, 1974, for payment of claims against the state, the following amounts as itemized.

(a) Claims versus the Department of Highways:

To be paid from State Road Fund

1 (1) Harry N. Walker, d/b/a Gauley Esso Service Center ........................................... $ 900.00
2 (2) A. D. and Eulah M. Strader ............................................................... 896.00
3 (3) Monongahela Power Company .......................................................... 148.84
4 (4) Bliss R. Wotring .......................................................... 750.00
5 (5) James B. Frazier .......................................................... 10,000.00
6 (6) Lou Irene Frazier .......................................................... 1,000.00
7 (7) Jamy Lou Frazier, an infant by and through James B. Frazier, her next friend, and James B. Frazier .......................................................... 500.00
8 (8) James B. Frazier, Administrator of Estate of Michael Scott Frazier, deceased .......................................................... 10,541.95
9 (9) Joseph C. and Emma Lou Jones .......................................................... 265.54
10 (10) William B. and Helen McClure .......................................................... 137.55
11 (11) Foremost Insurance Co. .......................................................... 550.00
12 (12) Peter Shaffron, Jr. .......................................................... 114.33
13 (13) S. J. Groves & Sons and Turman Construction Co. .......................................................... 38,404.45
(14) Virgil Donald Seebaugh and Ava Marie Seebaugh ........................................ 750.00
(15) W. Va. Welding Supply Company .................................................. 1,660.00
(16) C. P. McDorman ................................................................. 50.00
(17) Vergie Warner ........................................................................... 100.00
(18) Carpenter Addition Water Company ........................................... 124.74
(19) Delbert J. Matheny ................................................................. 200.00
(20) Larry L. Betonte and Judith A. Betonte ........................................ 700.00
(21) Amos Preece ............................................................................... 1,200.00
(22) Charles Gravely ........................................................................... 106.61
(23) Oscar Vecellio, Inc. ................................................................... 4,970.48
(24) Carl A. Brown ............................................................................. 750.00
(25) Clarence E. Brown ..................................................................... 600.00
(26) Mariene J. Downey ...................................................................... 100.00
(27) Harry Ellison ............................................................................... 1,500.00
(28) Leo R. Harrah ............................................................................. 6,000.00
(29) Ralph W. Waugh ......................................................................... 700.00
(30) Thomas Eugene Carelli and Frank Carelli, d/b/a the Smoke House ........ 1,300.00
(31) Wilson Jacobs and Eugene Jacobs ............................................. 4,225.00
(32) David McClellan ......................................................................... 1,700.00
(33) B. H. Child & Co., Inc. d/b/a Fort Pitt Shoe Store ....................... 3,700.00
(34) Elsie McCall Duncan d/b/a Mac's Jewelry Store ......................... 2,621.30
(35) State Farm Insurance Co., Assignee of Margaret Roeser and Harriet Davidson 464.00
(36) Thomas C. and Nellie Sheppard, Sr. .............................................. 2,444.03
(37) J. R. Hardy ................................................................................. 160.68
(38) Cory Auto Parts Co. .................................................................. 10,000.00
(39) The Firestone Tire & Rubber Co. ................................................. 6,000.00
(40) Darrell Bailey ............................................................................... 437.13
(41) State Farm Mutual Automobile Insurance Co., as subrogee of Diana K. Smith, its insured .......................................................... 78.80
(42) State Farm Mutual Automobile Insurance Co., as subrogee of Corliss P. McDorman, its insured ...................................................... 277.81
(43) Gertrude A. Myers and Lena M. Brown ... 1,000.00
(44) State Farm Mutual Automobile Insurance Co., as subrogee of Ralph Heane, its insured ........................................... 36.05
(45) State Farm Mutual Automobile Insurance Co., as subrogee of Robert L. Hulett, its insured ........................................... 46.35

(b) Claims versus the Governor's Office:
To be paid from General Revenue Fund
(1) The Fairmont Times and West Virginian ........................................... 210.00

(c) Claims versus the Board of Regents:
To be paid from General Revenue Fund
(1) Joe L. Smith, Jr., Inc. d/b/a Biggs-Johnston-Withrow ........................................... 372.98

(d) Claims versus the State Tax Department:
To be paid from General Revenue Fund
(1) General Foods Corporation ........................................... 28,590.95

(e) Claims versus the Department of Public Institutions:
To be paid from General Revenue Fund
(1) Harold E. Bondy, M. D. ........................................... 2,000.00
(2) Radiological Consultants Association ........................................... 2,815.00

(f) Claims versus the Department of Finance and Administration:
To be paid from General Revenue Fund
(1) City of Charleston ........................................... 91,329.00

(g) Claims versus the Department of Natural Resources:
To be paid from General Revenue Fund
(1) Flossie Grace Pudder ........................................... 8,000.00
(2) Robert J. Pudder ........................................... 3,000.00

(h) Claims versus the Department of Public Safety:
To be paid from General Revenue Fund
(1) Frank Prozillo ........................................... 155.61
(2) Mary Jane Starvaggi ........................................... 25,000.00
(3) Wilma Lee Morris ........................................... 1,500.00

(i) Claims versus the Adjutant General:
To be paid from General Revenue Fund
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 appropriations for said claimant. The court of claims shall deliver all releases obtained from claimants to the department against which the claim was allowed.

It shall be the duty of any state spending unit against which a claim has been awarded to determine if the claimant owes moneys to the state tax department, the department of employment security, state workmen's compensation commissioner or the state auditor and if the spending unit finds that the claimant owes money to any of the aforementioned state departments the state agency shall deduct the sum due and owing the state and cause a warrant in the proper amount to be issued payable to the department creditor.

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 satisfac-
tory 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.

(a) Claims versus the Department of Mental Health:

To be Paid from General Revenue Fund

(1) Amstan Supply Division,
American Standards, Inc. ________________ $ 456.00

(2) J. S. Latta ____________________________ 65.00

Total ________________________________ $ 521.00

Sec. 7. Reappropriations.—The date of expiring the unex-
pended balances, if any, of Items I, II, III, IV, V, VI, VII,
VIII, IX, X, XI, XII, XIII and XIV, in the appropriations
made by and under authority of Section 4 of the 1972 Bud-
get Act, are hereby reappropriated from the respective dates of
expiration to June 30, 1974.

Item 145—West Virginia Board of Regents (Control) in
the supplemental and deficiency appropriation in the 1972
Budget Act is hereby reappropriated and may be used for the
establishment on the campus of or property owned by Marshall
University a track field.

Sec. 8. Appropriations from Revenue Sharing Trust Fund—
If the moneys received by the State of West Virginia on or be-
fore April 17, 1973, pursuant to the provisions of the “State
and Local Fiscal Assistance Act of 1972; Title I of Public
Law 92-512,” enacted by the Congress of the United States,
and approved on October 20, 1972, are, upon the maturity of
the certificates of deposit in which such moneys are invested,
together with all interest earned thereon, deposited in the state
treasury, and are kept in a separate account in the state
treasury to be entitled “Revenue Sharing Trust Fund,” then the
following items are hereby appropriated from such Revenue
Sharing Trust Fund to be available for expenditure during the
fiscal year 1973-74:
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Revenue Sharing Trust Fund—
State Department of Highways

Acct. No. 670

14 Special Bridge Replacement Fund, if there is full compliance
with all of the provisions of the first paragraph of this sec-
tion ........................................................................................................ $20,161,258
15 A. Big Creek Bridge No. 23-10-37.72(935), if there is full
compliance with all of the provisions of the first paragraph of
this section.
16 B. Salt Rock Bridge No. 6-10-1.40(707), if there is full
compliance with all of the provisions of the first paragraph of
this section.
17 C. Westover Bridge No. 31-19-11.08(1360), if there is full
compliance with all of the provisions of the first paragraph of
this section.
18 D. Jefferson Street Bridge No. 25-73-8.43(1567), if there is full
compliance with all of the provisions of the first para-
graph of this section.
19 E. Huntington 3rd Avenue Bridge No. 6-2-0.38(913), if
there is full compliance with all of the provisions of the first
paragraph of this section.
20 F. Branchland Route 10 Bridge No. 22-10-22.51(798), if
there is full compliance with all of the provisions of the first
paragraph of this section.
21 G. Clarksburg-Adamston Bridge No. 17-19-16.27(1685), if
there is full compliance with all of the provisions of the first
paragraph of this section.
22 H. Naugatuck Bridge No. 30-52-8.01(299), if there is full
compliance with all of the provisions of the first paragraph of
this section.
23 I. Pineville Bridge No. 55-16-11.51(437), if there is full
compliance with all of the provisions of the first paragraph of
this section.
24 J. Baileysville Bridge No. 55-9-9.08, if there is full com-
pliance with all of the provisions of the first paragraph of this
section.
25 K. Elmore Bridge No. 55-10-12.37, if there is full com-
pliance with all of the provisions of the first paragraph of this
section.
L. Ansted Bridge No. 10-60-19.84(937), if there is full compliance with all of the provisions of the first paragraph of this section.

M. Harrisville Bridge No. 43-16-18.96(775), if there is full compliance with all of the provisions of the first paragraph of this section.

N. Seth Bridge No. 03-05-18.09(1798), if there is full compliance with all of the provisions of the first paragraph of this section.

O. Bridgeway Bridge No. 48-26-0.06, if there is full compliance with all of the provisions of the first paragraph of this section.

Maintenance for State Local Service Roads, if there is full compliance with all of the provisions of the first paragraph of this section ______________________ $ 2,100,000

Revenue Sharing Trust Fund—Department of Mental Health

Acct. No. 410

1 Special Capital Improvement Mental Health Fund, if there is full compliance with all of the provisions of the first paragraph of this section ______________________ $ 2,440,000

Revenue Sharing Trust Fund—West Virginia Housing Development Fund

Acct. No. 122

1 Special Housing Development Program, if there is full compliance with all of the provisions of the first paragraph of this section ______________________ $ 2,000,000

Revenue Sharing Trust Fund—Governor's Office—Federal-State Coordination

Acct. No. 125

1 Special Water Improvement Fund, if there is full compliance with all of the provisions of the first paragraph of this section ______________________ $ 1,000,000
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Appropriations

Revenue Sharing Trust Fund—Department of Natural Resources

Acct. No. 565

Canaan Valley Lodge, if there is full compliance with all of the provisions of the first paragraph of this section $2,700,000.

Each of the above items is conditioned upon full compliance with all of the provisions of the first paragraph of this section and unless there is full compliance with all of the provisions of the first paragraph of this section, then each of the foregoing items set forth in this Section 8 shall be void with like effect as if each such item had not been included in this act.

Sec. 9. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred seventy-four 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 5A, 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. 10. 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. 11. 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. 12. 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. 13. 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. 14. 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 84 and 86 of the Code of West Virginia.

Sec. 15. 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. 16. Total Appropriations.—Where only a total sum is appropriated to a spending unit that total sum shall include personal services, current expenses, and capital outlay, except as otherwise provided in Title I, Section 3.

Sec. 17. 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 9A, 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 5A, 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
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 11
(Com. Sub. for House Bill No. 1088—By Mr. McCutcheon and Mr. Colombo)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-c, relating to the licensing of auctioneers; definition of terms; requirements for license; duties of auctioneer; license fees; service of process on auditor; bond; revocation or suspension of license; trainees permit; display of licenses and permits; records; orders of commissioner; hearing; review; penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2C. AUCTIONEERS.
§19-2C-1. Definitions.
§19-2C-2. License required.
§19-2C-3. Procedure for license; auditor as statutory agent for licensees.
§19-2C-4. Bond required.
§19-2C-5. Requirements for license; rules and regulations; duties of licensee; revocation or suspension of license.
§19-2C-6. Trainee permit.
§19-2C-7. Orders of commissioner; hearing; review.
§19-2C-8. Penalties for violation of article or rules and regulations.
§19-2C-1. Definitions.

For the purpose of this article the following definitions shall prevail:

(a) The term "auctioneer" means and includes a person who sells goods or real estate at public auction for another on commission or for other compensation. The term "auctioneer" shall not include (1) persons conducting sales at auctions conducted by or under the direction of any public authority or pursuant to any judicial order or direction or to any sale required by law to be at auction, (2) the owner of any real or personal property when personally sold at auction by such owner and such owner has not personally conducted an auction within the previous twelve-month period, (3) persons conducting sales pursuant to a deed of trust or other security agreement, (4) attorneys at law licensed to practice in this state, (5) fiduciaries of estates when selling real or personal property of such estate, and (6) persons conducting sales on behalf of charitable, religious, fraternal or other nonprofit organizations: Provided, That nothing contained in this article shall exempt persons conducting sales at public markets from the provisions of article two-a, chapter nineteen where the sale is confined solely to livestock, poultry and other agriculture and horticulture products.

(b) The term "public auction" means any public sale of real or personal property when offers or bids are made by prospective purchasers and the property sold to the highest bidder.

(c) The term "commissioner" means the commissioner of agriculture of West Virginia.

§19-2C-2. License required.

After the thirtieth day of June, one thousand nine hundred seventy-four, no person shall conduct an auction as an auctioneer in this state unless he shall have first obtained from the commissioner a license therefor.

§19-2C-3. Procedure for license; auditor as statutory agent for licensees.

Any person who wishes to conduct an auction as an auctioneer may apply therefor on forms prescribed by the com-
missioner and containing such information as the commissioner may by rule or regulation require. A nonreturnable application fee of fifteen dollars shall accompany each application as well as an annual license fee of fifteen dollars. Such applicant shall in addition file with his application a bond as required in section four of this article.

The commissioner shall, within thirty days of the receipt of an application, enter an order either granting or denying the license. In the event the license is denied, the applicant shall be refunded any annual license fee submitted with the application.

Licenses issued shall expire on the thirtieth day of June of each year but shall be renewable upon the payment of the annual license fee of fifteen dollars, so long as other requirements of this article are complied with.

The state auditor shall be deemed to be agent for the purpose of service of process on any licensed auctioneer for any action occasioned by the performance of the duties of such auctioneer. Every licensed auctioneer, by virtue of his application for license, shall be deemed to have consented to such statutory agency.

§19-2C-4. Bond required.

Every person applying for a license as an auctioneer or continuing to act as a licensed auctioneer shall file with the commissioner and maintain in full effect a bond with corporate surety satisfactory to the commissioner and in the form as prescribed by the commissioner, in the penalty of five thousand dollars. Such bond shall be conditioned upon the faithful compliance by the auctioneer with the provisions of this article and the payment of all required taxes, fees and penalties imposed by this state and its political subdivisions as well as the payment by any auctioneer of any final judgment obtained for damages arising out of his conduct or duties as an auctioneer. Such bond shall be open to public inspection.

§19-2C-5. Requirements for license; rules and regulations; duties of licensee; revocation or suspension of license.

Each person seeking a license hereunder shall submit satisfactory evidence to the commissioner showing:

(a) Either that
(1) Such applicant has been the principal auctioneer or has actually assisted an auctioneer in at least five auctions during the twelve-month period immediately prior to the filing of such application;

(2) Such applicant is a graduate of a recognized school for auctioneers;

(3) Such applicant is a licensed auctioneer in another state; or

(4) Such applicant has submitted evidence from at least two auctioneers licensed in this state that he is qualified to conduct an auction;

(b) That such applicant is of good moral character, is over eighteen years of age and has not been convicted of a crime involving moral turpitude; and

(c) Such other information as the commissioner by reasonable rule and regulation may prescribe.

The commissioner shall promulgate such reasonable rules and regulations as he shall deem necessary to carry out the intent and the administration and enforcement of this article, which said rules and regulations shall be promulgated in accord with the applicable provisions of chapter twenty-nine-a of this code as if the same were set forth herein in extenso.

Each licensee shall prominently display such license at all sales conducted by or participated in by such licensee and shall keep complete and accurate records of all transactions engaged in, which records shall be open to inspection by the commissioner or his authorized representative.

The commissioner may, by order, suspend or revoke any license granted hereunder for any violation of this article or the rules and regulations promulgated hereunder.

§19-2C-6. Trainee permit.

Any person may apply for and receive from the commissioner a trainee permit upon the payment of a permit fee of ten dollars and upon supplying such information as the commissioner may require. Such permits shall expire on the thirtieth day of June of each year but shall be renewable upon the payment of the annual fee of ten dollars. A trainee permit shall
entitle the holder thereof to assist in or conduct a public auc-
tion under the immediate supervision of a licensed auctioneer.

§19-2C-7. Orders of commissioner; hearing; review.

Any order of the commissioner shall be served by him upon
all persons affected thereby by registered mail. Within ten days
of the receipt of such order any party adversely affected there-
by may, in writing, request a hearing before the commissioner.
Such hearing and any judicial review thereof shall be conducted
in accordance with the applicable provisions of articles five
and six, chapter twenty-nine-a of this code as if the same were
set forth herein in extenso. The effect of any order shall be
suspended during the course of any hearing or subsequent ap-
peals.

§19-2C-8. Penalties for violation of article or rules and regulations.

Any person, firm, association or corporation violating any
of the provisions of this article, or of the rules and regulations
adopted pursuant to the provisions thereof, shall be guilty of a
misdemeanor, and, upon conviction thereof, shall be fined not
less than fifty dollars nor more than two hundred dollars for
the first offense, and not less than four hundred dollars nor
more than one thousand dollars for the second and subsequent
offenses.

CHAPTER 12
(House Bill No. 1086—By Mr. Seibert)

[Passed April 7, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section eight, article two, chapter
thirty-one-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to fees, costs and
expenses of commissioner of banking for making an examination
of any state banking institution; and the collection of such fees,
costs and expenses.

Be it enacted by the Legislature of West Virginia:

That section eight, article two, 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 2. DEPARTMENT OF BANKING.

§31A-2-8. Fees, costs and expenses of examination; collection.

(a) For making an examination within the state of any state banking institution, the commissioner of banking shall charge and collect from such institution and pay into the state treasury a fee of one hundred dollars upon the first twenty-five thousand dollars of the assets as shown by the books of the bank on the date of examination and nine cents for each additional one thousand dollars of such assets.

(b) For making such an examination within the state of any other financial institution, the commissioner of banking shall charge and collect from such other financial institution and pay into the state treasury the actual and necessary costs and expenses incurred in connection therewith, as fixed and determined by the commissioner.

(c) If any such examination be made at a place outside of this state, the fees, costs and expenses shall be as above provided, except that there shall be an additional charge for mileage and travel expense as provided and allowed by law for state agencies and employees.

(d) The commissioner of banking may maintain an action for the recovery of all such fees, costs and expenses in any court of competent jurisdiction.

CHAPTER 13

(House Bill No. 1085—by Mr. Seibert)

[Passed April 7, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article four, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the requirements and procedure for incorporation of state banks.

Be it enacted by the Legislature of West Virginia:

That section five, article four, 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 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.
§31A-4-5. Requirements and procedure for incorporation of state banks.

1 A state bank may be organized by five or more incorporators, a majority of whom shall be residents of the state of West Virginia. Such banking institution shall have as a part of its corporate name or title one or more of the following words indicative of the business which it is authorized to conduct, namely, "bank," "banking company," "banking association," "trust company," "banking and trust company" or "bank and trust company."

2 The incorporators shall file with the board an agreement of incorporation, in duplicate, following generally the form prescribed by the secretary of state for chartering corporations under provisions of article one, chapter thirty-one of this code. The information set forth in the agreement shall include the following:

(1) The name of the proposed bank;

(2) The community and county in which the bank is to be located, together with the post-office address of the place of business of the bank;

(3) Whether such bank proposes also to engage in the trust business;

(4) The name, residence and occupation of each incorporator, and the amount of capital stock subscribed and paid for by each;

(5) The names of the persons who are to serve as officers and directors of the banking institution and the official position proposed to be held by each; and

(6) The total authorized capital stock of the institution.

3 The agreement of incorporation shall be signed and acknowledged by each of the incorporators and, when filed with the board, shall be accompanied by the statutory corporation charter fees, and an examination and investigation fee of one thousand dollars payable to the board. When transmitting the agree-
ment to the board, the incorporators shall designate by name
and give the address of the attorney, agent or other responsible
party with whom the board may communicate, on whom the
board may call for further information, and to whom the
board may officially report as to action on the agreement so
filed with him. The agreement shall constitute and may be
considered and treated by the board as an application for the
board's approval to incorporate and organize a banking insti-
tution in this state.

CHAPTER 14

(Senate Bill No. 324—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed March 31, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article six, chapter
twelve of the code of West Virginia, one thousand nine
hundred thirty-one, as amended; to amend and reenact section
twelve, article eight, chapter thirty-three of said code; and
to amend and reenact section two, article six, chapter forty-
four of said code, all relating to the investment of public funds
and the classes of securities in which public funds may
be invested by the West Virginia state board of investments;
relating to investments which may be made by insurers and
fiduciaries; and specifically authorizing the state board of in-
vestments, insurers and fiduciaries to invest in securities and
obligations of the "Asian Development Bank."

Be it enacted by the Legislature of West Virginia:

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

Chapter
CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.

§12-6-9. Investments for periods in excess of one year.

1. Notwithstanding the restrictions which may otherwise be provided by law as to the securities in which funds may be invested, funds made available for investment for periods in excess of one year may be invested by the board, without the approval of any other state agency or official other than as required in section six of this article, in the following classes of securities, and not otherwise:

(a) Securities of the United States or agency thereof, or those guaranteed by, or for which the credit of the United States or agency thereof is pledged for the payment of the principal and interest thereof.

(b) Direct general obligation securities of this state, or any other state or territory of the United States, or the District of Columbia, unconditionally guaranteed as to the principal and interest by such other state or territory of the United States, or the District of Columbia: Provided, That (1) such other state, territory or the District of Columbia has the power to levy taxes for the payment of the principal and interest of such securities, and (2) at the time of investment such other state, territory or the District of Columbia is not in default in the payment of any part of the principal or interest owing by it upon any part of its funded indebtedness.

(c) Securities issued by a federal land bank, or by a federal intermediate credit bank, under the act of Congress of July seventeen, one thousand nine hundred sixteen, known as the "Federal Farm Loan Act," as amended or supplemented from time to time, or by the federal home loan bank system, federal national mortgage association or banks for cooperatives.

(d) Securities issued, assumed or unconditionally guaranteed by the "International Bank for Reconstruction and
Development,” the “Asian Development Bank” or “Tennessee Valley Authority.”

(e) 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.”

(f) Any security that is secured by a first lien deed of trust or mortgage on real property situate within this state, and that is either (1) insured by the federal housing administration pursuant to provisions of the “National Housing Act,” as amended or supplemented from time to time, or (2) guaranteed by the veterans administration pursuant to provisions of Title 38, United States Code, relating to veteran’s benefits, as amended or supplemented from time to time: Provided, That the board shall not purchase any such security from anyone other than a federal housing administration approved mortgagee. To facilitate and encourage the offering of such securities to the board for its investment therein, the board shall have the power and authority to make to any federal housing administration approved mortgagee, at any time, an advance written commitment and obligation, binding upon the board and its funds, for the future purchase of such securities in such amount or amounts, at such price or prices, and at such future time or times as the board may in its discretion deem to be for the best interest of the fund, and all purchases of such securities shall be made pursuant
to such a commitment and obligation: Provided, however, that the board shall make no commitment and obligation to purchase any such securities except in specified amounts of two hundred fifty thousand dollars or more as the aggregate of the unpaid principal balances owing on such securities at the time of purchase thereof. No such commitment and obligation shall be valid or binding for more than eighteen months after the date thereof. To facilitate preservation of the value of such securities and of the real property securing the same, the board shall have the further power and authority to make with any federal housing administration approved mortgagee from whom such a security is purchased a contract under which the mortgagee shall be authorized, empowered and obligated to service a loan represented by the security, and to pay such mortgagee for its service a monthly fee not in excess of the rate of one twelfth of one half of one per centum per annum of the unpaid principal balance of the loan represented by the security.

(g) Promissory notes secured by federal loan insurance on loans made to students pursuing programs of higher education or programs of vocational education pursuant to Title IV, Part "B" of the "Higher Education Act of 1965," as heretofore and hereafter amended: Provided, That there shall be no investment in any such promissory notes executed by nonresidents of the state of West Virginia unless such nonresidents are enrolled in good standing in a West Virginia institution of higher education or qualified vocational school or have made application to and have been accepted by such institution or vocational school: Provided, however, that there shall be no investment in any such promissory notes executed pursuant to loans made prior to the effective date of this section.

CHAPTER 33. INSURANCE.

ARTICLE 8. INVESTMENTS.

§33-8-12. Insured building and savings and loan shares; obligations of International Bank or Asian Development Bank.

Subject to the limits set forth in sections five and six of this article, an insurer may invest in shares of insured
state chartered building and loan associations and federal savings and loan associations, if such shares are insured by the federal savings and loan insurance corporation and may invest in obligations issued or guaranteed by the "International Bank for Reconstruction and Development" or by the "Asian Development Bank."

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 6. INVESTMENTS BY FIDUCIARIES.

§44-6-2. In what securities fiduciaries may invest trust funds.

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

(a) In bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is distinctly pledged to provide for the payment of the principal and interest thereof, including, but not by way of limitation, bonds or debentures issued under the "Federal Farm Loan Act," debentures issued by "Banks for Cooperatives" under the "Farm Credit Act of One Thousand Nine Hundred Thirty-Three," as amended, debentures issued by the federal national mortgage association, securities issued by the federal home loan bank system; and in bonds, interest-bearing notes and obligations issued, guaranteed or assumed by the "International Bank for Reconstruction and Development" or by the "Inter-American Development Bank" or by the "Asian Development Bank";
(b) In bonds or interest-bearing notes or obligations of this state;

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

(d) In the bonds or interest-bearing notes or obligations of any county, district, school district or independent school district, municipality or any other political division of this state that have been issued pursuant to the authority of any law of this state, since the ninth day of May of the year one thousand nine hundred seventeen;

(e) In bonds and negotiable notes secured by first mortgage or first trust deed upon improved real estate where the amount secured by such mortgage or trust deed shall not at the time of making the same exceed eighty percent of the assessed value, or sixty-six and two-thirds percent of the appraised value as determined by wholly disinterested and independent appraisers, whichever value shall be the higher, of the real estate covered by such mortgage or trust deed, and when such mortgage or trust deed is accompanied by a satisfactory abstract of title, certificate of title or title insurance policy, showing good title in the mortgagor when making such mortgage or trust deed, and by a fire insurance policy in an old line company with loss, if any, payable to the mortgagee or trustee as his interest may appear: Provided, That the rate of interest upon the above enumerated securities in this subdivision (e), in which such investments may be made, shall not be less than two percent, nor more than eight percent, per annum;

(f) In savings accounts and time deposits of bank or trust companies to the extent that such deposits are insured by the federal deposit insurance corporation, or by any other similar federal instrumentality that may be hereafter created, provided there shall be such an instrumentality in existence and available for the purpose, or by bonds of solvent surety companies: Provided, That the rate of inter-
est upon such savings accounts or time deposits shall not be less than the rate paid other depositors in such bank or trust company;

(g) In shares of state building and loan associations, or federal savings and loan associations, to the extent that such shares are insured by the federal savings and loan insurance corporation, or by any other similar federal instrumentality that may be hereafter created: Provided, That there shall be such an instrumentality in existence and available for the purpose, or by bonds of solvent surety companies: Provided, however, That the dividend rate upon such shares shall not be less than the rate paid to other shareholders in such associations;

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

(1) No investment shall be made pursuant to the provisions of this subdivision (h) which, at the time such investment shall be made, will cause the aggregate market value thereof to exceed fifty percent of the aggregate market value at that time of all the property of the fund held by such fiduciary. Notwithstanding the aforesaid percentage limitation the cash proceeds of the sale of securities received or purchased by a fiduciary and made eligible by this subdivision (h) may be reinvested in any securities of the type described in this subdivision (h).

(2) No bonds, debentures, notes, equipment trust obligations or other evidence of indebtedness of such corpora-
tions shall be purchased under authority of this sub-
division (h) unless such obligations, if other than issues
of a common carrier subject to the provisions of section
twenty-a of the “Interstate Commerce Act,” as amended,
shall be obligations issued, guaranteed or assumed by
corporations which have any securities currently registered
with the securities and exchange commission.

(3) No common or preferred stocks, other than bank and
insurance company stocks, shall be purchased under author-
ity of this subdivision (h) unless currently fully listed and
registered upon an exchange registered with the securities
and exchange commission as a national securities exchange.
No sale or other liquidation of any investment shall be
required solely because of any change in the relative market
value of those investments made eligible by this subdivision
(h) and those made eligible by the preceding subdivisions
of this section. In determining the aggregate market
value of the property of a fund and the percentage of a fund
to be invested under the provisions of this subdivision, a
fiduciary may rely upon published market quotations as to
those investments for which such quotations are avail-
able, and upon such valuations of other investments as in
the fiduciary's best judgment seem fair and reasonable
according to available information.

Trust funds received by executors, administrators, guard-
ians, curators, committees, trustees and other fiduciaries
may be kept invested in the securities originally received
by them, unless otherwise ordered by a court having
jurisdiction of the matter, as hereinafter provided, or unless
the instrument under which the trust was created shall
direct that a change of investment be made, and any such
fiduciary shall not be liable for any loss that may occur
by depreciation of such securities.

This section shall not apply where the instrument creat-
ing the trust, or the last will and testament of any
testator, or any court having jurisdiction of the matter,
specially directs in what securities the trust funds shall be
invested, and every such court is hereby given power
specially to direct by order or orders, from time to time,
143 additional securities in which trust funds may be invested, 144 and any investment thereof made in accordance with any 145 such special direction shall be legal, and no executor, 146 administrator, guardian, curator, committee, trustee or 147 other fiduciary shall be held for any loss resulting in any 148 such case.

CHAPTER 15
(Com. Sub. for House Bill No. 815—By Mr. Zakaib)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter thirty-five 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 perpetual care of and permanent endowment care trust funds for cemeteries; relating to the establishment of permanent endowment care trust funds; providing objects and purposes; providing for funding of such trust funds; relating to trustee of such funds and to qualifications, powers and duties of such trustee; providing certain exemptions; relating to inconsistent provisions of code; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5A. PERPETUAL CARE OF AND TRUST FUNDS FOR CEMETERIES.

§35-5A-2. Objects and purposes.
§35-5A-4. Additional funding of permanent endowment care funds.
§35-5A-5. Trustee of permanent endowment care funds.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) “Person” means any corporation, company, partnership, individual, association or other entity owning or operating a cemetery for the disposition of human remains.

(b) “Perpetual care cemetery” means a cemetery which advertises or represents to the public in any manner that it provides perpetual care or maintenance for burial grounds, mausoleums or columbaria and the fixtures attached thereto or which sells or offers to sell any interment right which is to be perpetually cared for or maintained.

(c) “Interment” means the disposition of human remains by earth burial, entombment or inurnment.

(d) “Burial right” means the right of earth interment.

(e) “Entombment right” means the right of entombment in a mausoleum.

(f) “Columbarium right” means the right of inurnment in a columbarium for cremated remains.

(g) “Permanent endowment care fund” means a fund held in an irrevocable trust separate and apart from all other assets of the cemetery and dedicated for the exclusive use of perpetual care and maintenance of such cemetery.

§35-5A-2. Objects and purposes.

No person shall operate or continue to operate a perpetual care cemetery in West Virginia unless a permanent endowment care fund has been established, maintained and administered as required by this article. The income from the permanent endowment care fund so established shall be used only as permitted by this article.


No person desiring to organize, develop and operate a perpetual care cemetery in West Virginia after the first day of July, one thousand nine hundred seventy-three, shall offer to sell or sell any burial lot, burial right, entombment right or
columbarium right in such cemetery, without first establishing
a permanent endowment trust fund, segregated from all other
assets, and placing therein a minimum of ten thousand dol-
ars in cash, or in bonds of the United States government or
of the state of West Virginia.

Whenever any such person has placed an additional ten
thousand dollars in the permanent endowment care fund out
of gross sales proceeds or from any other source, such person
after submitting satisfactory proof of this fact to its trustee
may withdraw the original sum of ten thousand dollars from
the permanent endowment care fund.

No person operating an established perpetual care cemetery
in West Virginia on or before the first day of July, one thou-
sand nine hundred seventy-three, shall continue to operate
such cemetery without creating a permanent endowment fund
and making regular deposits to such fund as required in sec-
tion four of this article and entrusting the administration of
such fund as required in section five of this article.

§35-5A-4. Additional funding of permanent endowment care funds.

No person shall operate or continue to operate any perpet-
ual care cemetery in the state of West Virginia after the first
day of July, one thousand nine hundred seventy-three, without
placing into a permanent endowment care fund ten dollars or
ten percent of the gross sales proceeds, whichever is greater,
received from the sale of any burial right or lot and not less
than five percent of the gross sales proceeds from the sale of
any entombment right or columbarium right. This sum shall
be placed in the permanent endowment care fund not later
than thirty days following the month in which the entire gross
sales proceeds are received.

§35-5A-5. Trustee of permanent endowment care funds.

The trustee of the permanent endowment care fund shall
be a trust company or a banking institution with fiduciary
powers authorized and qualified to engage in the business
of a trust company under and subject to the provisions of
article four, chapter thirty-one-a of this code.

The trustee shall invest such permanent endowment care
funds for the purpose of providing an income to be used for the
maintenance, improvement and preservation of the grounds, lots, buildings, equipment, records, statuary, and other real and personal property of the cemetery, and shall acquire, invest, reinvest, exchange, retain, sell and manage all property now or hereafter coming into such trustee's care or control.

The trustee shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence, exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

Within the limitations of the foregoing standard, any such trustee is authorized to acquire and retain without any order of any court, every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account.

The trustee shall prepare an annual report of all of the assets and investments of the permanent endowment care fund. One copy shall be maintained at the office of the cemetery and shall be available for inspection at reasonable times by owners of interment rights in the cemetery.

The trustee shall pay over to the cemetery all income derived from the permanent endowment care fund semi-annually to be expended only for the maintenance, improvement and preservation of the grounds, lots, buildings, equipment, records, statuary and other real and personal property of the cemetery.


This article does not apply to any private or family cemetery wherein lots or spaces are not offered for public sale or to any cemetery which is owned and operated entirely and exclusively by churches, religious societies, established fraternal organizations, municipalities or other subdivisions of the state or a national cemetery.


The provisions and requirements of this article shall take
2 precedence over and shall supersede any other provisions of
this code which may be inconsistent therewith.

1 Any person and any officer, director, agent or employee of
2 such person who violates or participates in the violation of
3 this article shall be guilty of a misdemeanor, and, upon con-
4 viction thereof, shall be fined not more than one thousand dol-
5 lars, or imprisoned in the county jail not more than one year,
6 or both fined and imprisoned.

CHAPTER 16
(Senate Bill No. 121—By Mr. Poffenbarger)

[Passed March 9, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section sixteen, article two,
chapter forty-nine of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to child welfare;
authorizing and empowering the state department of welfare to
provide care, support and protective services for certain chil-
dren; authorizing and empowering such department to accept
children for care and to accept custody thereof; authorizing
and empowering such state department or any county office of
such department to accept temporary custody of children for
care from any police officer in an emergency situation for a
limited period of time, pending court action; and providing
for care in special boarding homes.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

1 The state department of welfare is hereby authorized and
2 empowered to provide care, support and protective services
for children who are handicapped by dependency, neglect, illegitimate birth, mental or physical disability, or who for other reasons are in need of public service. Such department is also hereby authorized and empowered in its discretion to accept children for care from their parent or parents, guardian or relatives and to accept the custody of children committed to its care by courts exercising juvenile jurisdiction. The state department of welfare or any county office of such department is also hereby authorized and empowered in its discretion to accept temporary custody of children for care from any police officer in an emergency situation until a proper order of a court exercising juvenile jurisdiction can be entered awarding temporary custody to such department, but such temporary custody prior to the entry of such court order shall not be for longer than fifteen days.

The state department of welfare shall provide care in special boarding homes for children needing detention pending disposition by a court having juvenile jurisdiction or temporary care following such court action.

CHAPTER 17
(Senate Bill No. 297—By Mr. Moreland)

[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the civil service system and to rules of the civil service commission; specifying that no permanent employee shall be discharged from the classified service for absenteeism upon using all entitlement to annual leave and sick leave under certain circumstances and with certain exceptions; and authorizing any such employee to be granted a leave of absence without pay under certain circumstances for a period not to exceed six months.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-8. Rules of commission.

1. The present merit system council rules shall be transformed into the temporary rules of the civil service commission and shall continue in effect until the director of personnel prepares and submits to the civil service commission new rules for the classified service.

Such new rules shall be filed and made effective in conformity with the provisions of chapter twenty-nine-a of this code. Amendments thereto may be made in the same manner. The new rules shall provide:

1. (1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the commission, the director shall allocate the position of every employee in the classified service to one of the classes in the plan. Any employee affected by the allocation of a position to a class shall, after filing with the director of personnel a written request for reconsideration thereof in such manner and form as the director may prescribe, be given a reasonable opportunity to be heard thereon by the director. The interested appointing authority shall be given like opportunity to be heard.

2. (2) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state fiscal officers, and after a public hearing held by the commission. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commission. Amendments to the pay plan may be made in the same manner. Each employee shall be
paid at one of the rates set forth in the pay plan for the
class of position in which he is employed. The principle
of equal pay for equal work in the several agencies of the
state government shall be followed in the pay plan as
established hereby.

(3) For open competitive examinations to test the relative
fitness of applicants for the respective positions. Such
examinations need not be held until after the rules have
been adopted, the service classified and a pay plan estab-
lished, but shall be held not later than one year after this
article takes effect. Such examinations shall be announced
publicly at least fifteen days in advance of the date fixed
for the filing of applications therefor, and may be adver-
tised through the press, radio and other media. The director
may, however, in his discretion, continue to receive applica-
tions and examine candidates long enough to assure a suf-
cient number of eligibles to meet the needs of the
service; and may add the names of successful candidates to
existing eligible lists in accordance with their respective
ratings.

Veterans who present proof of at least one year's
honorable service to the United States in either of the
world wars, the Korean war or the Vietnam conflict shall
be entitled to an additional five points on any examination
and disabled veterans shall be entitled to an additional
ten points: Provided, That no such additions shall be made
where a veteran fails to pass the examination.

(4) For promotions which shall give appropriate con-
sideration to the applicant's qualifications, record of per-
formance and his score on written examination, when such
examination is practicable. In filling vacancies an effort
should be made to achieve a balance between promotion
from within the service and the introduction into the service
of qualified new employees. An advancement in rank
or grade or an increase in salary beyond the maximum
fixed for the class shall constitute a promotion.

(5) For the establishment of eligible lists for appoint-
ment and promotion, upon which lists shall be placed the
names of successful candidates in the order of their relative
excellence in the respective examinations. Eligibility for appointment from any such list shall continue not longer than three years. An appointing authority must make his selection from the top five names on the appropriate lists of eligibles.

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements in regard to such factors as age, physical condition, character, training and experience, who are addicted to alcohol or narcotics, or who have attempted any deception or fraud in connection with an examination, or where in the judgment of the commission there is reasonable doubt of the loyalty of the candidate or allegiance to the nation.

(7) For a period of probation not to exceed one year before appointment or promotion may be made complete.

(8) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six months, nor shall successive provisional appointments be allowed, except during the first year after the effective date of this article, in order to avoid stoppage of orderly conduct of the business of the state.

(9) For keeping records of performance of all employees in the classified service, which service records may be considered in determining salary increases and decreases provided in the pay plan; as a factor in promotion tests; as a factor in determining the order of layoffs because of lack of funds or work and in reinstatement; and as a factor in demotions, discharges and transfers.

(10) For layoffs by reason of lack of funds or work, or abolition of a position, or material change in duties or organization, and for reemployment of employees so laid off, giving consideration in both layoffs and reemployment to performance record and seniority in service.

(11) For discharge or reduction in rank or grade only for cause of employees in the classified service. Discharge or reduction of these employees shall take place only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in
writing, and has been allowed a reasonable time to reply thereto in writing, or upon request to appear personally and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the director. Notwithstanding the foregoing provisions of this subdivision, no permanent employee shall be discharged from the classified service for absenteeism upon using all entitlement to annual leave and sick leave when such use has been due to illness or injury as verified by a physician's certification or for other extenuating circumstances beyond the employee's control unless his disability is of such a nature as to permanently incapacitate him from the performance of the duties of his position. Upon exhaustion of annual leave and sick leave credits for the reasons specified herein and with certification by a physician that the employee is unable to perform his duties, a permanent employee shall be granted a leave of absence without pay for a period not to exceed six months if such employee is not permanently unable to satisfactorily perform the duties of his position.

(12) For such other rules and administrative regulations, not inconsistent with this article, as may be proper and necessary for its enforcement.

The commission and the director may include in the rules provided for in this article such provisions as are necessary to conform to regulations and standards of any federal agency governing the receipt and use of federal grants-in-aid by any state agency, anything in this article to the contrary notwithstanding. The commission and the director shall see that rules and practices meeting such standards are in effect continuously after the effective date of this article.

CHAPTER 18

(Com. Sub. for Senate Bill No. 2028—By Mr. Fanning)

[Passed April 14, 1973; 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; board of regents; department of public institutions; department of public safety; department of natural resources; state tax department; adjutant general; department of finance and administration and Governor's office, to be moral obligations of the state, and directing payment thereof.

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

(a) Claims versus the Department of Highways:
   To be paid from State Road Fund

<table>
<thead>
<tr>
<th>Claim</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Harry N. Walker d/b/a Gauley Esso Service Center</td>
<td>$900.00</td>
</tr>
<tr>
<td>A. D. and Eulah M. Strader</td>
<td>$896.00</td>
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<tr>
<td>Monongahela Power Company</td>
<td>$148.84</td>
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<tr>
<td>Bliss R. Watring</td>
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<td>James B. Frazier</td>
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<tr>
<td>Lou Irene Frazier</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Jammy Lou Frazier, an infant by and through James B. Frazier, her next friend, and James B. Frazier</td>
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<tr>
<td>James B. Frazier, Administrator of Estate of Michael Scott Frazier, deceased</td>
<td>$10,541.95</td>
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<td>Joseph C. and Emma Lou Jones</td>
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<td>William B. and Helen McClure</td>
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<td>S. J. Groves &amp; Sons and Turman Construction Company</td>
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<td>Virgil Donald Seebaugh and Ava Marie</td>
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<td>W. Va. Welding Supply Company</td>
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<td>Vergie Warner</td>
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<td>Carpenter Addition Water Company</td>
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<td>Larry L. Betonte and Judith A. Betonte</td>
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<td>Charles Gravely</td>
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<td>Oscar Vecellio, Inc.</td>
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<td>Carl A. Brown</td>
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<tr>
<td>David McClellan</td>
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<tr>
<td>B. H. Child &amp; Co., Inc. d/b/a Fort Pitt Shoe Store</td>
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<tr>
<td>Elsie McCall Duncan d/b/a Mac's Jewelry Store</td>
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<tr>
<td>State Farm Insurance Co., Assignee of Margaret Roeser and Harriet Davidson</td>
<td></td>
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<tr>
<td>Thomas C. and Nellie Sheppard, Sr.</td>
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<tr>
<td>J. R. Hardy</td>
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<tr>
<td>Cory Auto Parts Company</td>
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<tr>
<td>The Firestone Tire &amp; Rubber Company</td>
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<tr>
<td>Darrell Bailey</td>
<td></td>
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<tr>
<td>State Farm Mutual Automobile Insurance Company, as subrogee of Diana K. Smith, its insured</td>
<td></td>
</tr>
<tr>
<td>State Farm Mutual Automobile Insurance</td>
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</tr>
</tbody>
</table>
Claims Against the State

(43) Gertrude A. Myers and Lena M. Brown 
State Farm Mutual Automobile Insurance Company, as subrogee of Ralph Henne, 
is insured ___________________________ 1,000.00

(44) State Farm Mutual Automobile Insurance Company, as subrogee of Robert L. Hulett, 
is insured ___________________________ 46.35

(b) Claims versus the Governor’s Office:
To be paid from General Revenue Fund
(1) The Fairmont Times and West Virginian ___________________________ 210.00

(c) Claims versus the Board of Regents:
To be paid from General Revenue Fund
(1) Joe L. Smith, Jr., Inc. d/b/a Biggs-Johnston-Withrow ___________________________ 372.98

(d) Claims versus the State Tax Department:
To be paid from General Revenue Fund
(1) General Foods Corporation ___________________________ 28,590.95

(e) Claims versus the Department of Public Institutions:
To be paid from General Revenue Fund
(1) Harold E. Bondy, M. D. ___________________________ 2,000.00
(2) Radiological Consultants Association ___________________________ 2,815.00

(f) Claims versus the Department of Finance and Administration:
To be paid from General Revenue Fund
(1) City of Charleston ___________________________ 91,329.00

(g) Claims versus the Department of Natural Resources:
To be paid from General Revenue Fund
(1) Flossie Grace Pudder ___________________________ 8,000.00
(2) Robert J. Pudder ___________________________ 3,000.00
(h) Claims versus the Department of Public Safety:

To be paid from General Revenue Fund

1. Frank Prozillo

2. Mary Jane Starvaggi

3. Wilma Lee Morris

(i) Claims versus the Adjutant General:

To be paid from General Revenue Fund

1. Monongahela Power Company

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 consid-
ered 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 claim-
ants to the department against which the claim was allowed.

CHAPTER 19

(Senate Bill No. 2027—By Mr. Fanning)

[Passed April 9, 1973; 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 payments 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 con-
sidered 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.

(a) Claims against the Department of Mental Health:

To be paid from General Revenue Fund

(1) Amstan Supply Division, American Standards, Inc. $ 456.00

(2) J. S. Latta 65.00

CHAPTER 20

(Senate Bill No. 439—By Mr. Brotherton, Mr. President)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article sixteen, relating to the licensing and regulation of collection agencies; providing a short title; defining terms; relating to scope of article; requiring a license and bond; relating to such license and bond generally;
relating to actions on any such bond; relating to termination of
surety; relating to records of collection agencies; setting forth
certain prohibitions; providing criminal offenses and penalties;
and relating to civil liability.

Be it enacted by the Legislature of West Virginia:
That chapter forty-seven 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 sixteen to read as follows:

ARTICLE 16. COLLECTION AGENCIES.
§47-16-1. Citation of article.
§47-16-2. Definitions.
§47-16-3. Scope of article.
§47-16-4. Requirements for conduct of agency.
§47-16-5. Penalty; civil liability.

§47-16-1. Citation of article.
1 This article may be cited as the “Collection Agency Act
2 of 1973.”

§47-16-2. Definitions.
1 The following words and terms as used in this article shall
2 be construed as follows:
3 (a) “Claim” means any obligation for the payment of
4 money due or asserted to be due to another person, firm,
5 corporation or association.
6 (b) “Collection agency” means and includes all persons,
7 firms, corporations and associations (1) directly or indirectly
8 engaged in the business of soliciting from or collecting for
9 others any account, bill or indebtedness due or asserted to
10 be owed or due another and all persons, firms, corporations
11 and associations directly or indirectly engaged in asserting,
12 enforcing or prosecuting those claims; (2) which, in at­
13 tempting to collect or in collecting his or its own accounts
14 or claims uses a fictitious name or names other than his
15 or its own name; (3) which attempts to or does give away
16 or sell to others any system or series of letters or forms
17 for use in the collection of accounts or claims which assert
18 or indicate directly or indirectly that the claims or accounts
19 are being asserted or collected by any person, firm, corpora­
20 tion or association other than the creditor or owner of the
claim or account; or (4) directly or indirectly engaged in
the business of soliciting, or who holds himself out as
engaged in the business of soliciting, debts of any kind
owed or due, or asserted to be owed or due, to any
solicited person, firm, corporation or association for fee,
commission or other compensation.

The term "collection agency" shall not mean or include
(1) regular employees of a single creditor or of a collection
agency licensed hereunder; (2) banks; (3) trust companies;
(4) savings and loan associations; (5) building and loan
associations; (6) industrial loan companies; (7) small
loan companies; (8) abstract companies doing an escrow
business; (9) duly licensed real estate brokers or agents'
when the claims or accounts being handled by such
broker or agent are related to or in connection with such
brokers' or agents' regular real estate business; (10) ex-
press and telegraph companies subject to public regula-
tion and supervision; (11) attorneys at law handling
claims and collections in their own names and not opera-
ting a collection agency under the management of a lay-
man; or (12) any person, firm, corporation or association
acting under the order of any court of competent jurisdi-
cation.

(c) "Commissioner" means the state tax commissioner or
his agent.

(d) "Customer" means any person, firm, corporation or
association who has filed, assigned or sold any claim or
chose in action with or to a collection agency for collec-
tion.

(e) "Licensee" means any person holding a business
franchise registration certificate under section two, article
twelve, chapter eleven of this code and under the pro-
visions of this article.

(f) "Trust account" means a special account established
by a collection agency with a banking institution in this
state, wherein funds collected on behalf of a customer shall
be deposited.
§47-16-3. Scope of article.

1. No person, firm, corporation or association shall establish
2. or conduct within this state a collection agency except as
3. authorized by this article.

§47-16-4. Requirements for conduct of agency.

1. (a) License—No person, firm, corporation or association
2. shall conduct within this state a collection agency without
3. having first applied for and obtained a business franchise
4. registration certificate pursuant to section two, article twelve,
5. chapter eleven of this code, nor shall any person, firm,
6. corporation or association establish or operate a collection
7. agency or the business of a collection agency, unless such
8. person, firm, corporation or association maintains an office
9. within the state of West Virginia. The business franchise
10. registration certificate shall be deemed the collection agency's
11. license. A license is required for each collection agency,
12. including each principal office and all branch offices
13. thereof.

14. (b) Bond—Each applicant shall file with the commissioner
15. a continuing surety bond executed by a corporation which
16. is licensed to transact the business of fidelity and surety
17. insurance in the state of West Virginia to run concurrently
18. with the registration tax period, which bond must be filed
19. with, and approved by, said commissioner before the license
20. herein provided may be issued. A separate bond shall be
21. filed for each collection agency including each principal
22. office and all branch offices thereof. Each bond shall be in the
23. amount of five thousand dollars payable to the state of
24. West Virginia, and conditioned that any such person will
25. pay all damages to the state or a private person resulting
26. from any unlawful act or action by such person or his or
27. its agent in connection with the conduct of the business
28. of the collection agency. This continuing bond shall be filed
29. with the tax commissioner.

30. An action may be brought in any court of competent
31. jurisdiction upon the bond by any person to whom the
32. licensee fails to account and pay as set forth in such bond,
33. The aggregate liability of the surety for all breaches of the
condition of the bond shall not exceed the sum of such bond.

Upon entering judgment for the prevailing party in any action on the bond required by this article, the court shall include in the judgment, reasonable compensation for the services of such party's attorney in the action.

The license of any licensee shall be void upon termination of the bond of the surety company, unless, prior to such termination, a new bond has been filed with the commissioner.

Should the license of any surety company to transact business in this state be terminated, all bonds given pursuant to this article upon which such company is surety shall thereupon be suspended, and the commissioner shall immediately notify each affected licensee of such suspension and require that a new bond be filed. This notice shall be by registered or certified mail, return receipt requested, and shall be addressed to the licensee at his or its principal place of business as shown by the commissioner's records.

The failure of any licensee to file a bond with new or additional surety within thirty days after being advised in writing by the commissioner of the necessity to do so shall be cause for the commissioner to revoke the license.

(c) Record keeping—Each collection agency licensed to operate in this state shall keep a record of all sums collected by such agency and of all disbursements made by such agency, and shall maintain or make available all such records and all records as to customers' funds at such agency's principal place of business within this state. Each collection agency shall maintain records of collections for and payments to customers for a period of six years from the date of last entry therein.

No collection agency, nor any employee thereof, shall intentionally make a false entry in any such collection agency record nor intentionally mutilate, destroy or otherwise dispose of any such record within the time limits provided in this section. Such records shall at all times be open for inspection by the commissioner, or his duly appointed representative.
No licensee shall commingle the money of collection agency customers with other moneys, but shall maintain a separate trust account in a bank for customers' funds.

Each collection agency shall, within a period of thirty days after the close of each and every calendar month, pay to such agency's customers the net proceeds due on all collections made during the preceding calendar month. When the net proceeds due the customer are less than five dollars at the end of any calendar month, the collection agency may defer for a period not to exceed ninety days the payment of said proceeds, if monthly statements are mailed or delivered to the customer.

§47-16-5. Penalty; civil liability.

(a) Any person, firm, corporation or association violating any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

(b) Any person, firm, corporation or association violating any of the provisions of this article shall, in addition to any civil liability arising by virtue of such violation, also be civilly liable as otherwise provided by law.

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CHAPTER 21

(House Bill No. 539—By Mrs. Withrow)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five hundred four, article five, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to treatment by physicians of minors without parental consent for drug addiction; no liability on part of treating physician except for negligence or willful acts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

§60A-5-504. Cooperative arrangements; confidentiality; treatment of minor without knowledge or consent of parent or guardian.

(a) The state board of pharmacy and the appropriate departments, boards, and agencies, as specified in section three hundred one, shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. They shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection (c); and

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this chapter, including results of inspections conducted by it may be relied and acted upon by the state board of pharmacy in the exercise of its regulatory functions under this chapter.

(c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the state board of pharmacy or to the appropriate department, board, or agency by which he is
licenced or registered, as specified in section three hundred one, nor may he be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

(d) No mental health organization or hospital shall be compelled in any state or local civil, criminal, administrative, legislative or other proceeding to furnish the name or identity of any person voluntarily requesting treatment for or rehabilitation from addiction to or dependency upon the use of a controlled substance as defined in article one of this chapter.

(e) Notwithstanding any other provision of law, any licensed physician or competent medically trained person under his direction may examine, diagnose, and treat any minor at his or her request for any addiction to or dependency upon the use of a controlled substance as defined in article one of this chapter without the knowledge or consent of the minor's parent or guardian. Such physician and such other persons shall not incur any civil or criminal liability in connection therewith except for negligence or willful injury.

CHAPTER 22

(Senate Bill No. 2056—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 12, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to amendments to corporate charters and permitting nonprofit, joint stock companies to become nonprofit, nonstock companies.

Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
§31-1-11. Amendment of charter.

Every corporation of this state heretofore or hereafter incorporated may, from time to time and in the manner herein provided, when and as desired, amend its charter by addition to its corporate powers and purposes, or diminution thereof, or both; or by substitution of other powers and purposes, in whole or in part, for those set forth in its charter; or by increasing or decreasing its authorized capital stock or classifying or reclassifying the same, by changing the number, par value, designations, preferences or relative, participating, optional or other special rights of the shares, or the qualifications, limitations or restrictions of such rights, or by changing shares with par value into shares without par value or shares without par value into shares with par value either with or without increasing or decreasing the number of shares; or by changing its corporate name, or by making any other change or alteration in its charter that may be desired; and any or all such changes or alterations may be affected by one amendment: Provided, That any nonprofit joint stock company heretofore incorporated pursuant to statutes then existing may amend or restate its charter to make same a nonstock, nonprofit corporation with such structure and membership as is permitted by the provisions of section four-a of this article, when provision is made at the time of amendment or restatement for the surrender and cancellation of all of the outstanding stock of such nonprofit joint stock company: Provided, however, That every charter as so amended, changed, altered or restated, whether affected under the first sentence of this section or the immediately preceding proviso, shall contain only such provisions as it would be lawful and proper to have in an original agreement of incorporation made at the time of making such amendment or restatement.

Whenever issued shares having par value are changed into the same or a greater or less number of shares without par value, whether of the same or of a different class
or classes of stock, the aggregate amount of the capital of
the corporation represented by such shares without par
value shall be the same as the aggregate amount of capi-
tal represented by the shares so changed; and whenever
issued shares without par value are changed into other
shares without par value to a greater or lesser number,
whether of the same or of a different class or classes, the
amount of capital represented by the new shares in the
aggregate shall be the same as the aggregate amount of
capital represented by the shares so changed; and the
amendment of the charter of the corporation effecting any
such change shall set forth that the capital of the corpora-
tion will not be reduced under or by reason of such
amendment.

CHAPTER 23

[Passed April 11, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, six, eight,
eleven, twelve, twenty-one, twenty-two and twenty-four, article
eighteen, chapter thirty-one of the code of West Virginia, one
thousand nine hundred thirty-one, as amended; and to further
amend said article by adding thereto two new sections, design-
nated sections twenty-a and twenty-b, all relating to the West
Virginia housing development fund; relating to legislative find-
ings and purposes; setting forth new legislative findings and
purposes and particularly concerning certain reasons for and
effects from the shortage of decent, safe and sanitary residen-
tial housing in the state of West Virginia and the inadequacy
of land development, including the extension and construction
of water systems, nonpolluting sewage systems, other utility
facilities and off-highway streets and roads in the state of
West Virginia; relating to the definition of certain terms; pro-
viding additional definitions; relating to the powers, authorities
and rights of the housing development fund; providing new
powers, authorities and rights particularly respecting types of
loans which the housing development fund may make and
the security for the repayment of borrowings the proceeds of
which are used by the housing development fund to make
certain loans; vesting in the housing development fund the
rights, powers and authorities of a public housing authority;
relating to notes and bonds issued under said article eighteen;
relating to the provisions of authorizing resolutions; relating to
the validity of any pledge, mortgage, deed of trust or security
instrument; authorizing the creation of a land development
fund; relating to such land development fund generally; estab­
lishing a special fund in the state treasury under the super­
vision of the state sinking fund commission, such special
fund to be known as the “mortgage finance bond insurance
fund”; providing for deposit of certain moneys therein and pay­
ments therefrom; relating to such special fund generally; pro­
viding for appropriations to cover deficiencies in such special
fund and reimbursements of the state from certain sources;
providing prohibitions; relating to termination or dissolution
of the housing development fund; relating to annual audit;
requiring reports to the joint committee on government and
finance; requiring the housing development fund to furnish
other information upon demand of said joint committee or the
legislative auditor; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, eight, eleven, twelve, twenty-one,
twenty-two and twenty-four, article eighteen, chapter thirty-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 two new sections, designated
sections twenty-a and twenty-b, all to read as follows:

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-2. Legislative findings and purpose.
§31-18-6. Corporate powers.
§31-18-8. Notes and bonds as negotiable instruments.
§31-18-12. Validity of any pledge, mortgage, deed of trust or security in­
strument.
§31-18-20a. Land development fund.
§31-18-21. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

§31-18-22. Termination or dissolution.

§31-18-24. Annual audit; reports to joint committee on government and finance; information to joint committee or legislative auditor.

§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.

14 (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 occupancy by persons and families of low and moderate income 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; that private enterprise and investment be encouraged both to sponsor land development for residential housing for such persons 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, or residential housing areas, of only persons and families who, without some form of private or public assistance, do not have incomes sufficient to afford sanitary, decent and safe residential housing, frequently does not eliminate, or avoid, undesirable social conditions and frequently does not permanently eliminate, or avoid, slum conditions, and that in such instances occupancy of some of the residential housing units in such residential housing developments, or residential housing areas, 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 depressed economic conditions in this state and a related lack of employment and business opportunities caused thousands of people to leave this state to find employment elsewhere; that such depressed economic conditions and related exodus of population adversely affected the property tax base of this state, adversely affected the excise tax base of this state, diminished the manpower resources of this state necessary for modern mining, industrial and commercial operations and development in this state, caused the population of this state to include a disproportionately high number of elderly, disabled and economically disadvantaged persons, resulted in the spread of slum conditions and blight to formerly sound urban and rural neighborhoods, retarded, and continue to retard, the repair and improvement of existing residential housing and the construction of new residential housing, adversely affected, and continue to adversely affect, land development, including the extension and construction of water systems, nonpolluting sewer systems, other utility facilities and off-highway streets and roads essential to new industrial, commercial and residential housing development, critically restricted, and continue to critically restrict, the construction of public housing for occupancy by persons and families at the lowest level of the low and moderate income segment of the population of this state, critically restricted, and continue to critically restrict,
the opportunities of persons and families at all levels of
the low and moderate income segment of the population of
this state for improved residential housing, either newly
constructed or which would normally become available to
them when vacated by persons and families of higher in-
come occupying newly constructed residential housing, and
critically restricted, and continue to critically restrict, the
construction of new residential housing, including, but not
limited to, nursing homes and intermediate care facilities,
of design and location suitable for occupancy by disabled
and by elderly persons; that as a result of public actions
involving highways, public facilities, flood control projects
and urban renewal activities undertaken as a part of the
programs of this state to improve economic conditions and
increase employment opportunities in this state with a view
to improving the health, welfare and prosperity of residents
of this state and reversing the outward movement of popu-
lation in this state, extensive areas which are suitable for
industrial, commercial and residential housing uses have
been, or in the near future will be, opened up for develop-
ment for such purposes but in many instances will be
without the land development, including water and non-
polluting sewer systems, other utility facilities and off-
highway street and road improvements essential to use of
the same for such purposes; that as a result of the unique
physical, economic, demographic and other characteristics
of this state, including its rugged mountainous terrain,
scarcity of land at low or moderate cost suitable for residen-
tial housing, low population density and cultural prefer-
ences which are not suited for the denser, larger-scale
housing projects typical of more urban areas and high costs
of land development and housing construction, the diff-
culties of providing land development, including water and
nonpolluting sewer systems, other utility facilities and off-
highway streets and roads, and of providing residential
housing, are unusually severe within this state and have
restricted and continue to restrict, land development and
housing construction needed for the people of the state;
that as a direct consequence of the foregoing there exists
in this state a serious shortage of sanitary, decent and safe
residential housing available for occupancy by persons and
families of all but the highest income levels and there exists in this state a serious shortage of water and nonpolluting sewer systems, other utility facilities and off-highway street and road developments essential to utilization of land for industrial, commercial and residential housing purposes which, due to public actions involving highways, public facilities, flood control projects and urban renewal activities, is, or will soon become, available for needed industrial, commercial and residential housing purposes; that these shortages are severe in certain urban areas of this state, are especially critical in rural areas of this state and are inimical to the present and future health, welfare and prosperity of all residents of this state and to the sound growth and development of communities in this state; and that unless promptly remedied these shortages will continue to seriously retard the sound economic growth and development of this state, the related property tax and excise tax bases of this state and the availability in this state of manpower resources essential to modern mining, industrial and commercial operations and development which are essential to the health, welfare and prosperity of this state and its residents.

(e) The Legislature hereby finds and declares further that private enterprise and investment have not been able to produce, or provide mortgage financing for, sufficient new sanitary, decent and safe residential housing at prices or rentals low enough to enable sufficient persons and families having incomes at or immediately above the higher level of the low and moderate income segment of the population of this state to occupy the same and thereby provide opportunities for persons and families of lesser income to occupy existing sanitary, decent and safe residential housing thereby vacated, have not been able to produce, or provide mortgage financing for, sufficient new residential housing essential to retain and attract qualified manpower resources in and to many areas of this state where such resources are, or shortly will be, critically needed for existing, expanding and new mining, industrial and commercial operations and development, have not been able to produce, or provide mortgage financing for, sufficient new residential housing, including, but not limited
to, nursing homes and intermediate care facilities, of de-
sign and location suitable for occupancy by elderly and by
disabled persons, have not been able to finance sufficient
land development, including extensions or construction of
water and nonpolluting sewer systems, other utility facili-
ties and off-highway streets and roads, essential to utiliza-
tion of undeveloped areas of this state for industrial, com-
mmercial and residential housing purposes, and have not
been able to achieve urgently needed rehabilitation of much
of the present housing stock of this state; that it is im-
perative that the supply of residential housing necessary
to retain and attract qualified manpower resources in and
to many areas of this state where such resources are, or
shortly will be, critically needed for existing, expanding
and new mining, industrial and commercial operations and
developments be provided, that sufficient new residential
housing, including, without limitation, nursing homes and
intermediate care facilities, designed and located so as to be suitable for occupancy by elderly persons and by dis-
able persons be provided, that needed public housing for
occupancy by persons and families at the lowest level of
the low and moderate income segment of the population
of this state be provided, that land development, includ-
ing water and nonpolluting sewer systems and other utili-
ties and off-highway streets and roads in this state neces-
sary or desirable for new commercial, industrial and
residential housing uses be provided, and that the existing
political subdivisions of this state, and private enterprise
and investment resources in this state, be encouraged to
sponsor and finance land development, including water and
nonpolluting sewer systems, other utilities and off-highway
streets and roads, and to finance, construct and rehabilitate
such residential housing; and that it is necessary that such
efforts be supplemented by this state as in this article
provided.

(f) The Legislature hereby finds and declares further that
political subdivisions in West Virginia which are presently
authorized and empowered by law to acquire, construct,
operate and manage public housing projects have not been
able to acquire and construct, even with available federal
and state assistance, public housing projects sufficient to
fulfill the needs for sanitary, decent and safe residential
housing for occupancy by persons and families at the
lowest level of the low and moderate income segment of
the population of this state who have been entitled to
occupy public housing in many smaller municipalities in
West Virginia and especially in the rural areas of West
Virginia; that the primary cause of such shortage of
needed public housing projects is the inability of such
political subdivisions to remedy such shortages because the
number of units of public housing needed within its ter-
ritorial jurisdiction is not sufficient to generate, and justify
the expenditure of, adequate funds to provide the requi-
site arranging of financing for, and planning, development,
acquisition, construction, operation and management of
such public housing; and that the acquisition, construction,
planning, development, financing and management of pub-
lic housing projects in this state by a governmental in-
strumentality and public body corporate with statewide
jurisdiction as authorized herein will permit or facilitate the
arranging of financing for, and planning, development,
acquisition, construction, operation or management of pub-
lic housing units, even though such units are included in
several projects each of which contains a relatively small
number of such units, sufficient in the aggregate to gener-
ate, and justify the expenditure of, sufficient funds to
provide the requisite arranging of financing for, and plan-
ning, development, acquisition, construction, operation and
management of such public housing, thereby providing
the means to alleviate the existing shortages of public
housing in many municipalities in West Virginia and in
the rural areas of West Virginia.

(g) The Legislature hereby finds and declares further
that its intention by enacting this legislation is to provide
for the continuation of the West Virginia housing develop-
ment fund, the corporate purpose of which is to provide
financing for development costs and land development to
public and private sponsors of land development in this
state; further to provide federally insured construction
loans to public and private sponsors of land development
or to public and private sponsors of residential housing
for occupancy by eligible persons and families; further to
provide uninsured construction loans to public and private sponsors of land development or to public and private sponsors of residential housing for occupancy by eligible persons and families or to eligible persons and families who may construct such housing; further to provide long-term federally insured mortgage loans to public and private sponsors of residential housing for occupancy by eligible persons and families and to eligible persons and families who may purchase or construct such housing; further to provide long-term uninsured mortgage loans to public and private sponsors of residential housing for occupancy by eligible persons and families and to eligible persons and families who may purchase or construct 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 residential housing for occupancy by eligible persons and families through participating in the making of, or the making of, loans to mortgagees approved by the housing development fund, and taking as collateral security therefor, or purchasing, or investing in long-term federal mortgages or federally insured mortgages, or uninsured mortgages, on residential housing constructed in this state, thereby increasing the supply of funds for long-term mortgage financing of residential housing for occupancy by eligible persons and families and freeing funds for use in short-term construction financing of residential housing for occupancy by eligible persons and families; further to plan, develop, finance, acquire, construct, mortgage or otherwise encumber, operate, manage, sell, lease or otherwise dispose of public housing projects; and finally to assist in coordinating federal, state, regional and local public and private efforts and resources to otherwise increase the supply of such residential housing.

(h) The Legislature hereby finds and declares further that in accomplishing this purpose, the West Virginia housing development fund, heretofore created and established by this article, is acting in all respects for the benefit of the people of the state of West Virginia to serve a public purpose in improving and otherwise promoting
their health, welfare and prosperity, and that the West Virginia housing development fund, heretofore created and established, is empowered, hereby, to act on behalf of the state of West Virginia and its people in serving this public purpose for the benefit of the general public.


1. As used in this article, unless the context otherwise requires:

   (1) "Annual sinking fund payment" means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond;

   (2) "Development costs" means the costs approved by the housing development fund as appropriate expenditures by the housing development fund, by sponsors of land development for residential housing, or by sponsors of residential housing, within this state, including, but not limited to:

      (a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the housing development fund, payments for the purchase of such properties;

      (b) Legal and organizational expenses, including payments of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses;

      (c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

      (d) Expenses for tenant surveys and market analyses; and

      (e) Necessary application and other fees;

   (3) "Eligible persons and families" means:

      (a) Persons and families of low and moderate income;

      or

      (b) Persons or families of higher income to the extent the housing development fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential hous-
ing available at prices or rentals which persons and families of low and moderate income can afford; or

(c) Persons who because of age or physical disability are found and determined by the housing development fund, by resolution, to require residential housing of a special location or design in order to provide them with sanitary, decent and safe residential housing; or

(d) Persons and families for whom, as found and determined by the housing development fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations and development in such area or areas;

(4) "Federally insured construction loan" means a construction loan for land development for residential housing or for 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;

(5) "Federally insured mortgage" means a mortgage loan for land development for residential housing or for 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;

(6) "Federal mortgage" means a mortgage loan for land development for residential housing or for 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;

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

(8) "Land development" means the process of acquiring land for residential housing construction and of making, installing or constructing nonresidential housing improve-
ments, 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;

(9) "Land development fund" means the land development fund which may be created and established by the housing development fund in accordance with section twenty-a of this article;

(10) "Minimum bond insurance requirement" means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the housing development fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of (a) all interest payable during such calendar year on such mortgage finance bonds on said date of computation, plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds, plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation;

(11) "Mortgage finance bonds" means bonds issued or to be issued by the housing development fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in section twenty-b of this article;

(12) "Mortgage finance bond insurance fund" means
the special trust fund created and established in the state
treasury in accordance with section twenty-b of this article;

(13) "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;

(14) "Persons and families of low and moderate income"
means persons and families, irrespective of race, creed, na-
tional origin or sex, determined by the housing develop-
ment 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 resi-
dential 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 deter-
mination 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 condi-
tions, 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;
(15) "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, including, but not limited to nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto;

(16) "Special bond insurance commitment fee" means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the housing development fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the housing development fund for such use: Provided, however, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee;

(17) "Special bond insurance premium" means (i) a fee at the rate of one half of one percent per annum on the outstanding principal balance which the housing development fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable
and which shall be payable thereafter in monthly install-
ments on the same day of each successive month that in-
stallment payments of principal of such a loan are payable,
and (ii) with respect to any loan, other than a federally
insured construction loan, a federally insured mortgage
or a federal mortgage, purchased, or invested in with such
proceeds, an equivalent amount which the housing develop-
ment fund shall set aside from payments it receives on
such loan or from any other source available to the housing
development fund for such use;

(18) "State sinking fund commission" means the com-
mission known as such and continued in existence pur-
suant to article three, chapter thirteen of this code and
any body, board, person or commission which shall, by
law, hereafter succeed to the powers and duties of such
commission;

(19) "Uninsured construction loan" means a construc-
tion loan for land development or for 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 instrumentality thereof, and as to
which there is no commitment by the United States or an
instrumentality thereof to provide insurance;

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

§31-18-6. Corporate powers.

The housing development fund is hereby granted, has 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 development
for residential housing for occupancy by eligible persons
and families or to sponsors of residential housing for oc-
cupancy by eligible persons and families. 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 interest, 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 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, federal mortgages, or uninsured construction 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 eligible persons and families, or to eligible persons and families, who may purchase or construct 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;

(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, compromises, 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 connection with making and servicing its loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative 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 administra-
tive expenses, and reasonable allowances for losses which
may be incurred;

(7) To invest any funds not required for immediate dis-
bursement 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 in-
debtedness issued by any of the following agencies: Banks 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 Associa-
tion 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, however, That such corporation shall have a mini-
imum 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: *And provided further,*

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 and rules and regulations not inconsistent with the
provisions of this article;

(11) To appoint such officers, employees and consultants
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 property 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 con-
struction, land development, mortgage or temporary loan;

(16) To procure insurance against any loss in connection
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 de-
sirable 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
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 respecting
its federally insured mortgage lending, uninsured mortgage
lending, construction lending and lending to defray develop-
ment 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 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 purpose, except
that no notes shall be issued to mature more than ten years
from date of issuance and no 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 planning,
processing, design, construction or rehabilitation of residential
housing for occupancy by eligible persons and families or
land development for residential housing for occupancy by
eligible persons and families;

(23) To provide consultative project assistance services for
residential housing for occupancy by eligible persons and
families and for land development for residential housing
for occupancy by eligible persons and families and for the
(24) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(25) With the proceeds from the issuance of notes or bonds of the housing development fund, including, but not limited to, mortgage finance bonds, or with other funds available to the housing development fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the housing development fund and take such collateral security therefor as is approved by the housing development fund and to 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 residential housing in this state: Provided, That the housing development 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, uninsured mortgage loans, or uninsured construction loans, for residential housing for occupancy by eligible persons and families in this state or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(26) To make or participate in the making of uninsured construction loans to sponsors of land development for residential housing for occupancy by eligible persons and families or to sponsors of residential housing for occupancy by eligible persons and families who may construct such housing. 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;

(27) To make or participate in the making of long-term uninsured mortgage loans to sponsors of residential housing for occupancy by eligible persons and families, or to eligible
persons and families who may purchase or construct 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;

(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; 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; to sponsor the development of residential housing for occupancy by eligible persons and families on 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, or residential housing, 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: Provided, however, 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, 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;

(29) To make loans, with or without interest, but with such security for repayment as the housing development fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of section twenty-a of this article, to sponsors of land development, to defray development costs and other costs of land development; and
(30) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in article fifteen, chapter sixteen of this code in any area or areas of the state which the housing development fund shall determine by resolution to be necessary or appropriate.

§31-18-8. Notes and bonds as negotiable instruments.

The notes and bonds shall be and hereby are made negotiable instruments under the provisions of article eight, chapter forty-six of this code, subject only to the provisions of the notes or bonds for registration, unless otherwise provided by resolution of the housing development fund.


Any resolution or resolutions authorizing any notes or bonds, or any issue thereof, may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(1) Pledging all or part of the mortgage or deed of trust payments, charges and other fees made or received by the housing development fund and other moneys received or to be received to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(2) Pledging all or any part of the assets of the housing development fund to secure the payment of the notes or bonds or any issue of notes or bonds, subject to such agreements with bondholders or noteholders as may then exist;

(3) Pledging as security, or as part of the security, for the payment of any mortgage finance bonds, including, but not limited to mortgage finance bonds issued to pay outstanding notes, amounts payable from the mortgage finance bond insurance fund;

(4) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(5) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging
such proceeds to secure the payments of the notes or bonds or of any issue thereof;

(6) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(7) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) Limitations on the amount of moneys to be expended by the housing development fund for operating, administrative or other expenses of the housing development fund;

(9) Vesting in a trustee or trustees such property, rights, powers and duties of any trustee appointed by the bondholders pursuant to section sixteen of this article, and limiting or abrogating the right of the bondholders to appoint a trustee under section sixteen of this article or limiting the rights, powers and duties of such trustee; and

(10) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

§31-18-12. Validity of any pledge, mortgage, deed of trust or security instrument.

It is the intention hereof that any pledge, mortgage, deed of trust or security instrument made by or for the benefit of the housing development fund, including, but not limited to amounts in the mortgage finance bond insurance fund, shall be valid and binding between the parties from the time the pledge, mortgage, deed of trust or security instrument is made; and that the moneys or property so pledged, encumbered, mortgaged or entrusted shall immediately be subject to the lien of such pledge, mortgage, deed of trust or security instrument without any physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice of the lien of such pledge. Nothing herein shall be construed
to prohibit the housing development fund from selling any property subject to any such pledge, mortgage, deed of trust or security instrument. Such property is not to be sold for less than its fair market value.

§31-18-20a. Land development fund.

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

(b) The purpose of the land development fund shall be to provide a source from which the housing development fund may finance development costs and land development in this state by making loans therefrom, with or without interest and with such security for repayment as the housing development fund deems reasonably necessary and practicable, or by expending moneys therefrom, for development costs and land development in this state.

(c) The housing development fund may invest and reinvest all moneys in the land development fund in any investments authorized under section six of this article, pending the disbursement thereof in connection with the financing of development costs and land development in this state.

(d) No loans shall be made by the housing development fund from the land development 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 for development costs and land development;

(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.

(e) The housing development fund may expend any income from the financing of development costs and land development with moneys in the land development fund, and from investment of such moneys, in payment, or reimbursement, of all expenses of the housing development fund which, as determined in accordance with procedures approved by the board of directors of the housing development fund, are fairly allocable to such financing or its land development activities: Provided, That no funds from the land development fund shall be used to carry on propaganda, or otherwise attempt to influence legislation.


(a) There is hereby created and established in the state treasury a special trust fund to be designated the "mortgage finance bond insurance fund" into and from which moneys shall be paid as provided in this section. The mortgage finance bond insurance fund shall be under the supervision and control of the state sinking fund commission and all moneys and securities held therein or investments thereof shall be held in trust subject to use and application only as provided herein and in the resolution or resolutions of the housing development fund authorizing the issuance of any mortgage finance bonds, notwithstanding any other provision of law. The mortgage finance bond insurance fund shall be kept separate and apart from all other moneys and funds of the state and the housing development fund is hereby authorized to pledge any amount or amounts held therein to the payment of the principal (including annual sinking fund payments) of, and interest on, mortgage finance bonds in the manner and to the extent and on such terms and conditions as may be provided by the housing development fund.

(b) In addition to any other fees and charges which the housing development fund may charge on loans, it shall charge on all loans or mortgages made or purchased with
the proceeds of sale of mortgage finance bonds, except federally insured construction loans, federally insured mortgages, or federal mortgages, a special bond insurance commitment fee and special bond insurance premiums. The special bond insurance commitment fees and special bond insurance premiums so charged shall be remitted to the state sinking fund commission, promptly after the last day of each calendar quarter, by the housing development fund, or by any trustee, trustees, agent or agents designated by the housing development fund to receive the same and shall be held, invested and, together with all investment income thereon, reinvested by the state sinking fund commission in investments authorized under section six of this article.

(c) Simultaneously with the issuance of any mortgage finance bonds, the housing development fund shall cause to be deposited in the mortgage finance bond insurance fund an amount of the proceeds of sale and delivery of such mortgage finance bonds which together with the sum of the amount then on deposit in the mortgage finance bond insurance fund and in reserves theretofore or then set aside with a trustee or trustees and held pursuant to the resolution or resolutions authorizing the issuance of such bonds only for the payment of designated mortgage finance bonds prior to, or at, their maturity, shall equal the minimum bond insurance requirement. Except as provided in subsection (e) of this section, amounts on deposit in the mortgage finance bond insurance fund which are in excess of the minimum bond insurance requirement may be withdrawn from the mortgage finance bond insurance fund and paid to or upon the order of the housing development fund upon thirty days notice in writing to the state sinking fund commission. For the purposes of determining any amounts held in the mortgage finance bond insurance fund, securities held in or other investments of the mortgage finance bond insurance fund shall be valued at par. If, at any time, the housing development fund shall determine that because of defaults or other reasons, the moneys available therefor shall be insufficient to pay the principal (including the annual sinking fund payment) of, and interest on, mortgage finance bonds becoming due during the next ensuing
six month period, the housing development fund shall give written notice to the state sinking fund commission to transfer the amount of moneys required for such payment, on or before the time and to such trustee or paying agent for any of the mortgage finance bonds as shall be specified in such notice, and the state sinking fund commission shall make such transfer.

(d) In the event that the sum of the amount held in the mortgage finance bond insurance fund and in reserves set aside with a trustee or trustees and held pursuant to the resolution or resolutions authorizing the issuance of such bonds only for the payment of designated mortgage finance bonds prior to, or at, their maturity, shall be less than the minimum bond insurance requirement, the chairman of the housing development fund shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state, and the governor shall transfer to the state sinking fund commission for deposit in the mortgage finance bond insurance fund from any amounts previously appropriated which are available for such purpose an amount equal to the amount of such deficiency, and if the amount of such deficiency shall not be available from such prior appropriation or shall not have been so transferred, the governor shall include the amount of such deficiency not so transferred in the budget of his office to be submitted for appropriation to the next session of the Legislature, and shall cause any amounts appropriated for such purpose to be transferred to the state sinking fund commission for deposit in the mortgage finance bond insurance fund: Provided, That the Legislature shall not be required to make any appropriation so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

(e) Subject to any agreement or agreements with holders of outstanding notes and bonds of the housing development fund, any amount or amounts paid by the state into the mortgage finance bond insurance fund pursuant to this section shall be repaid to the state as, when, and to the extent, amounts held in the mortgage finance bond insurance fund at any time or times after any payment by the state into the mortgage finance bond
insurance fund shall exceed the minimum bond insurance requirement at such time or times.

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

No part of the funds of the housing development fund, or of the operating loan fund, or of the land development 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.

§31-18-22. Termination or dissolution.

Upon the termination or dissolution, all rights and properties of the housing development fund, including the operating loan fund, the land development fund, and the mortgage finance bond insurance fund, shall pass to and be vested in the state of West Virginia, subject to the rights of bondholders, lienholders and other creditors.

§31-18-24. Annual audit; reports to joint committee on government and finance; information to joint committee or legislative auditor.

The housing development fund shall cause an annual audit to be made by a resident independent certified public accountant of its books, accounts and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall...
be placed on file and made available for inspection by the
general public. The person performing such audit shall also
furnish copies of the audit report to the speaker of the House
of Delegates, the president of the Senate and the majority and
minority leaders of both houses.
In addition to the foregoing annual audit report, the
housing development fund shall also render every six
months to the joint committee on government and finance
a report setting forth in detail a complete analysis of the
activities, indebtedness, receipts and financial affairs of such
fund and the operating loan fund, the land development
fund, and the mortgage finance bond insurance fund. Upon
demand, the housing development fund shall also submit
to the joint committee on government and finance or the
legislative auditor any other information requested by such
committee or the legislative auditor.

CHAPTER 24
(Senate Bill No. 303—By Mr. Hamilton)

[Passed April 13, 1973; 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-s, relating to county courts by granting them authority to pro-
mulgate rules and regulations governing vehicle traffic and
parking in and on county owned property, and providing for
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-s, to read
as follows:

ARTICLE 1. COUNTY COURTS GENERALLY.
§7-1-3s. Authority to govern traffic and parking; rules and regula-
tions; penalties.
1 County courts are hereby authorized to promulgate rules and
regulations, in accordance with the provisions of chapter twenty-nine-a of this code, governing (1) the movement, regulation or control of vehicular or pedestrian traffic on property owned by or leased by such county courts, or (2) the regulation or control of vehicular parking on such property. It shall be unlawful for any person to violate any such rule or regulation, if a sign or marker giving reasonable notice of such rule or regulation is conspicuously posted or present. The content of any such sign shall be sufficient if it merely gives notice of what is or is not permitted such as “no parking,” “no left turn,” “twenty miles per hour,” etc.

It is further hereby provided that any person violating any such rule or regulation shall be guilty of a misdemeanor, and, upon conviction thereof, shall, unless another penalty be otherwise prescribed, be fined not less than five dollars nor more than twenty-five dollars for each offense. Justices of the peace of the county in which the violation occurs shall have jurisdiction of any such offense, and where the violation occurs within the corporate limits of a municipality, the mayor’s court or police or municipal court of such municipality shall have jurisdiction thereof, concurrent with the justices of the peace of the county in which such municipality or the major portion of the territory thereof is located.

CHAPTER 25

(House Bill No. 742—By Mr. Queen)

[Passed April 14, 1973; in effect 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 ten; and to amend article thirteen, chapter eight of said code by adding thereto a new section, designated section nineteen-a, all relating to creation of special county and municipal funds for federal and state grants; fiscal year requirement removed.
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 ten; and that article thirteen, chapter eight of said code be amended by adding thereto a new section, designated section nineteen-a, all to read as follows:

Chapter

7. County Courts and Officers.

8. Municipal Law, Municipalities and Counties; Intergovernmental Relations.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 1. COUNTY COURTS GENERALLY.

§7-1-10. Special account for federal and state grants-in-aid authorized.

In addition to the special funds account authorized by the provisions of section nine of this article, each county court is hereby authorized and empowered to create and establish by proper order, a special account for the deposit of funds received from and granted by the United States of America or the state of West Virginia and shall provide for the expenditure and appropriation of such funds in accordance with the applicable laws and regulations promulgated by the governmental authority making such grants. The funds so received and held in such special account shall not be considered as revenue in determining the amount of real and personal property taxes to be levied for the regular fiscal budget of such county under the provisions of article eight, chapter eleven of this code.

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

ARTICLE 13. TAXATION AND FINANCE.


In addition to the special fund account authorized by the provisions of section nineteen of this article, the governing body of every municipality shall have plenary power and
authority to establish a special account for the deposit of funds
received from and granted by the United States of America
or the State of West Virginia and shall provide for the ex-
penditure and appropriation of such funds in accordance with
the applicable laws and regulations promulgated by the
governmental authority making such grants. The funds so
received and held in such special account shall not be con-
sidered as revenue in determining the amount of real and
personal property taxes to be levied for the regular fiscal
budget of such municipality under the provisions of article
eight, chapter eleven of this code.

CHAPTER 26
(House Bill No. 935—By Mr. Allen and Mr. Cline)

[Passed April 13, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article four, chapter
seven of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to county courts and their
officers; investigators for prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL
ADVICE.

§7-4-2. Rewards for apprehension of persons charged with crime
and expenditure of money for detection of crime; ap-
pointment of investigators of crime.

The prosecuting attorney of any county, with the approval
of the county court, or of the governor, or of the court of the
county vested with authority to try criminal offenses, or of the
judge thereof in vacation, may, within his discretion, offer
rewards for the apprehension of persons charged with crime, or
may expend money for the detection of crime. Any money
expended under this section shall, when approved by the pros-
cutting attorney, be paid out of the county fund, in the same
manner as other county expenses are paid: Provided, That the
prosecuting attorneys of the several counties of the state may,
with the approval of the county courts of their respective
counties, entered of record, appoint to assist them in the
discharge of their official duties, trained and qualified full-time
or part-time investigators of crime. Such investigators shall
accept no other public employment or employment in a private
crime or investigative capacity during the term of their ap-
pointment and shall be paid such salary and expenses as may
be fixed by the county court. Such expenses shall be itemized
and sworn to by the investigator upon presentation to the
county court.

CHAPTER 27

(House Bill No. 1337—By Mr. Sommerville and Mr. Reed)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowance for expenses of the sheriff incurred in feeding prisoners.

Be it enacted by the Legislature of West Virginia:

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

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

§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 priso-
ners 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, two dollars 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.
AN ACT to amend and reenact sections one and two, article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to judges of the supreme court of appeals of West Virginia, designating such judges as justices and providing for the designation of one judge of the court as chief justice.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article one, 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 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

§51-1-2. Chief justice.

§51-1-1. Justices.

The supreme court of appeals shall consist of five justices, elected and qualified according to the constitution and the laws of this state, any three of whom shall constitute a quorum.

§51-1-2. Chief justice.

The court shall designate one of its justices to be chief justice of the court for such term as the court may determine by order made and entered of record. In the absence of the chief justice, any other justice designated by the justices present shall act as chief justice. Any reference in the constitution of this state, in this code or elsewhere in law to the president of the West Virginia supreme court of appeals shall henceforth be construed to mean the chief justice of such court.
CHAPTER 29
(House Bill No. 790—By Mr. Myles and Mr. Seibert)

[Passed March 28, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to regular terms of the supreme court of appeals of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section five, article one, 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 1. SUPREME COURT.

§51-1-5. Regular terms.

1 Two terms of the supreme court of appeals shall be held every year at Charleston, in Kanawha county, the first commencing on the second Tuesday in January, the second on the first Wednesday in September, and shall continue until the business is dispatched. But when, in the judgment of the court, extraordinary circumstances require, such term or terms may be held at such other place or places within the state as the court may designate, such times and places to be fixed in the manner provided in this article for holding special terms of said court.

CHAPTER 30
(House Bill No. 775—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 14, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to repeal section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article seven, chapter six of said code; to amend article one, chapter
five-one of said code by adding thereto a new section, designated section ten-a; and to amend article two, chapter fifty-one of said code by adding thereto a new section, designated section thirteen, all relating to salaries of certain state officers; salaries of judges of the supreme court of appeals; and salaries of judges of circuit courts, the manner of computing the amount thereof, limitation of such salaries and on salaries of judges of statutory courts of record.

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 repealed; that section two, article seven, chapter six of said code be amended and reenacted; that article one, chapter fifty-one of said code be amended by adding thereto a new section, designated section ten-a; and that article two, chapter fifty-one of said code be amended by adding thereto a new section, designated section thirteen, all to read as follows:

Chapter
51. Courts and Their Officers.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2. Salaries of certain state officers.

1 Effective on and after the first Monday after the second
2 Wednesday in January, one thousand nine hundred sixty-nine,
3 the salary of the governor shall be thirty-five thousand dollars
4 per year.
5 The salary of the attorney general, the auditor, the state
6 treasurer, the secretary of state and the commissioner of
7 agriculture shall each be twenty-two thousand five hundred
8 dollars per year.

CHAPTER 51. COURTS AND THEIR OFFICERS.

Article
1. Supreme Court of Appeals.
2. Circuit Courts; Circuit, Criminal and Intermediate Judges.
ARTICLE 1. SUPREME COURT OF APPEALS.
§51-1-10a. Salary of justices.

The salary of each of the justices (judges) of the supreme court of appeals shall be thirty-two thousand five hundred dollars per year.

Nothing herein contained shall be construed to permit payment of any compensation in excess of the amount which can be paid state officers 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.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTERMEDIATE JUDGES.
§51-2-13. 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 courts 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 judges 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 31
(House Bill No. 1016—By Mr. Polen and Mr. Swann)

[Passed March 21, 1973; in effect August 1, 1973. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTERMEDIATE JUDGES.

§51-2-1b. Second circuit.

1 For the county of Marshall, on the second Tuesday in March, July and November.

3 For the county of Tyler, on the second Tuesday in February, June and October.

5 For the county of Wetzel, on the second Tuesday in January, May and September.

CHAPTER 32
(House Bill No. 628—By Mr. Carmichael)

[Passed March 12, 1973; in effect April 1, 1973. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTERMEDIATE JUDGES.

§51-2-1e. Fifth circuit.

1 For the county of Calhoun, on the first Monday in January, May and September.
2 For the county of Jackson, on the fourth Monday in February, June and October.
3 For the county of Roane, on the fourth Monday in January, May and September.

CHAPTER 33

(House Bill No. 1193—Originating in the House Committee on the Judiciary)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTERMEDIATE JUDGES.

§51-2-1t. Twentieth circuit.

1 For the county of Randolph, on the third Tuesday in August, January and April.
AN ACT to amend and reenact section twelve, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to courts and their officers; circuit courts; circuit, criminal and intermediate judges; increasing the compensation of a special judge from twenty-five dollars per day to seventy-five dollars per day.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTERMEDIATE JUDGES.

§51-2-12. Compensation of special judge.

1 The judge so elected or agreed upon shall receive for his services, while sitting as such judge, seventy-five dollars per day, to be certified by the court and paid out of the state treasury as to circuit courts and out of the county treasury as to criminal courts and other courts of record of limited jurisdiction within the county. This and the two next preceding sections shall apply as well to criminal as to civil causes.

CHAPTER 35

(Com. Sub. for House Bill No. 730—By Mr. Field)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That section three, article four, 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 4. GENERAL PROVISIONS RELATING TO CLERKS OF COURTS.

§51-4-3. Preservation and destruction of papers; microphotography.

1 All papers lawfully returned to or filed in the clerk's office shall be preserved therein, subject to the conditions set out herein, until legally delivered out.

4 Notwithstanding any other provision of this code to the contrary, the clerk may destroy all documents, records, instruments, books, papers, depositions and transcripts in any action or proceeding in the circuit court or other court of record, or otherwise filed in his office pursuant to law, provided that:

9 (a) Ten years have elapsed since the filing of any paper in such action or proceeding, and that the said action or proceeding is not pending, subject to modification or on appeal in any court, except that depositions, and, when the written consent of the prosecuting attorney is first obtained, transcripts of preliminary hearings in criminal matters may be destroyed when five years have elapsed since their filing in the office of the clerk and the action or proceeding in which they were filed is not pending or on appeal in any court;

(b) The clerk maintains for the use of the public a microphotographic film print or copy of each document, record, instrument, book, paper, deposition or transcript so destroyed, together with an index and a mechanical device by which such film may be conveniently examined; and

(c) The clerk promptly seals and stores at least one original negative of each microphotographic film in such manner and place as will reasonably assure its preservation indefinitely against loss, theft, defacement, fire or other destruction.

A photographic reproduction of any of the records described in this section, the negative or film of which has been certified by the clerk in charge of such reproduction as being an exact replica of the original, shall be received in evidence in all courts,
and in hearings before any officer, board or commission having jurisdiction or authority to conduct such hearings, in like manner as the original.

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**CHAPTER 36**

(Senate Bill No. 24—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to ineligibilities of retired judges to receive pay or benefits under the state judges' retirement system.

_Be it enacted by the Legislature of West Virginia:_

That section seven, 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.**

§51-9-7. Ineligibility to receive pay or benefits.

1 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 from the state of West Virginia. If, after retirement under the provisions of this article, he shall be elected or appointed to any public office or trust for which he receives any salary or other compensation from the state of West Virginia, his pay or benefits under this article shall be suspended for such time only as he shall occupy such office or trust.

12 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.

CHAPTER 37
(House Bill No. 1139—By Mr. Reed)

[Passed April 3, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section six, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation and allowances; by raising the salary of stenographers of circuit courts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-6. Allowances to circuit judges for stationery, postage and stenographic help; additional stenographic compensation from counties; payments therefor.

Each judge of the circuit court shall be allowed an amount not to exceed four hundred and seventy-five dollars per month for the payment of stenographic help necessary in the discharge of the duties of his office, and each judge shall be allowed an amount not to exceed six hundred dollars annually for the procurement of necessary stationery, payment of postage, and necessary supplies for his office. The judge shall be reimbursed for the actual amounts expended by him for stationery, supplies and postage. Payment for stenographic help shall be made directly to the person performing the stenographic work. Such amounts shall be paid monthly out of the state treasury, but not until the judge submits an itemized statement covering the same.
15 Any county court or the board of county commissioners of
16 Ohio county may pay such additional compensation for
17 stenographic help for the judge of any circuit which may be
18 necessary in the discharge of the duties of the office of the
19 judge of such circuit, or any combination of counties in any
20 circuit may contribute to such additional stenographic help.
21 Such additional compensation shall be paid from county
22 funds directly to the person or persons performing such work.

CHAPTER 38
(House Bill No. 1015—By Mr. Polon)

[Passed March 22, 1973; in effect August 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section ten, chapter thirty-six, acts
of the Legislature, regular session, one thousand nine hundred
sixty-four, relating to the terms of court of the common pleas
court of Marshall County.

Be it enacted by the Legislature of West Virginia:

That section ten, chapter thirty-six, acts of the Legislature, regular
session, one thousand nine hundred sixty-four, be amended and
reenacted to read as follows:

MARSHALL COUNTY COMMON PLEAS COURT.

§10. Terms of court; maturity of causes; procedure.

1 For the purpose of maturing, docketing, hearing and deter-
2 mining all causes, matters, proceedings and suits properly
3 determinable in said court there shall be regularly continued
4 and held three terms of court each year, beginning on the
5 second Monday in January, May and September. Special
6 and adjourned terms of said court may be called and held
7 whenever, in the discretion of the judge of said court, public
8 interest requires such special or adjourned terms. The judge
9 of said court shall have like jurisdiction and authority in
10 vacation of said court to make and enter such proper orders
11 in any cause, matter, proceeding or suit pending in said court
12 as the judge of the circuit court has under the laws of the state.
The mode of procedure in causes instituted in said 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, divorce commissioners, commissioners, special commissioners, jury commissioners and such clerical and secretarial assistants as shall enable said court to discharge all the duties required of it under the provisions of this act and the general laws of the state. Such appointments shall be made by the judge and the appointees shall serve during the pleasure of the judge.

The judge of said court shall have power to make and promulgate such rules for the transaction of the business of the court as may be necessary: Provided, That all such rules shall be in conformity with the laws of the state of West Virginia and with any rules promulgated by the supreme court of appeals of this state, and such rules shall be filed in the office of the clerk of said supreme court of appeals.

CHAPTER 39

(House Bill No. 956—By Mr. Christian and Mr. Stafford)

[Passed March 20, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, as last amended and reenacted by chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred seventy-one, relating to the jurisdiction and judge's salary of the intermediate court of Mercer County.

Be it enacted by the Legislature of West Virginia:

That sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, as last amended and reenacted by chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred seventy-one, be amended and reenacted to read as follows:

INTERMEDIATE COURT OF MERCER COUNTY.

§2. Jurisdiction concurrent with circuit court.

§4. Salary of judge.
§2. Jurisdiction concurrent with circuit court.

The said court, which is the same court originally established by chapter eighteen, acts of the Legislature, regular session, one thousand eight hundred ninety-three, but with its name and jurisdiction changed as in this act provided, shall continue to have jurisdiction within the county of Mercer, concurrent with the circuit court of said county, of all felonies, misdemeanors and offenses committed or which may be committed within the said county of Mercer, and shall also have, concurrent with the circuit court of said county, jurisdiction, supervision and control by appeal, mandamus, prohibition and certiorari of all proceedings before justices of the peace of said county or the police court, mayor or other constituted tribunal, board or commission of any city, town or village in said county. The said court shall likewise have jurisdiction within said county of Mercer, concurrent with the circuit court of said county, of all suits and proceedings in equity, in all actions of ejectment, and in all civil actions or proceedings at law, except where it shall appear from the pleadings that the matter or thing in controversy in any such suit, proceeding or action, exclusive of interest and costs, exceeds in value the sum of one hundred 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 said court shall likewise have jurisdiction within said county of Mercer, concurrent with the circuit court of said county, of suits for divorce, annulment of marriage and separate maintenance, of bastardy proceedings and actions for maintenance of illegitimate children as provided by the general laws of West Virginia; 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 "license to carry weapons," and of all amendments and reenactments thereto; and the said court shall continue to have jurisdiction within said county of proceedings for adoption and all juvenile and other matters of which the aforesaid criminal court of Mercer county was given jurisdiction by the general laws of West Virginia or of which
the court hereby established may be given jurisdiction by such
general laws.

§4. Salary of judge.

1 The judge of said intermediate court shall receive for his
2 services the sum of twenty-four thousand five hundred dollars
3 per annum to be paid out of the county treasury of said coun-
4 ty of Mercer.

CHAPTER 40
(Senate Bill No. 279—By Mr. Susman)

[Passed April 14, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section six, chapter twenty-nine, acts
of the Legislature, regular session, one thousand nine hundred
seven, as last amended and reenacted by chapter thirty-eight,
acts of the Legislature, regular session, one thousand nine
hundred seventy-two, relating to the salary of the clerk of the
circuit court of Raleigh county and providing for additional
compensation for duties as ex officio clerk of the intermediate
court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

That section six, chapter twenty-nine, acts of the Legislature,
regular session, one thousand nine hundred seven, as last amended
and reenacted by chapter thirty-eight, acts of the Legislature, regular
session, one thousand nine hundred seventy-two, be amended and
reenacted to read as follows:

INTERMEDIATE COURT OF RALEIGH COUNTY.

§6. Clerk; his powers, duties and compensation.

1 The clerk of the circuit court of Raleigh county shall, ex
2 officio, be, act as and perform the duties of clerk of the
3 intermediate court of Raleigh county and shall exercise the
4 same powers and duties arising within the jurisdiction
5 of the court as are performed by him as clerk of the circuit
6 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.

The county court of Raleigh county shall allow such clerk a compensation 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 Raleigh county.

CHAPTER 41

(Com. Sub. for House Bill No. 583—By Mr. Speaker, Mr. McManus, and Mr. Rollins)

[Passed March 12, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to and specifying the offense of burglary; relating to and specifying the offense of entering without breaking in the daytime a dwelling house or an outhouse adjoining thereto or occupied therewith; defining the term "dwelling house" to also include but not be limited to a mobile home, house trailer, modular home or self propelled motor home, used as a dwelling regularly or only from time to time, or any other nonmotive vehicle primarily designed for human habitation and occupancy and used as a dwelling regularly or only from time to time; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-11. Burglary; entry of dwelling or outhouse; penalties.

(a) Burglary shall be a felony and any person convicted thereof shall be confined in the penitentiary not less than one nor more than fifteen years. If any person shall, in the night-
time, break and enter, or enter without breaking, or shall, in
the daytime, break and enter, the dwelling house, or an out-
house adjoining thereto or occupied therewith, of another, with
intent to commit a felony or any larceny therein, he shall be
deemed guilty of burglary.

(b) If any person shall, in the daytime, enter without
breaking a dwelling house, or an outhouse adjoining thereto or
occupied therewith, of another, with intent to commit a felony
or any larceny therein, he shall be deemed guilty of a felony,
and, upon conviction, shall be confined in the penitentiary not
less than one nor more than ten years.

(c) The term "dwelling house," as used in subsections (a)
and (b) of this section, shall include, but not be limited to, a
mobile home, house trailer, modular home or self-propelled
motor home, used as a dwelling regularly or only from time to
time, or any other nonmotive vehicle primarily designed for
human habitation and occupancy and used as a dwelling
regularly or only from time to time.

CHAPTER 42

(Senate Bill No. 70—By Mr. Brotheron, Mr. President, and Mr. Hubbard)

[Passed April 4, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article three-a, chapter
sixty-one of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, relating generally to shoplifting;
providing misdemeanor and felony offenses for shoplifting; pro-
viding criminal penalties therefor; relating to process in connec-
tion with shoplifting; relating to compensation of officers and
witnesses in shoplifting cases; and providing that justices of the
peace shall have concurrent jurisdiction of misdemeanor shop-
lifting offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That section two, article three-a, chapter sixty-one of the code
of West Virginia, one thousand nine hundred thirty-one, as amended,
be amended and reenacted to read as follows:
ARTICLE 3A. SHOPLIFTING.

§61-3A-2. Penalties; process; compensation of officers and witnesses; jurisdiction of justices.

1 If any person shall commit an act of shoplifting as defined in this article, for the first offense, he shall be guilty of a misdemeanor if the value of merchandise is less than fifty dollars, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than ninety days or by fine of not more than three hundred dollars, or by both such fine and imprisonment.

2 If any person shall commit an act of shoplifting as defined in this article, for the second offense, he shall be guilty of a misdemeanor if the value of merchandise is less than fifty dollars, and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of not less than thirty days nor more than one hundred eighty days, or by fine of not more than five hundred dollars, or by both such fine and imprisonment.

3 If any person shall commit an act of shoplifting as defined in this article, for the third or subsequent offense, he shall be guilty of a felony regardless of the value of merchandise involved in the first two convictions under the provisions of this article, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than ten years.

4 If any person shall commit an act of shoplifting as defined in this article, he shall be guilty of a felony if the value of merchandise is fifty dollars, or more, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than ten years.

5 In all prosecutions under this article, process shall be issued and served in the county or out of the county where prosecution is pending and shall have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issued and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending shall be
compensated in like manner as though the offense were a
felony in grade.
Justices of the peace shall have jurisdiction, concurrent
with all courts of record having criminal jurisdiction, of the
misdemeanor offenses and penalties prescribed in this article.

CHAPTER 43
(Com. Sub. for House Bill No. 1010—By Mr. Davidson)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article six, 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 fourteen-a,
relating to crimes; prohibiting persons from loitering on
school grounds and providing penalties for the violation
thereof.

Be it enacted by the Legislature of West Virginia:

That article six, 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 fourteen-a, to
read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.
§61-6-14a. Loitering on school property; penalty; exceptions.

No person, not a student in regular attendance, shall loiter
in or about any school, school building or school grounds in
violation of any posted rules or regulations governing the use
of any such school without written permission from the
principal.

Any person who shall violate the provisions of this section
shall be guilty of a misdemeanor, and, upon conviction for the
first offense thereof, shall be fined not more than one hundred
dollars, or imprisoned in the county jail not more than thirty
days, or both such fine and imprisonment. Upon a second or
subsequent conviction, any such person shall be fined not more
than five hundred dollars, or imprisoned in the county jail not
more than one year, or both such fine and imprisonment.
CHAPTER 44

(House Bill No. 575—By Mr. Ours)

[Passed April 7, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six-a, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to division of correction; payment of jail fees to county courts increased.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. DIVISION OF CORRECTION.

§62-13-6a. Payment of jail fees to county courts.

1 The commissioner of public institutions is hereby authorized
2 and directed to pay to the county court of any county, jail fees
3 incurred by escapees of any West Virginia forestry camp for
4 boys, the West Virginia industrial home for girls or the West
5 Virginia industrial school for boys, when said escapees are
6 confined in said county jails. Said jail fee shall not exceed the
7 sum of four dollars per diem per prisoner.

CHAPTER 45

(House Bill No. 871—By Mr. Jolliffe)

[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to domestic relations; marriage; age of consent; exceptions; providing waiver of consent where female is pregnant or has previously given birth.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. MARRIAGE.

§48-1-1. Age of consent; exceptions.

1 For marriage the age of consent of the male shall be eighteen years of age, and of the female sixteen years. If, however, the male or female, or both, be under the age of consent as aforesaid, and if a licensed physician shall certify in writing that he has examined said female and found her to be pregnant, or if such female has previously given birth to a child, and if in either of such events consent be obtained from the parents, parent or guardian in the manner prescribed in section eight of this article, the judge of any court of record of the county, in which county an application for marriage license may otherwise be properly filed as provided in this article, may direct the issuance of a marriage license by the clerk of the county court of such county. In the absence or incapacity to act of the judges of all courts of record of the county in which the application is to be filed, the order may be made and directed to the clerk of the county court of such county by any judge of a court of record in any judicial circuit adjoining the circuit in which such county is located.

CHAPTER 46

(House Bill No. 1334—By Mrs. Smirl and Mr. Mathis)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-three, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to elections; county court to arrange polling places and equipment; permitting more than one precinct to vote at the same location; requirements.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, 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.

§3-1-23. County court to arrange polling places and equipment; requirements.

1 The county court in each county, before each election, shall secure, for each voting precinct in the county, a suitable room or building in which to hold the election, and shall cause the same to be suitably provided with heat, drinking water and light and a sufficient number of booths or compartments, each containing a table, counter or shelf, and furnished with proper supplies for preparing ballots, at or in which voters may conveniently prepare their ballots, so that in the preparation thereof they may be secure from the observation of others. The number of such booths or compartments shall not be less than two nor more than five. Such room or building shall be located in such precinct: Provided, however, That at upon a determination of the county court that a suitable room or building in which to hold the election is not reasonably available in such precinct then the county court may secure a suitable room or building in which to hold the election for such precinct in an adjacent precinct in said county, in a location as near as may be to the territory of the precinct for which such room or building is provided.

CHAPTER 47

(House Bill No. 616—By Mr. Speaker, Mr. McManus, and Mr. Rollins)

[Passed April 9, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to elections; primary elections; nominating procedures; and providing for filling vacancies in party nominations for office due to death by party executive committees and by chairmen of party executive committees.

Be it enacted by the Legislature of West Virginia:

That section nineteen, 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.

§3-5-19. Vacancies in nominations; how filled; fees.

1 If any vacancy shall occur in the party nomination of candidates for office, caused by the withdrawal, failure to make a nomination for the office at the primary election, or otherwise, it may be filled and the name of the candidate certified by the executive committee of the political party for the political division in which the vacancy occurs. If such vacancy be not filled by the executive committee by the sixty-fifth day next preceding the date of the election, it shall be lawful for the chairman of the political party executive committee for the political division to fill such vacancy, make a certificate thereof, and file the same with the officer with whom the original certificate of nomination was or might have been regularly filed. Such certificate shall be filed not later than the sixtieth day next preceding the date of the election and, when filed, such officer shall proceed therewith in the same manner in all respects as in cases of original nominations.

2 When any such vacancy exists because of failure to make a nomination for the office at the primary election, no nomination for such office shall be deemed filed under provisions of this section until the required filing fee for such office candidacy shall have been paid as provided in section eight of this article.

3 Notwithstanding any provision of this chapter to the contrary, when a vacancy for office occurs due to the death of the nominee for office, the executive committee of the political party for the political division in which the vacancy occurs may certify a candidate for such vacancy by the fourteenth day next preceding the date of the election, in the manner provided above. In the event such vacancy for office due to death is not filled by the executive committee by the fourteenth day next preceding the date of the election, then the chairman of the executive committee of the political party for the political division in which the vacancy occurs may certify a candidate for such vacancy by the twelfth day next preceding the date of the election, in the manner provided above. When vacancies are filled in the manner provided for in this paragraph, appropriate changes in the ballots shall
be made in accordance with the provisions of section ten, article four, and section four, article six of this chapter.

CHAPTER 48

(Senate Bill No. 477—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the canvass of election returns; time within which recount must be requested; and preservation and subsequent destruction of records.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.
§3-6-9. Canvass of returns; recounts; preservation and subsequent destruction of ballots, records, etc.

The commissioners of the county court shall be ex officio a board of canvassers, and, as such, shall keep in a well-bound book, marked "election record," a complete record of all their proceedings in ascertaining and declaring the result of every election in their respective counties. They shall convene as such canvassing board at the courthouse on the fifth day (Sundays excepted) after every election held in their county, or in any district thereof, and the officers in whose custody the ballots, poll books, registration records, tally sheets and certificates have been placed shall lay the same before them for examination. They may, if deemed necessary, require the attendance of any of the commissioners, poll clerks or other persons present at the election, to appear and testify respecting the same, and make such other orders as shall seem proper, to procure correct returns and ascertain the true result of the election in their county;
but in such case all the questions to the witnesses and all
the answers thereto, and evidence, shall be taken down in
writing and filed and preserved. All orders made shall be
entered upon the record. They may adjourn from time to
time, but no longer than absolutely necessary, and, when
a majority of the commissioners are not present, their
meeting shall stand adjourned until the next day, and so
from day to day, until a quorum be present. The board
shall proceed to open each sealed package of ballots so
laid before them, and, without unfolding them, count the
number in each package and enter the same upon their
record. The ballots shall then be again sealed up carefully
in a new envelope, and each member of the board shall
write his name across the place where such envelope is
sealed. After canvassing the returns of the election, the
board shall publicly declare the results of the election;
however, they shall not enter an order certifying such elec-
tion results for a period of forty-eight hours after such
declaration. Within such forty-eight hour period a candidate
voted for at such election may demand the board to open
and examine any one or more of the sealed packages of
ballots, and recount the same; but in such case they shall
seal the same again, along with the envelope above named,
and the clerk of the county court and each member of the
board shall write his name across the place or places
where it is sealed, and endorse in ink, on the outside:
“Ballots of the election held at precinct No. _____, in the
district of _______, and county of ________________, on the
________day of ______________.” In computing the afore-
said forty-eight hour period as hereinbefore used in this
section, Saturdays, Sundays and legal holidays shall be
excluded: Provided, That at the end of the forty-eight
hour period, an order shall be entered certifying all elec-
tion results except for those offices in which a recount
has been demanded. Every candidate who demands such
recount shall be required to furnish bond in a reasonable
amount with good sufficient surety to guarantee payment
of the costs and the expenses of such recount in the event
the result of the election be not changed by such recount;
but the amount of such bond shall in no case exceed three
hundred dollars. When they have made their certificates
and declared the results as hereinafter provided, they shall deposit the sealed packages of ballots, absent voter ballots, registration records, poll books, tally sheets and precinct certificates with the clerks of the county and circuit courts from whom they were received, who shall carefully preserve the same for sixty days, and if there be no contest pending as to any such election, and their further preservation be not required by any order of a court, such ballots, poll books, tally sheets and certificates shall be destroyed by fire or otherwise, without opening the sealed packages of ballots; and if there be such contest pending, then they shall be so destroyed as soon as the contest is ended:

Provided, however, That the poll books shall be preserved until such time as the clerk of the county court has completed the duties imposed upon him by section three, article two of this chapter. If the result of the election be not changed by such recount, the costs and expenses thereof shall be paid by the party at whose instance the same was made.

CHAPTER 49
(Com. Sub. for House Bill No. 622—By Mrs. Smirl and Mr. Jones, of Monongalia)

[Passed March 30, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to regulation and control of elections; requiring all candidates to keep records of expenditures and receipts, except candidates for party committeemen.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, 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 8. REGULATION AND CONTROL OF ELECTIONS.
§3-8-2. Accounting for receipts and expenditures in elections.

1 In primary and general elections, all candidates for any office, except candidates for party committeemen and com-
mitteewomen, shall keep records of receipts and expenditures which are made for political purposes. All such receipts and expenditures shall be subject to regulation by the provisions of this article. Verified statements of such receipts and expenditures shall be made and filed as public records by all candidates and by their political agents, representatives, or any person acting for and on behalf of any candidate, and by the treasurers of all political party committees.

CHAPTER 50

(Senate Bill No. 3—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 12, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section six, article eight, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section five, article one, chapter seven of said code; to amend and reenact section five, article fourteen, chapter eleven of said code; to amend and reenact section three, article one-a, chapter fifteen of said code; to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article five of said chapter; and to further amend said article by adding thereto five new sections, designated sections nineteen, twenty, twenty-one, twenty-two and twenty-three; to amend and reenact section seven, article seven of said chapter; to amend and reenact section one, article two, chapter twenty-three of said code; and to amend and reenact section five, article two-b, chapter twenty-nine of said code, all relating to abolishing the department of civil and defense mobilization and the office of emergency planning and creating an office of emergency services in the office of the governor; records management and preservation advisory committee; duties of county commissioners; payment for services other than services in court; exemptions from the gasoline tax; duties of the adjutant general; policy and purpose of emergency services; certain definitions; the emergency services advisory council; giving certain general powers and emergency powers to the governor; mobile support
units; local organizations for emergency services; mutual aid agreements; regional organizations for emergency services; a certain immunity and exemption; liability to certain sheltered persons; appropriations; acceptance of certain services, gifts, grants and loans; certain political activity; emergency service personnel; certain utilization of existing services and facilities; certain enforcement; certain arrests by a peace officer without a warrant; unorganized militia; disaster prevention; certain communications; enactment of the Interstate Civil Defense and Disaster Compact; severability; certain recording and publication of a certain successors' names; certain employers and employees subject to workmen's compensation; application for a weather modification license; renewal; and temporary suspension.

Be it enacted by the Legislature of West Virginia:

That section six, article eight, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section five, article one, chapter seven of said code be amended and reenacted; that section five, article fourteen, chapter eleven of said code be amended and reenacted; that section three, article one-a, chapter fifteen of said code be amended and reenacted; that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article five of said chapter be amended and reenacted; that said article be further amended by adding there-to five new sections, designated sections nineteen, twenty, twenty-one, twenty-two and twenty-three; that section seven, article seven of said chapter be amended and reenacted; that section one, article two, chapter twenty-three of said code be amended and reenacted; and that section five, article two-b, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

Chapter 5. General Powers and Duties of the Governor, Secretary of State and Attorney General; Board of Public Works; State Building Commission; Social Security Agency; Public Records Management and Preservation Act; Department of Commerce; West Virginia Public Employees Retirement Act; Human Rights Commission; West Virginia Antiquities Commission; Public Employees' and Teachers' Reciprocal
A records management and preservation advisory committee is hereby established to advise the administrator and to perform such other duties as this article requires. The records management and preservation advisory committee shall be composed of the following members: The governor, auditor, attorney general, president of the Senate, speaker of the House of Delegates, the chief justice of the supreme court of appeals, a judge of a circuit court to be appointed by the governor, the director of the office of emergency services, or their respective designated representatives. The advisory committee shall designate one of its members to be chairman, and it shall adopt rules for the conduct of its business. The advisory committee shall meet whenever called by its chairman or the administrator. The members of the advisory committee shall serve without compensation but shall be reimbursed for all reasonable
and necessary expenses actually incurred in the performance of their duties as members of the advisory committee.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 1. COUNTY COURTS GENERALLY.

§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, to arrange for the feeding and care of the prisoners therein, 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 bride 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 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 supervise the general management
of the fiscal affairs and business of each county; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect public parks, playgrounds and recreational facilities, to purchase, lease or rent equipment therefor and to employ qualified recreational directors and personnel; to construct new Four-H camps on county property; to operate stone quarries and sand deposits on county-owned or leased property; to construct buildings for or aid in constructing or equipping buildings for emergency services on sites approved by the office of emergency services; to operate dog pounds for county-municipalities; 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 or operated by the county court and supervising and controlling the purchase, erection and maintenance of airport facilities; for supervising and controlling the purchase of furniture, fixtures and equip-
ment and janitors' and other supplies of their county; 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
or equipping buildings for emergency services on sites ap­proved by the office of emergency services; operating dog
pounds for county-municipalities; 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 or erecting county mental
health clinics or engaging in programs for the betterment of
the mental 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.

CHAPTER 11. TAXATION.

ARTICLE 14. GASOLINE TAX.

§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 or emergency service 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
23 as a motor carrier of any taxes imposed by article fourteen-a
24 of this chapter.
25 (5) All gallons of gasoline and special fuel used and con-
26 sumed in stationary off-highway turbine engines.
27 (6) All gallons of special fuel for heating any public or
28 private dwelling, building or other premises.
29 (7) All gallons of special fuel for boilers.
30 (8) All gallons of gasoline or special fuel used as a dry
31 cleaning solvent or commercial or industrial solvent.
32 (9) All gallons of gasoline or special fuel used as lubri-
33 cants, ingredients or components of any manufactured pro-
34 duct or compound.
35 (10) All gallons of gasoline or special fuel sold to any
36 municipality or agency thereof for use in vehicles or equipment
37 owned and operated by such municipality or agency thereof
38 and when purchased for delivery in bulk quantities of five
39 hundred gallons or more.
40 (11) All gallons of gasoline or special fuel sold to any
41 urban mass transportation authority, created pursuant to the
42 provisions of article twenty-seven, chapter eight of this code,
43 for use in an urban mass transportation system.
44 (12) All gallons of gasoline or special fuel sold for use as
45 aircraft fuel.
46 (13) All gallons of gasoline or special fuel sold for use or
47 used as a fuel for commercial watercraft.
48 (14) All gallons of special fuel sold for use or consumed in
49 railroad diesel locomotives.

CHAPTER 15. PUBLIC SAFETY.

Article
1A. Adjutant General.
5. Emergency Services.

ARTICLE 1A. ADJUTANT GENERAL.

§15-1A-3. Duties.

1 (a) The adjutant general shall be chief of staff to the
2 governor and commanding general of the organized militia.
He shall direct the planning and employment of the military forces of the state in carrying out their state mission, establish unified command of state forces whenever jointly engaged, coordinate the military affairs with the civil defense of the state and organize and coordinate the activities of all civil agencies including local and state police in event of declaration of a limited emergency by the governor pursuant to article one-d of this chapter. In time of emergency or disaster, the adjutant general shall coordinate his activities with those of the office of emergency services provided for by article five of this chapter. He shall be custodian of all military records of the state and shall keep the same indexed and available for ready reference. He shall keep an itemized account of all moneys received and dispensed from all sources and shall make an annual report to the governor on the condition of the organized militia, receipts and expenditures and such other matters relating to the military forces of the state and the adjutant general's department as he shall deem expedient.

(b) The adjutant general shall be responsible for the organization, administration, training and supply of the organized militia and shall cause to be procured, prepared and issued to the organizations of the organized militia all necessary books and blanks for reports, records, returns and general administration, and shall, at the expense of the state, cause the military laws, military code and rules and regulations in force to be printed, bound in proper form and distributed, one copy to each commissioned officer, and one each to all the circuit, intermediate and criminal court judges, sheriffs and justices of the peace in the state requiring them and shall procure and supply all necessary textbooks of drill and instruction. He shall keep in his office an accurate account of all state and United States property issued to the state. He shall keep on file in his office all official bonds required by this chapter, the reports and returns of troops and military forces of the state and all other writings and papers which are required to be transmitted to and preserved at the general headquarters of the organized militia.

(c) The adjutant general shall keep records of all service personnel from the state of West Virginia, commissioned or
enlisted, in any of the wars of the United States and of
individual claims of citizens of West Virginia for service
rendered in such wars. He shall assist all persons residing in
this state having claims against the United States for pension,
bounty or back pay or such claims as have arisen out of, or
by reason of, service in any of said wars. To this end he shall
cooperate with the agents or attorneys of such claimants,
furnish to claimants only all necessary certificates or certified
abstracts from, or copies of, records or documents in his
office and shall seek in all practicable ways to secure speedy
and just action in all claims now pending or which may
hereafter be filed: Provided, That any and all of the above
services shall be rendered without charge to the claimant. He
shall establish and maintain as a part of his office a bureau of
records of the services of the West Virginia troops during such
wars and shall keep arranged in proper and convenient form
all records and papers pertaining thereto.

ARTICLE 5. EMERGENCY SERVICES.
§15-5-1. Policy and purpose.
§15-5-3. Office of emergency services.
§15-5-4. Emergency services advisory council.
§15-5-5. General powers of the governor.
§15-5-7. Mobile support units.
§15-5-8. Local organization for emergency services.
§15-5-10. Regional organizations for emergency services.
§15-5-11. Immunity and exemption; “duly qualified emergency service worker”
declared.
§15-5-12. Liability to sheltered persons.
§15-5-13. Appropriations; acceptance of services, gifts, grants and loans.
§15-5-16. Utilization of existing services and facilities.
§15-5-17. Enforcement.
§15-5-20. Disaster prevention.

§15-5-1. Policy and purpose.
1 In view of the existing and increasing possibility of the
occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquakes or other natural or man-made causes and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary: (1) To create a state emergency services agency and to authorize the creation of local and regional organizations for emergency services in the political subdivisions of the state; (2) to confer upon the governor and upon the executive heads of governing bodies of the political subdivisions of the state the emergency powers provided herein; and (3) to provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency service functions.

It is further declared to be the purpose of this article and the policy of the state that all emergency service functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities and of private agencies of every type, so that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.


As used in this article:

(a) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake, or other natural or man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air-raid warning services, communications, radiological, chemical and other special weap-
ons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster may be exercised during the period when there is an imminent threat thereof.

(b) "Local organization for emergency services" means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency service functions.

(c) "Mobile support unit" means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the governor to supplement local organizations for emergency services in a stricken area.

(d) "Political subdivision" means any county or municipal corporation in this state.

§15-5-3. Office of emergency services.

There is hereby created within the office of the governor an office to be known as the office of emergency services. A director of the office of emergency services, hereinafter called the director, shall be appointed by the governor in accordance with the provisions of section two-a, article seven, chapter six of this code. On and after the effective date of this article, the director of civil and defense mobilization referred to in said section two-a shall be known and designated as the director of emergency services.

The director may employ such technical, clerical, stenographic and other personnel and fix their compensation and may make such expenditures within the appropriation therefor or from other funds made available to him for the purpose of providing emergency services as may be necessary to carry out the purpose of this article. Employees of the office of emergency services shall be members of the state civil
service system and all appointments of the office, except that
of director, shall be a part of the classified service under the
civil service system.

The director and other personnel of the office of emergency
services shall be provided with appropriate office space, furni-
ture, equipment, supplies, stationery and printing in the
same manner as provided for personnel of other state agencies.

The director, subject to the direction and control of the
governor, shall be executive head of the office of emergency
services and shall be responsible to the governor for carrying
out the program for emergency services in this state. He shall
coordinate the activities of all organizations for emergency
services within the state and maintain liaison with and co-
operate with emergency service and civil defense agencies
and organizations of other states and of the federal govern-
ment and shall have such additional authority, duties and
responsibilities authorized by this article as may be prescribed
by the governor.

The director shall have the power to acquire in the name of
the state by purchase, lease or gift, real property and rights or
easements necessary or convenient to construct thereon the
necessary building or buildings for housing an emergency
services control center.

The office of emergency planning in the department of
finance and administration is hereby abolished and its func-
tions, personnel and property transferred to the office of
emergency services. The department of civil and defense
mobilization is hereby abolished and its functions, personnel
and property transferred to the office of emergency services.

§15-5-4. Emergency services advisory council.

There is hereby created an emergency services advisory
council, hereinafter called the council, which shall consist of
seven members to be appointed by the governor. The council
shall advise the governor and the director on all matters
pertaining to emergency services. The governor shall serve as
chairman of the council and the members thereof shall serve
without compensation but shall be reimbursed for the reason-
able and necessary expenses actually incurred in the perfor-
mance of their duties.
§15-5-5. General powers of the governor.

The governor shall have general direction and control of the office of emergency services and shall be responsible for the carrying out of the provisions of this article and, in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency service functions within this state.

In performing his duties under this article, the governor is authorized to cooperate with the federal government, other states and private agencies in all matters pertaining to the provision of emergency services for this state and the nation.

In performing his duties under this article to effect its policy and purpose, the governor is further authorized and empowered:

1. To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government.

2. To prepare a comprehensive plan and program for the provision of emergency services in this state, such plan and program to be integrated into and coordinated with comparable plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of such plans and programs by the political subdivisions of this state, such plans to be integrated into and coordinated with the state plan and program to the fullest possible extent.

3. In accordance with such state plan and program, to procure supplies and equipment, to institute training and public information programs, to take all other preparatory steps including the partial or full mobilization of emergency service organizations in advance of actual disaster and to insure the furnishing of adequately trained and equipped emergency service personnel in time of need.

4. To make such studies and surveys of industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for providing emergency services and to plan for the most efficient emergency use thereof.
(5) On behalf of the state, to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of this state.

(6) To delegate any administrative authority vested in him under this article and to provide for the subdelegation of any such authority.

(7) To appoint, in cooperation with local authorities, metropolitan area directors when practicable.

(8) To cooperate with the president and the heads of the armed forces, the civil defense agency of the United States and other appropriate federal officers and agencies and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation, including the direction and control of (a) blackouts and practice blackouts, air-raid drills, mobilization of emergency service and civil defense forces and other tests and exercises; (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; (c) the effective screening or extinguishing of all lights and lighting devices and appliances; (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services; (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack; (f) public meetings or gatherings; and (g) the evacuation and reception of the civilian population.


The provisions of this section shall be operative only during the existence of a state of emergency. The existence of a state of emergency may be proclaimed by the governor or by concurrent resolution of the Legislature if the governor in such proclamation, or the Legislature in such resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural or man-made disaster of major proportions has actually occurred or is imminent within the state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. Any such emergency, whether
proclaimed by the governor or by the Legislature, shall termi-
minate upon the proclamation of the termination thereof
by the governor, or the passage by the Legislature of a con-
current resolution terminating such emergency.

So long as such state of emergency exists, the governor
shall have and may exercise the following additional emergency
powers:

(a) To enforce all laws, rules and regulations relating to the
provision of emergency services and to assume direct oper-
tional control of any or all emergency service forces and
helpers in the state;

(b) To sell, lend, lease, give, transfer or deliver materials or
perform functions relating to emergency services on such
terms and conditions as he shall prescribe and without regard
to the limitations of any existing law and to account to the
state treasurer for any funds received for such property;

(c) To procure materials and facilities for emergency
services by purchase, condemnation under the provisions of
chapter fifty-four of this code or seizure pending institution of
condemnation proceedings within thirty days from the seizing
thereof and to construct, lease, transport, store, maintain,
renovate or distribute such materials and facilities. Com-
ensation for property so procured shall be made in the
manner provided for in chapter fifty-four of this code;

(d) To obtain the services of necessary personnel, required
during the emergency, and to compensate them for their
services from his contingent funds or such other funds as may
be available to him;

(e) To provide for and compel the evacuation of all or part
of the population from any stricken or threatened area within
the state and to take such steps as are necessary for the
receipt and care of such evacuees;

(f) To control ingress and egress to and from a disaster
area, the movement of persons within the area and the occu-
pancy of premises therein;

(g) To suspend the provisions of any regulatory statute
prescribing the procedures for conduct of state business or the
orders, rules or regulations of any state agency, if strict
compliance therewith would in any way prevent, hinder or
delay necessary action in coping with the emergency;

(h) To utilize such available resources of the state and of its
political subdivisions as are reasonably necessary to cope with
the emergency;

(i) To suspend or limit the sale, dispensing or transporta-
tion of alcoholic beverages, firearms, explosives and
combustibles;

(j) To make provision for the availability and use of tem-
porary emergency housing;

(k) To perform and exercise such other functions, powers
and duties as are necessary to promote and secure the safety
and protection of the civilian population.

§15-5-7. Mobile support units.

The governor or his duly authorized representative may
create and establish such number of mobile support units as
are necessary to reinforce emergency service organizations in
stricken areas and with due consideration of the plans of the
federal government and of other states. He shall appoint a
commander for each such unit who shall have primary
responsibility for the organization, administration and opera-
tion of such unit. A mobile support unit shall be called to
duty upon order of the governor and may function in any
part of the state or, upon the conditions specified in this
section, in other states.

Personnel of mobile support units while on duty, whether
within or without the state, shall: (1) If they are employees of
the state, have the powers, duties, rights, privileges and
immunities and receive the compensation incidental to their
employment; (2) if they are employees of a political sub-
division of the state and whether serving within or without
such political subdivision, have the powers, duties, rights,
privileges and immunities and receive the compensation
incidental to their employment; and (3) if they are not
employees of the state or a political subdivision thereof, be
entitled to compensation by the state at the same rate as is
paid members of circuit court juries and to the same rights
and immunities as are provided by law for the employees of
this state. All personnel of mobile support units shall, while 
on duty, be subject to the operational control of the authority 
in charge of emergency service activities in the area in which 
they are serving and shall be reimbursed for all necessary 
travel and subsistence expenses actually incurred.

The state shall reimburse a political subdivision for the 
compensation paid and necessary travel, subsistence and main-
tenance expenses actually incurred of employees of such 
political subdivision while serving as members of a mobile 
support unit and for all payments for death, disability or 
injury of such employees incurred in the course of duty and 
for all losses of or damage to supplies and equipment of such 
political subdivision resulting from the operation of such 
mobile support unit.

§15-5-8. Local organization for emergency services.

Each political subdivision of this state is hereby authorized 
and directed to establish a local organization for emergency 
services in accordance with the state plan and program for the 
provision of emergency services. Such political subdivision 
may confer or authorize the conferring upon members of the 
auxiliary police the powers of peace officers, subject to such 
restrictions as it may impose.

Each local organization for emergency services shall consist 
of a director and a local emergency services council and such 
other members as may be required. The director shall be 
appointed by the executive officer or governing body of the 
political subdivision to serve at the will and pleasure of the 
executive officer or governing body and such political sub-
divisions are authorized to provide adequate compensation 
for him. The local council shall consist of five members, 
appointed by the executive officer or governing body of the 
political subdivision: Provided, That not more than three 
members thereof shall be members of the same political party. 
Council members shall serve a term of years staggered to 
provide continuity of service in accordance with local needs, 
without compensation, but shall be reimbursed for the reason-
able and necessary expenses actually incurred in the perfor-
mance of their duties.

The executive officer or governing body of the political
subdivision shall have general direction and control of the
local emergency services organization and shall be responsible
for carrying out the provisions of this article. The director,
subject to the direction and control of such executive officer
or governing body, shall be executive head of the local
emergency services organization and shall be directly re-
sponsible to the executive officer or governing body for the
organization, administration and operation of the local emer-
gency services program. The local council shall advise the
director on all matters pertaining to emergency services. Each
local organization shall perform emergency service functions
within the territorial limits of the political subdivisions within
which it is organized and, in addition, conduct such functions
outside of such territorial limits as may be required pursuant
to the provisions of sections nine and ten of this article.

In carrying out the provisions of this article each political
subdivision in which any disaster as described in section one
of this article occurs shall have the power to enter into
contracts and incur obligations necessary to combat such
disaster, protect the health and safety of persons and property
and provide emergency assistance to the victims of such
disaster. Each political subdivision is authorized to exercise its
powers under this section in light of the exigencies of extreme
emergency situations without regard to time-consuming pro-
cedures and formalities prescribed by law (excepting man-
datory constitutional requirements) pertaining to the perfor-
mance of public work, entry into contracts, incurring of ob-
ligations, employment of temporary workers, rental of equip-
ment, purchase of supplies and materials, levying of taxes
and appropriation and expenditure of public funds.


The director of each local organization for emergency
services may, in collaborating with other public and private
agencies within this state, develop or cause to be developed
mutual aid agreements for reciprocal aid and assistance in
case of disaster too great to be dealt with unassisted. Such
agreements shall be made in conformity with the state plan
and program for emergency services and, in time of emer-
agency, it shall be the duty of each local organization to
render assistance in accordance therewith.

The director of each local organization may, subject to the
approval of the governor, enter into mutual aid agreements
with emergency service and civil defense agencies or or-
ganizations in other states for reciprocal aid and assistance
in case of disaster too great to be dealt with unassisted.

§15-5-10. Regional organizations for emergency services.

Regional organizations for emergency services may be
established in the discretion of the governor for any com-
bination of political subdivisions. Each such organization
shall be directed by the council which shall consist of the local
directors, hereinbefore provided for in section eight of this
article, of emergency services of the political subdivisions
included in the region for which the organization is estab-
lished. The local directors of emergency services shall
designate the chairman, who may be one of the local direc-
tors, a private citizen or a local official, and may appoint
committees representing different groups of interested citizens
to assist them in the discharge of their duties. Members of
such committees shall not be entitled to compensation for
their services. The regional organizations and their members
shall, in accordance with the state plan and program for
emergency services, engage in such activities and perform such
functions and duties as will further the provision of emergency
services for the region and state. The emergency service or-
ganizations shall coordinate their activities with those of the
regional planning and development councils in this state, and
each local political subdivision included in the region shall
pay its proportionate share of the ordinary expenses of such
activities.

Any such organization may, within the limits of the funds
made available for the purpose by the local political sub-
divisions included in the region or by the state, employ
necessary personnel and fix their compensation, if any. Any
such regional organization may be dissolved, reorganized or
rearranged by the governor whenever in his discretion such
action is necessary.
§15-5-11. Immunity and exemption; “duly qualified emergency service worker” defined.

(a) All functions hereunder and all other activities relating to emergency services are hereby declared to be governmental functions. Neither the state nor any political subdivision nor any agency of the state or political subdivision nor, except in cases of willful misconduct, any duly qualified emergency service worker complying with or reasonably attempting to comply with this article or any order, rule, regulation or ordinance promulgated pursuant to this article, shall be liable for the death of or injury to any person or for damage to any property as a result of such activity. This section shall not affect the right of any person to receive benefits or compensation to which he would otherwise be entitled under this article, chapter twenty-three of this code, any act of Congress or any other law.

(b) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to an authorized emergency service worker who shall, in the course of performing his duties, practice such skill during an emergency.

(c) As used in this section, “duly qualified emergency service worker” means:

(1) Any duly qualified full or part-time paid, volunteer or auxiliary employee of this state, or any other state, territory, possession or the District of Columbia, of the federal government, of any neighboring country or political subdivision thereof or of any agency or organization performing emergency services in this state subject to the order or control of or pursuant to the request of the state or any political subdivision thereof.

(2) Duly qualified instructors and properly supervised students in recognized educational programs where emergency services are taught. A recognized educational program shall include any program in an educational institution existing under the laws of this state and such other educational programs as shall be established by the office of emergency services or otherwise under this article.

(d) A duly qualified emergency service worker performing
his duty in this state pursuant to any lawful agreement, compact or arrangement for mutual aid and assistance to which the state or a political subdivision is a party shall possess the same powers, duties, immunities and privileges he would possess if performing the same duties in his own state, province or political subdivision thereof.

§15-5-12. Liability to sheltered persons.

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of or injury to any sheltered person on or about such real estate or premises or for loss of or damage to the property of any such sheltered person.

§15-5-13. Appropriations; acceptance of services, gifts, grants and loans.

Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency services or of its proportionate share of expenses of a regional organization for emergency services, or both.

Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes relating to emergency services, the state, acting through the governor, or such political subdivision, acting with the consent of the governor and through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment,
supplies, materials or funds on behalf of the state or such
political subdivision and subject to the terms of the offer
and the rules and regulations, if any, of the agency making
the offer.

Whenever any person, firm or corporation shall offer to
the state or to any political subdivision thereof, services,
equipment, supplies, materials or funds by way of gift, grant
or loan, for purposes relating to emergency services, the
state, acting through the governor, or such political subdivi-
sion, acting through its executive officer or governing body,
may accept such offer and upon such acceptance the governor
of the state or executive officer or governing body of such
political subdivision may authorize any officer of the state
or of the political subdivision, as the case may be, to re-
ceive such services, equipment, supplies, materials or funds
on behalf of the state or such political subdivision and sub-
ject to the terms of the offer.


1 No organization for emergency services established under
the authority of this article shall participate in any form
of political activity, nor shall it be employed directly or
indirectly for political purposes.


1 No person shall be employed or associated in any capacity
in any emergency service organization established under this
article who advocates or has advocated a change by force or
violence in the constitutional form of the government of the
United States or this state or the overthrow of any govern-
ment in the United States by force or violence or who has
been convicted of or is under indictment or information charg-
ing any subversive act against the United States. Each per-
son who is appointed to serve in an organization for emer-
gency services shall, before entering upon his duties, take an
oath, in writing, before a person authorized to administer
oaths in this state, which shall be substantially as follows:

"I, __________________, do solemnly swear or affirm that I
will support and defend the Constitution of the United States
and the Constitution of West Virginia, against all enemies,
foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear or affirm that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or this state by force or violence and that during such time as I am a member of the (name of organization) I will not advocate or become a member of any political party or organization that advocates the overthrow of the government of the United States or this state by force or violence."

§15-5-16. Utilization of existing services and facilities.

In carrying out the provisions of this article, the governor, the chairmen of the regional councils and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the governor and to emergency service organizations of the state upon request.

§15-5-17. Enforcement.

It shall be the duty of every organization for emergency services established pursuant to this article and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor under this article. Each such organization shall have at its office available for public inspection all such orders, rules and regulations of the governor.


A peace officer, when in uniform or displaying a badge or other insignia of authority, may arrest without a warrant
any person violating or attempting to violate in such officer's presence any order, rule or regulation made pursuant to this article. This authority shall be limited to arrest for violations of those orders, rules and regulations which affect the public generally.

1 The unorganized militia shall, at the call of the governor, be available for duty with the emergency service forces of this state. For purposes of this article, the unorganized militia shall consist of all able-bodied men and women between the ages of sixteen and fifty.

§15-5-20. Disaster prevention.
1 (a) In addition to disaster prevention measures as included in the state, local, regional and interjurisdictional disaster plans, the governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and competence they have, state agencies, including, but not limited to, those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning and construction standards, shall make studies of disaster prevention-related matters. The governor, from time to time, shall make such recommendation to the Legislature, political subdivisions and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.
2 (b) At the request of and in conjunction with the office of emergency services, any state department may keep land use and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flooding or other catastrophic occurrences. Such studies shall concentrate on means of reducing or avoiding the dangers caused by such occurrences and the consequences thereof.

1 The office of emergency services shall ascertain what means
exist for rapid and efficient communication in times of disaster. The office shall consider the desirability of supplementing such communication resources or of integrating them into a comprehensive state or federal-state telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the office shall evaluate the possibility of multipurpose use thereof for various state, regional and local governmental purposes. The office shall make recommendations to the governor as appropriate.


(a) The "Interstate Civil Defense and Disaster Compact" is hereby approved, ratified, adopted, enacted into law and entered into by the state of West Virginia with all other jurisdictions legally joining therein in accordance with its terms, in a form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

Article I.

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire and atomic, radiological, chemical, bacteriological means and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the states that are parties hereto. The directors of civil defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.
Article II.

It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, armbands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article III.

Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof: Provided, That it is understood that the state rendering aid may withhold resources
to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as are extended to the civil defense forces of such state. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the state receiving assistance.

Article IV.

Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

Article V.

No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article VI.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public
utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article VII.

Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

Article VIII.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost incurred in connection with such requests: Provided, That any aiding party state may assume in whole or in part such loss, damage, expense or other cost or may loan such equipment or donate such services to the receiving party state without charge or cost: And provided further, That any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article IX.

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be re-
ceived in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. Such plans shall provide that the party states receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents or by the United States government under plans approved by it. After the termination of the emergency or disaster the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article X.

This compact shall be available to any state, territory or possession of the United States and the District of Columbia. The term "state" may also include any neighboring foreign country or province or state thereof.

Article XI.

The committee established pursuant to article one of this compact may request the civil defense agency of the United States government to act as an informational and coordinating body under this compact and representatives of such agency of the United States government may attend meetings of such committee.

Article XII.

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of
the party states and with the civil defense agency and other
appropriate agencies of the United States government.

Article XIII.

This compact shall continue in force and remain binding
on each party state until the legislature or the governor of
such party state takes action to withdraw therefrom. Such
action shall not be effective until thirty days after notice
thereof has been sent by the governor of the party state
desiring to withdraw to the governors of all other party
states.

Article XIV.

This compact shall be construed to effectuate the pur-
poses stated in article one hereof. If any provision of this
compact is declared unconstitutional or the applicability
thereof to any person or circumstance is held invalid, the
constitutionality of the remainder of this compact and the
applicability thereof to other persons and circumstances shall
not be affected thereby.


If any provision of this article or the application thereof
to any person or circumstance is held invalid, such invalidity
shall not affect other provisions or applications of the article
which can be given effect without the invalid provision or
application, and to this end the provisions of this article
are declared to be severable.

ARTICLE 7. EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT.

§15-7-7. Recording and publication of successor's name, etc.

Each designation of an emergency interim successor shall
become effective when the legislator or floor leader authorized
by section six of this article to make such designation
files with the secretary of state the successor's name, address
and rank in order of succession. The removal of an emergency
interim successor or change in order of succession shall
become effective when the legislator or floor leader authorized
by section six of this article to do so, files this information
with the secretary of state. All such data shall be open to
public inspection. The secretary of state shall inform the
governor, the director of the office of emergency services, the clerk of the house concerned and all emergency interim successors of all such designations, removals and changes in order of succession. The clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

CHAPTER 23. WORKMEN'S COMPENSATION.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; PREMIUMS.

§23-2-1. Employers and employees subject to chapter.

The state of West Virginia and all governmental agencies or departments created by it, including county boards of education, are hereby required to subscribe to and pay premiums into the workmen's compensation fund for the protection of their employees and shall be subject to all requirements of this chapter and all rules and regulations prescribed by the commissioner with reference to rates, classification and premium payments.

All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry, service or business in this state, including county courts, municipalities, other political subdivisions of the state, and emergency service organizations organized under article five, chapter fifteen of this code, are employers within the meaning of this chapter and subject to its provisions: Provided, That the provisions of section eight, article two of this chapter shall not apply to such county courts, municipalities, other political subdivisions of the state or emergency service organizations: Provided, however, That the failure of such county courts, municipalities, other political subdivisions of the state or emergency service organizations to elect to subscribe to and to pay premiums into the workmen's compensation fund shall not impose any liability upon them, other than such liability as would exist notwithstanding the provisions of this chapter. All persons in the service of employers as herein defined, and employed
by them for the purpose of carrying on the industry, business, service or work in which they are engaged, including persons regularly employed in the state whose duties necessitate employment of a temporary or transitory nature by the same employer without the state, check-weighmen employed according to law, all members of rescue teams assisting in mine accidents with the consent of the owner who, in such case, shall be deemed the employer, or at the direction of the department of mines, and all forest fire fighters who, under the supervision of the director of the department of natural resources or his designated representative, assist in the prevention, confinement and suppression of any forest fire are employees within the meaning of this chapter and subject to its provisions: Provided further, That this chapter shall not apply to employers of employees in domestic service or persons whose employment is prohibited by law, nor to employees of an employer while employed without the state, except in case of temporary employment without the state as hereinbefore provided; nor shall a member of a firm of employers or any official of an association or of a corporate employer, including a manager or any elective or appointive official of the state, county, county court, board of education, municipality, other political subdivision of the state or emergency service organization organized as aforesaid, whose term of office is definitely fixed by law, be deemed an employee within the meaning of this chapter: And provided further, That employers of not more than three employees for a period of not more than one month, who shall be called herein "casual employers," employers of employees in agricultural service and duly incorporated volunteer fire departments or companies may voluntarily elect to subscribe to and pay premiums into the workmen's compensation fund for the protection of the employees of such employers and all of the members, including the chief, commander or other officials thereof, of such duly incorporated volunteer fire departments or companies, and in such case shall be subject to all requirements of this chapter and all rules and regulations prescribed by the commissioner with reference to rates, classifications and pre-
mium payments; but such casual employers, employers of 
employees in agricultural service and duly incorporated 
volunteer fire departments or companies shall not be re-
quired to subscribe to the workmen's compensation fund 
and their failure to subscribe to such fund shall not im-
pose any liability upon them other than such liability 
as would exist notwithstanding the provisions of this 
chapter; nor shall the provisions of section eight of this 
article apply to casual employers, employers of employees 
in agricultural service or to such duly incorporated volunteer 
fire departments or companies.

The premium and actual expenses in connection with govern-
mental agencies and departments of the state of West 
Virginia shall be paid out of the state treasury from appro-
priations made for such agencies and departments, in the 
same manner as other disbursements are made by such agencies 
and departments.

County courts, municipalities, other political subdivisions 
of the state, county boards of education, emergency service 
organizations organized as aforesaid and duly incorporated 
volunteer fire departments or companies which shall elect 
to become subscribers to the workmen's compensation fund 
shall provide for the funds to pay their prescribed premiums 
into the fund and such premiums and premiums of state 
agencies and departments, including county boards of educa-
tion, shall be paid into the fund in the same manner as 
herein provided for other employers subject to this chapter. 
In addition to its usual and ordinary meaning, the term 
"employer" or "employers," as used in this chapter, shall 
be taken to extend to and include any duly incorporated 
volunteer fire department or company or emergency service 
organization organized as aforesaid which shall elect to 
subscribe to and pay premiums into the workmen's compen-
sation fund and, in addition to its usual and ordinary mean-
ing, the term "employee" or "employees," as used in this 
chapter, shall be taken to extend to and include all of 
the members of any such department, company or organi-
ization. All duly incorporated volunteer fire departments or 
companies and emergency service organizations organized 
as aforesaid which shall elect to subscribe to and pay
premiums into such fund shall be placed in a separate
group or class of subscribers to be established by the com-
missioner and such departments, companies or organizations
shall pay into the fund such premiums (computed, notwith-
standing the provisions of section five of this article, on
such basis as to the commissioner shall seem right and
proper) as may be necessary to keep such group or class
entirely self-supporting.

Any employer whose employment in this state is to be
for a definite or limited period which could not be con-
sidered "regularly employing" within the meaning of this
section may elect to pay into the workmen's compensation
fund the premiums herein provided for and, at the time
of making application to the commissioner, such employer
shall furnish a statement under oath showing the probable
length of time the employment will continue in this state,
the character of the work, an estimate of the monthly pay-
roll and any other information which may be required by
the commissioner. At the time of making application such
employer shall deposit with the state compensation com-
missioner to the credit of the workmen's compensation fund
the amount required by section five of this article, which
amount shall be returned to such employer if his applica-
tion be rejected by the commissioner. Upon notice to such
employer of the acceptance of his application by the com-
misssioner, he shall be an employer within the meaning of
this chapter and subject to all of its provisions.

Any foreign corporation employer electing to comply with
the provisions of this chapter and to receive the benefits
hereunder shall, at the time of making application to the
commissioner, in addition to other requirements of this chap-
ter, furnish such commissioner with a certificate from the
secretary of state showing that it has complied with all the
requirements necessary to enable it legally to do business in
this state and no application of such foreign corporation em-
ployer shall be accepted by the commissioner until such certi-
figure is filed.

For the purpose of this chapter, a mine shall be adjudged
within this state when the main opening, drift, shaft or
slope is located wholly within this state.

Any employee within the meaning of this chapter whose
employment necessitates his temporary absence from this state
in connection with such employment, and such absence is
directly incidental to carrying on an industry in this state,
who shall have received injury during such absence in the
course of and resulting from his employment shall not be
denied the right to participate in the workmen's compensation
fund.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.
ARTICLE 28. WEATHER MODIFICATION.
§29-2B-5. Application for license; renewal; temporary suspension.

(a) Any person desiring to do any of the acts specified
in section four of this article may file with the director
an application in writing for a license. Each application
shall be accompanied by a filing fee fixed by the commission
but not to exceed one hundred dollars, and shall be on
a form to be supplied for such purpose by the director.

(b) Every application shall set forth all of the follow-

(1) The name and post-office address of the applicant.

(2) The previous education, experience and qualifications
of the applicant or, if the applicant is other than an individ-
ual, the previous education, experience and qualifications
of the persons who will be in control of and charged with
the operations of the applicant. Previous experience includes
subcontracting or counseling services.

(3) A general description of the operations which the
applicant intends to conduct and the method and type of
equipment, including all nucleating agents, that the applicant
proposes to use. Aircraft must be listed by numbers and
pilots' names.

(4) A statement listing all employees who are residents
of West Virginia or who will be directly employed in the
intended operation, or both.
(5) A bond or insurance covering any damage the licensee may cause through his operations in an amount of fifteen thousand dollars or other evidence of financial responsibility shall be furnished and executed at the time of the grant of the license: Provided, That no bond shall be required of any person who shall cause or attempt to cause condensation or precipitation of rain, snow, moisture or water in any form contained in the atmosphere over any landing strip or runway of any airport or any approach thereto in an effort to improve the visibility above the landing strip, runway or approach.

(6) Every applicant shall have a resident agent within this state.

(c) Upon the filing of the application upon a form supplied by the director and containing the information prescribed by this article and accompanied by the required filing fee and bond or insurance, the director may issue a license to the applicant entitling the applicant to conduct the operations described in the application for the calendar year for which the license is issued, unless the license is sooner revoked, suspended or modified.

(d) A license may be renewed annually upon application to the director, accompanied by a renewal fee fixed by the commission but not to exceed one hundred dollars, on or before the last day of January of the calendar year for which the license is renewed.

(e) Any license granted under this section shall be subject to temporary suspension by the director. Such suspension may occur whenever the director is notified by the office of emergency services that, within an area defined by the office of emergency services, precipitation or other effects of weather modification operations would be likely to cause or aggravate a potential or ongoing disaster. Any such suspension shall continue until the director is notified by the office of emergency services that the disaster or threat of disaster has passed. Should any license be suspended under this subsection, the prohibitions of section four and penalties of section fifteen of this article shall become effective immediately.
AN ACT to amend and reenact section three, article one; sections four and ten, article six; and section five-a, article nine, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the department of employment security; definitions; individuals not denied benefits by receiving vocational training; benefit rate—total unemployment; benefits not to be reduced by vacation pay in certain cases; annual computation and publication of rates; special administration fund.

Be it enacted by the Legislature of West Virginia:

That section three, article one; sections four and ten, article six; and section five-a, article nine, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. DEPARTMENT OF EMPLOYMENT SECURITY.


As used in this chapter, unless the context clearly requires otherwise:

“Administration fund” means the employment security administration fund, from which the administrative expenses under this chapter shall be paid.

“Annual payroll” means the total amount of wages for employment paid by an employer during a twelve-month period ending with June thirty of any calendar year.

“Average annual payroll” means the average of the last three annual payrolls of an employer.

“Base period” means the first four out of the last five com-
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12 pleted calendar quarters immediately preceding the first day
13 of the individual's benefit year.
14
"Base period employer" means any employer who in the base
15 period for any benefit year paid wages to an individual who
16 filed claim for unemployment compensation within such bene-
17 fit year.
18 "Base period wages" means wages paid to an individual
19 during the base period by all his base period employers.
20 "Benefit year" with respect to an individual means the
21 fifty-two week period beginning with the first day of the cal-
22 endar week in which a valid claim is effective, and thereafter
23 the fifty-two week period beginning with the first day of the
24 calendar week in which such individual next files a valid claim
25 for benefits after the termination of his last preceding benefit
26 year. An initial claim for benefits filed in accordance with the
27 provisions of this chapter shall be deemed to be a valid claim
28 within the purposes of this definition if the individual has been
29 paid wages in his base period sufficient to make him eligible
30 for benefits under the provisions of this chapter.
31 "Benefits" means the money payable to an individual with
32 respect to his unemployment.
33 "Board" means board of review.
34 "Calendar quarter" means the period of three consecutive
35 calendar months ending on March thirty-one, June thirty, Sep-
36 tember thirty, or December thirty-one, or the equivalent there-
37 of as the commissioner may by regulation prescribe.
38 "Commissioner" means the employment security commis-
39 sioner.
40 "Computation date" means June thirty of the year immedi-
41 ately preceding the January one on which an employer's con-
42 tribution rate becomes effective.
43 "Employing unit" means an individual, or type of organi-
44 zation, including any partnership, association, trust, estate,
45 joint-stock company, insurance company, corporation (domes-
46 tic or foreign), institution of higher education, or the receiver,
47 trustee in bankruptcy, trustee or successor thereof, or the legal
48 representative of a deceased person, which has on January
first, one thousand nine hundred thirty-five, or subsequent thereto, had in its employ one or more individuals performing service within this state.

"Employer" means:

(1) Until January one, one thousand nine hundred seventy-two, any employing unit which for some portion of a day, not necessarily simultaneously, in each of twenty different calendar weeks, which weeks need not be consecutive, within either the current calendar year, or the preceding calendar year, has had in employment four or more individuals irrespective of whether the same individuals were or were not employed on each of such days;

(2) Any employing unit which is or becomes a liable employer under any federal unemployment tax act;

(3) Any employing unit which has acquired or acquires the organization, trade or business, or substantially all the assets thereof, of an employing unit which at the time of such acquisition was an employer subject to this chapter;

(4) Any employing unit which, after December thirty-one, one thousand nine hundred sixty-three, and until January one, one thousand nine hundred seventy-two, in any one calendar quarter, in any calendar year, has in employment four or more individuals and has paid wages for employment in the total sum of five thousand dollars or more, or which, after such date, has paid wages for employment in any calendar year in the sum total of twenty thousand dollars or more;

(5) Any employing unit which, after December thirty-one, one thousand nine hundred sixty-three, and until January one, one thousand nine hundred seventy-two, in any three weeks' period, in any calendar year, has in employment ten or more individuals;

(6) For the effective period of its election pursuant to section three, article five of this chapter, any employing unit which has elected to become subject to this chapter;

(7) Any employing unit which, after December thirty-one, one thousand nine hundred seventy-one, (i) in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand
five hundred dollars or more, or (ii) for some portion of
a day in each of twenty different calendar weeks, whether
or not such weeks were consecutive, in either the current
or the preceding calendar year had in employment at least
one individual (irrespective of whether the same individual
was in employment in each such day);

(8) Any employing unit for which service in employment,
as defined in subdivision nine of the definition of "employ-
ment" in this section, is performed after December thirty-
one, one thousand nine hundred seventy-one;

(9) Any employing unit for which service in employ-
ment, as defined in subdivision ten of the definition of "em-
ployment" in this section, is performed after December thirty-
one, one thousand nine hundred seventy-one.

"Employment," subject to the other provisions of this
section, means:

(1) Service, including service in interstate commerce, per-
formed for wages or under any contract of hire, written or
oral, express or implied;

(2) Any service performed prior to January one, one
thousand nine hundred seventy-two, which was employment
as defined in this section prior to such date and, subject to
the other provisions of this section, service performed after
December thirty-one, one thousand nine hundred seventy-one,
by an employee, as defined in section 3306(i) of the "Federal
Unemployment Tax Act," including service in interstate
commerce;

(3) Any service performed prior to January one, one
thousand nine hundred seventy-two, which was employment
as defined in this section prior to such date and, subject

(4) An individual's entire service, performed within or
both within and without this state if: (a) The service is
localized in this state; or (b) the service is not localized in
any state but some of the service is performed in this state
and (i) the base of operations, or, if there is no base of
operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(5) Service not covered under paragraph four of this subdivision and performed entirely without this state with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the commissioner approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter;

(6) Service shall be deemed to be localized within a state, if: (a) The service is performed entirely within such state; or (b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within this state, as, for example, is temporary or transitory in nature or consists of isolated transactions;

(7) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the commissioner that: (a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and (b) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and (c) such individual is customarily engaged in an independently established trade, occupation, profession or business;

(8) All service performed by an officer or member of the crew of an American vessel (as defined in section three hundred five of an act of Congress entitled "Social Security Act Amendment of 1946," approved August tenth, one thousand nine hundred forty-six) on or in connection with such vessel, provided that the operating office, from which
the operations of such vessel operating on navigable waters
within and without the United States is ordinarily and
regularly supervised, managed, directed and controlled, is
within this state;

(9) Service performed after December thirty-one, one
thousand nine hundred seventy-one, by an individual in the
employ of this state or any of its instrumentalities (or in the
employ of this state and one or more other states or their
instrumentalities), when such service is performed for a
hospital or institution of higher education located in this
state: Provided, That such service is excluded from "employ-
ment" as defined in the "Federal Unemployment Tax Act"
solely by reason of section 3306(c)(7) of that act, and
is not excluded from "employment" under subdivision eleven
of the exclusions from the term "employment";

(10) Service performed after December thirty-one, one
thousand nine hundred seventy-one, by an individual in the
employ of a religious, charitable, educational or other or-
ganization but only if the following conditions are met:

(a) The service is excluded from "employment" as defined
in the "Federal Unemployment Tax Act" solely by reason of
section 3306(c)(8) of that act; and

(b) The organization had four or more individuals in
employment for some portion of a day in each of twenty
different weeks, whether or not such weeks were consecutive,
within either the current or preceding calendar year, regardless
of whether they were employed at the same moment of
time;

(11) Service of an individual who is a citizen of the
United States, performed outside the United States (except
in Canada or the Virgin Islands), after December thirty-one,
one thousand nine hundred seventy-one, in the employ of an
American employer (other than service which is deemed
"employment" under the provisions of subdivisions four,
five or six of this definition of "employment" or the parallel
provisions of another state's law), if:

(a) The employer's principal place of business in the
United States is located in this state; or

(b) The employer has no place of business in the United
States, but (i) the employer is an individual who is a resident
of this state; or (ii) the employer is a corporation which is
organized under the laws of this state; or (iii) the employer is
a partnership or a trust and the number of the partners or
trustees who are residents of this state is greater than the
number who are residents of any one other state; or

(c) None of the criteria of subparagraphs (a) and (b)
of this subdivision (11) is met but the employer has elected
coverage in this state or, the employer having failed to elect
coverage in any state, the individual has filed a claim for
benefits, based on such service, under the law of this state.

An “American employer,” for purposes of this subdivision
(11), means a person who is (i) an individual who is a resident
of the United States; or (ii) a partnership if two thirds or
more of the partners are residents of the United States; or
(iii) a trust, if all of the trustees are residents of the United
States; or (iv) a corporation organized under the laws of the
United States or of any state.

Notwithstanding the foregoing definition of “employment,”
if the services performed during one half or more of any
pay period by an employee for the person employing him
constitute employment, all the services of such employee
for such period shall be deemed to be employment; but if
the services performed during more than one half of any
such pay period by an employee for the person employing
him do not constitute employment, then none of the services
of such employee for such period shall be deemed to be
employment.

The term “employment” shall not include:

(1) Services performed in the employ of this state or any
political subdivision thereof, or any instrumentality of this
state or its subdivisions, except as otherwise provided herein;

(2) Service performed directly in the employ of another
state, or its political subdivisions;

(3) Service performed in the employ of the United States or
an instrumentality of the United States exempt under the con-
stitution of the United States from the payments imposed by
this law, except that to the extent that the Congress of the
United States shall permit states to require any instrumentali-
ties of the United States to make payments into an unemploy-
ment fund under a state unemployment compensation law, all
of the provisions of this law shall be applicable to such instru-
mentals, and to service performed for such instrumentali-
ties, in the same manner, to the same extent and on the same
terms as to all other employers, employing units, individuals,
and services: Provided, That if this state shall not be certified
for any year by the secretary of labor under section 1603(c)
of the "Federal Internal Revenue Code," the payments re-
quired of such instrumentals with respect to such year shall
be refunded by the commissioner from the fund in the same
manner and within the same period as is provided in section
nineteen, article five of this chapter, with respect to payments
erroneously collected;

(4) Service performed after June thirty, one thousand nine
hundred thirty-nine, with respect to which unemployment
compensation is payable under the "Railroad Unemployment
Insurance Act" (52 Stat. 1094), and service with respect to
which unemployment benefits are payable under an unemploy-
ment compensation system for maritime employees establish-
ed by an act of Congress. The commissioner may enter into
agreements with the proper agency established under such an
act of Congress to provide reciprocal treatment to individuals
who, after acquiring potential rights to unemployment compen-
sation under an act of Congress, or who have, after acquiring
potential rights to unemployment compensation under an act
of Congress, acquired rights to benefit under this chapter. Such
agreement shall become effective ten days after such publica-
tions as comply with the general rules of the department;

(5) Agricultural labor, and for the purposes of this chapter,
the term "agricultural labor" includes all services performed:

(a) On a farm, in the employ of any person, in connection
with cultivating the soil, or in connection with raising or har-
esting any agricultural or horticultural commodity, including
the raising, shearing, feeding, caring for, training, and manage-
ment of livestock, bees, poultry, and fur-bearing animals
and wildlife;

(b) In the employ of the owner or tenant or other
operator of a farm, in connection with the operation, manage-
ment, conservation, improvement, or maintenance of such
farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the "Agricultural Marketing Act," as amended (46 Stat. 1550, sec. 3; 12 U.S.C. § 114lj) or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(d) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one half of the commodity with respect to which such service is performed; or (ii) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (i), but only if such operators produced more than one half of the commodity with respect to which such service is performed; but the provisions of subparagraphs (i) and (ii) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer. As used in this subdivision (5), the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, greenhouses and nurseries, or other similar land areas or structures used primarily for the raising of any agricultural or horticultural commodity, and orchards, and the term "greenhouses and nurseries" shall not include greenhouses and
nurseries employing more than fifteen full-time employees;

(6) Domestic service in a private home;

(7) Service performed by an individual in the employ of his son, daughter, or spouse;

(8) Service performed by a child under the age of eighteen years in the employ of his father or mother;

(9) Service as an officer or member of a crew of an American vessel, performed on or in connection with such vessel, if the operating office, from which the operations of the vessel operating on navigable water within or without the United States are ordinarily and regularly supervised, managed, directed and controlled, is without this state;

(10) Services performed by agents of mutual fund broker-dealers or insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, who are compensated wholly on a commission basis;

(11) Service performed (i) in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or (ii) by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or (iii) the employ of a school which is not an institution of higher education; or (iv) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or (v) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or (vi) for a hospital in a state prison or other state correctional
institution by an inmate of the prison or correctional institution;

(12) Service performed, in the employ of a school, college or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college or university, and (II) such employment will not be covered by any program of unemployment insurance;

(13) Service performed by an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(14) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in this section.

Notwithstanding the foregoing exclusions from the definition of "employment," services, except agricultural labor and domestic service in a private home, shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund.

"Employment office" means a free employment office or branch thereof, operated by this state, or any free public employment office maintained as a part of a state controlled system of public employment offices in any other state.
“Fund” means the unemployment compensation fund established by this chapter.

“Hospital” means an institution which has been licensed, certified or approved by the state department of health as a hospital.

“Institution of higher education” means an educational institution which:

1. Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;
2. Is legally authorized in this state to provide a program of education beyond high school;
3. Provides an educational program for which it awards a bachelor’s or higher degree, or provides a program which is acceptable for full credit toward such a degree, or provides a program of post-graduate or post-doctoral studies, or provides a program of training to prepare students for gainful employment in a recognized occupation; and
4. Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this definition, all colleges and universities in this state are institutions of higher education for purposes of this section.

“Payments” means the money required to be paid or that may be voluntarily paid into the state unemployment compensation fund as provided in article five of this chapter.

“Separated from employment” means, for the purposes of this chapter, the total severance whether by quitting, discharge, or otherwise, of the employer-employee relationship.

“State” includes, in addition to the states of the United States, Puerto Rico, District of Columbia and the Virgin Islands.

“Total and partial unemployment” means:

1. An individual shall be deemed totally unemployed in any week in which such individual is separated from employment for an employing unit and during which he performs no services and with respect to which no wages are payable to him.
2. An individual who has not been separated from em-
Employment shall be deemed to be partially unemployed in any week in which due to lack of work he performs no services and with respect to which no wages are payable to him, or in any week in which due to lack of full-time work wages payable to him are less than his weekly benefit amount plus fifteen dollars.

"Wages" means all remuneration for personal service, including commissions and bonuses and the cash value of all remuneration in any medium other than cash: Provided, That the term "wages" shall not include:

(1) That part of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer with respect to employment during any calendar year, is paid after December thirty-one, one thousand nine hundred thirty-nine, and prior to January one, one thousand nine hundred forty-seven, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to three thousand dollars with respect to employment after one thousand nine hundred thirty-eight has been paid to an individual by an employer during any calendar year after one thousand nine hundred forty-six, is paid to such individual by such employer during such calendar year, except that for the purposes of sections one, ten, eleven and thirteen, article six of this chapter, all remuneration earned by an individual in employment shall be credited to the individual and included in his computation of base period wages: Provided, That notwithstanding the foregoing provisions, on and after January one, one thousand nine hundred sixty-two, the term "wages" shall not include:

That part of the remuneration which, after remuneration equal to three thousand six hundred dollars has been paid to an individual by an employer with respect to employment during any calendar year, is paid during any calendar year after one thousand nine hundred sixty-one; and shall not include that part of remuneration which, after remuneration equal to four thousand two hundred dollars is paid during a calendar year after one thousand nine hundred seventy-one to an individual by an employer or his predecessor with respect to em-
employment during any calendar year, is paid to such individual
by such employer during such calendar year unless that part
of the remuneration is subject to a tax under a federal law
imposing a tax against which credit may be taken for contri-
butions required to be paid into a state unemployment fund.
For the purposes of this subdivision (1), the term employment
shall include service constituting employment under any un-
employment compensation law of another state; or which as a
condition for full tax credit against the tax imposed by the
"Federal Unemployment Tax Act" is required to be covered
under this chapter; and, except, that for the purposes of sec-
tions one, ten, eleven and thirteen, article six of this chapter,
all remuneration earned by an individual in employment shall
be credited to the individual and included in his computation
of base period wages: Provided, however, That the remunera-
tion paid to an individual by an employer with respect to em-
ployment in another state or other states upon which contri-
butions were required of and paid by such employer under an
unemployment compensation law of such other state or states
shall be included as a part of the remuneration equal to the
amounts of three thousand six hundred dollars or four thou-
sand two hundred dollars herein referred to. In applying such
limitation on the amount of remuneration that is taxable an
employer shall be accorded the benefit of all or any portion of
such amount which may have been paid by its predecessor or
predecessors: Provided further, That if the definition of the
term "wages" as contained in section 3306(b) of the "Internal
Revenue Code of 1954" as amended; (a) effective prior to
January one, one thousand nine hundred sixty-two, to include
remuneration in excess of three thousand dollars, or (b) effec-
tive on or after January one, one thousand nine hundred six-
ty-two, to include remuneration in excess of three thousand six
hundred dollars, or effective on or after January one, one
thousand nine hundred seventy-two, to include remuneration in
excess of four thousand two hundred dollars, paid to an indi-
vidual by an employer under the "Federal Unemployment Tax
Act" during any calendar year, wages for the purposes of this
definition shall include remuneration paid in a calendar year
to an individual by an employer subject to this article or his
predecessor with respect to employment during any calendar
year up to an amount equal to the amount of remuneration taxable under the "Federal Unemployment Tax Act";

(2) The amount of any payment made after December thirty-one, one thousand nine hundred fifty-two (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), to, or on behalf of, an individual in its employ or any of his dependents, under a plan or system established by an employer which makes provision for individuals in its employ generally (or for such individuals and their dependents), or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical or hospitalization expenses in connection with sickness or accident disability, or (D) death;

(3) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer to an individual in its employ (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, to, or on behalf of, an individual in its employ after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(5) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer to, or on behalf of, an individual in its employ or his beneficiary (A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) of the "Federal Internal Revenue Code" at the time of such payment unless such payment is made to such individual as an employee of the trust as remuneration for services rendered by such individual and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a) of the "Federal Internal Revenue Code";

(6) The payment by an employer (without deduction from
the remuneration of the individual in its employ) of the tax
imposed upon an individual in its employ under section 3101
of the "Federal Internal Revenue Code";
(7) Remuneration paid by an employer after December
thirty-one, one thousand nine hundred fifty-two, in any med-
ium other than cash to an individual in its employ for service
not in the course of the employer's trade or business;
(8) Any payment (other than vacation or sick pay) made by
an employer after December thirty-one, one thousand nine
hundred fifty-two, to an individual in its employ after the
month in which he attains the age of sixty-five, if he did not
work for the employer in the period for which such payment
is made;
(9) Payments, not required under any contract of hire, made
to an individual with respect to his period of training or ser-
vice in the armed forces of the United States by an employer
by which such individual was formerly employed;
(10) Vacation pay received by an individual after becoming
separated from employment, but earned prior to becoming
separated from employment.
Gratuities customarily received by an individual in the
course of his employment from persons other than his employ-
ing unit shall be treated as wages paid by his employing unit,
if accounted for and reported to such employing unit.
The reasonable cash value of remuneration in any medium
other than cash shall be estimated and determined in accor-
dance with rules prescribed by the commissioner.
"Week" means a calendar week, ending at midnight Satur-
day, or the equivalent thereof, as determined in accordance
with the regulations prescribed by the commissioner.
"Weekly benefit rate" means the maximum amount of bene-
fit an eligible individual will receive for one week of total
unemployment.
"Year" means a calendar year or the equivalent thereof, as
determined by the commissioner.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.
§21A-6-4. Individual not denied benefits by receiving vocational training.
§21A-6-10. Benefit rate—Total unemployment; annual computation and pub-
licaiton of rates.
§21A-6-4. Individual not denied benefits by receiving vocational training.

Notwithstanding any other provision in this article, no individual shall be denied unemployment compensation benefits because of his receiving training as part of an area vocational program, or similar program, which has as its object the training of unemployed individuals in new occupational skills: Provided, That such individual's training and training institution are approved by the commissioner, and such individual produces evidence of his continued attendance and satisfactory progress at such training institution when requested to do so by the commissioner.

§21A-6-10. Benefit rate—Total unemployment; annual computation and publication of rates.

Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in Column (C) in Table A in this paragraph, on the line on which in Column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in section three, article one of this chapter. The employee's wage class shall be determined by his base period wages as shown in Column (B) in Table A. The right of an employee to receive benefits shall not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns in excess of fifteen dollars as a result of odd-job or subsidiary work in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

TABLE A

<table>
<thead>
<tr>
<th>Wage Class (Column A)</th>
<th>Wages in Base Period (Column B)</th>
<th>Weekly Benefit Rate (Column C)</th>
<th>Maximum Benefit in Benefit Year for Total and/or Partial Unemployment (Column D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $700.00</td>
<td>$700.00</td>
<td>Ineligible</td>
<td>$312.00</td>
</tr>
<tr>
<td>1</td>
<td>700.00—799.99</td>
<td>$12.00</td>
<td>$312.00</td>
</tr>
<tr>
<td>Row</td>
<td>Column</td>
<td>Lower Limit</td>
<td>Upper Limit</td>
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</tr>
<tr>
<td>22</td>
<td>2</td>
<td>800.00-</td>
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</table>

45 Notwithstanding any of the foregoing provisions of this section, on and after July one, one thousand nine hundred sixty-seven, the maximum weekly benefit rate shall be forty percent of the average weekly wage in West Virginia.

49 Notwithstanding any of the foregoing provisions of this section, on and after July one, one thousand nine hundred seventy, the maximum weekly benefit rate shall be forty-five percent of the average weekly wage in West Virginia.
Notwithstanding any of the foregoing provisions of this section, on and after July one, one thousand nine hundred seventy-one, the maximum weekly benefit rate shall be fifty percent of the average weekly wage in West Virginia.

Notwithstanding any of the foregoing provisions of this section, on and after July one, one thousand nine hundred seventy-three, the maximum weekly benefit rate shall be fifty-five percent of the average weekly wage in West Virginia.

The commissioner, after he has determined the maximum weekly benefit rate upon the basis of the above formula, shall establish as many additional wage classes as are required, increasing the amount of base period wages required for each class by one hundred fifty dollars, the weekly benefit rate for each class by one dollar, and the maximum benefit by twenty-six dollars. The maximum weekly benefit rate, when computed by the commissioner, in accordance with the foregoing provisions, shall be rounded to the next higher dollar amount, if the computation exceeds forty-nine percent of a dollar amount. Such rounding off to the next higher dollar amount shall result in one additional wage class, with commensurate base period wage requirement of one hundred fifty dollars over the preceding wage class, and with a maximum benefit increase over the preceding wage class of twenty-six dollars. Such an additional wage class shall be published by the commissioner with the table required to be published by the foregoing provisions of this section.

After he has established such additional wage classes, the commissioner shall prepare and publish a table setting forth such information.

Average weekly wage shall be computed by dividing the number of employees in West Virginia earning wages in covered employment into the total wages paid to employees in West Virginia in covered employment, and by further dividing said result by fifty-two, and shall be determined from employer wage and contribution reports for the previous calendar year which are furnished to the department on or before June one following such calendar year. The average weekly wage, as determined by the commissioner, shall be rounded to the next higher dollar.
The computation and determination of rates as aforesaid shall be completed annually before July one, and any such new wage class, with its corresponding wages in base period, weekly benefit rate, and maximum benefit in a benefit year established by the commissioner in the foregoing manner effective on a July one, shall apply only to a new claim established by a claimant on and after said July one, and shall not apply to continued claims of a claimant based on his new claim established before said July one.

ARTICLE 9. EMPLOYMENT SECURITY ADMINISTRATION FUND.

§21A-9-5a. Special administration fund.

There is hereby created in the state treasury a fund to be known as the employment security special administration fund, which shall consist of interest collected on delinquent payments pursuant to section seventeen, article five of this chapter. The moneys deposited with this fund are hereby appropriated and made available to the order of the commissioner for the purpose of (a) replacements in the employment security administration fund as provided in section eight of this article, (b) to meet special, extraordinary, and contingent expenses not provided for in the employment security administration fund, and (c) refunds pursuant to section nineteen of article five, of interest erroneously collected. This fund shall be administered and disbursed in the same manner and under the same conditions as other special funds of the state treasury. Balances to the credit of the special administration fund shall not lapse at any time but shall be continuously available to the commissioner for expenditures consistent with this chapter: Provided, (1) That not more than one hundred thousand dollars shall be expended from said fund in any fiscal year for purposes (a) and (b); (2) that at the beginning of each calendar quarter the commissioner shall estimate the amount that may be required in that quarter for refunds of interest erroneously collected; (3) that thereupon the excess, if any, over the amounts provided to be expended under this section shall be paid into the unemployment compensation trust fund.
AN ACT to amend and reenact section six, article two, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the commissioner of employment security.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. THE COMMISSIONER OF EMPLOYMENT SECURITY.


1. The commissioner shall be the executive and administrative head of the department and shall have the power and duty, to:

2. (1) Exercise general supervision of and make regulations for the government of the department;

3. (2) Prescribe uniform rules pertaining to investigations, departmental hearings, and promulgate rules and regulations;

4. (3) Supervise fiscal affairs and responsibilities of the department;

5. (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the officers and employees of the department, subject to the provisions of section ten, article four of this chapter, relating to the board of review;

6. (5) Organize and administer the department so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal legislation;

7. (6) Make reports in such form and containing such information as the United States department of labor may from time to time require, and comply with such provisions as the United States department of labor may from time to time find necessary to assure the correctness and verification of such reports;

8. (7) Make available to any agency of the United States
charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter; 

(8) Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department; 

(9) Sign and execute in the name of the state, by “The State Department of Employment Security,” any contract or agreement with the federal government, its agencies, other states, their subdivisions, or private persons; 

(10) Prescribe a salary scale to govern compensation of appointees and employees of the department; 

(11) Make the original determination of right in claims for benefits; 

(12) Make recommendations, and an annual report to the governor concerning the condition, operation, and functioning of the department; 

(13) Invoke any legal or special remedy for the enforcement of orders or the provisions of this chapter; 

(14) Exercise any other power necessary to standardize administration, expedite departmental business, assure the establishment of fair rules and regulations and promote the efficiency of the service; and 

(15) Keep an accurate and complete record and prepare a monthly report of the number of persons employed and unemployed in the state, which report shall be made available upon request to members of the public and press.

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CHAPTER 53

(Com. Sub. for House Bill No. 518—By Mr. Harman)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article five, chapter fifty-seven of the code of West Virginia, one thousand nine
beyond thirty-one, as amended, requiring interpreters for parties or witnesses who cannot readily understand or verbally communicate the English language because of deafness or any hearing impairment; establishing qualifications for persons who are to serve as such interpreters; relating to oaths of interpreters; relating to and providing for payment of such interpreters when the person in need of the services of an interpreter cannot pay therefor; establishing maximum limits of compensation for and of expenses of such interpreters; and relating to interpreters necessary for any other reason.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-7. Interpreters required.

(a) In any court proceeding wherein a party or witness cannot readily understand or verbally communicate the English language because he is deaf or a deaf mute or because of any other hearing impairment, such person shall have the right to have a qualified interpreter to assist him at every stage of the proceeding. Such right shall also pertain in any proceeding before administrative boards, commissions or agencies of this state or any political subdivision or municipality thereof, and in coroners' inquests and grand jury proceedings.

(b) No person shall act as an interpreter under the provisions of subsection (a) of this section unless such person is readily able to communicate with the person in question and translate the proceedings for such person and accurately repeat and translate the statements of such person. Any such interpreter must be certified by the national registry of interpreters for the deaf, if available and if the need for such level of skill is indicated, or shall be otherwise qualified. Every interpreter functioning under the provisions of subsection (a) of this section shall, before entering upon the performance of his duties as such, take an oath that he will make a true interpretation to the person in question in a language which said person understands and that he will repeat the statements
of said person, in the English language, to the best of his skill and ability.

(c) When any person is unable to pay for the services of a qualified interpreter in any criminal or juvenile proceeding, upon verified application, the judge of the court of record in which such proceeding is pending, or, if such proceeding is not in a court of record, then the judge of the court of record to which such proceeding may be appealed or presented for judicial review, shall, by order, appoint a qualified interpreter as aforesaid to assist such person. Whenever a qualified interpreter is necessary for a coroner’s inquest or grand jury proceeding, and such person is unable to pay for the services of such interpreter, the appointment shall be by order entered by the circuit court of the county in which such person is held in custody or by a court of record of limited jurisdiction having criminal jurisdiction in such county.

(d) Whenever a qualified interpreter is appointed pursuant to the provisions of subsection (c) of this section, the court shall, at the conclusion of the proceedings or interrogation, by order, fix the compensation of such interpreter. The compensation shall be not less than fifteen dollars per hour, nor more than fifty dollars per day, plus reimbursement for all reasonable and necessary expenses actually incurred in the performance of such duties, but expenses shall not be incurred in excess of the prevailing rate for state employees. In all such cases, the compensation shall be paid by the state auditor from the fund out of which appointed counsel are paid in felony cases. In proceedings before administrative boards, commissions and agencies, the compensation shall be fixed by such board, commission or agency and paid, within the limit of available funds, by such board, commission or agency, whenever it is determined, upon verified application, that the person for whom the interpreter rendered services is unable to pay for the same.

(e) Whenever an interpreter is necessary in any court proceeding because a witness or party speaks only a foreign language or for any other reason, an interpreter may be sworn truly to interpret.
CHAPTER 54

(Senate Bill No. 335—By Mr. Brotherton, Mr. President)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two, three and eight, article nine of said chapter, all relating to installing or establishing systems or methods of drainage, water supply and waste disposal; prohibiting the throwing or releasing of dead animals and other offensive substances into or near certain waters or onto certain lands; and providing for penalties and jurisdiction of certain courts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. STATE DEPARTMENT OF HEALTH.

§16-1-9. Supervision over local sanitation.

No person, firm, company, corporation, institution, whether public or private, county or municipal, shall install or establish any system or method of drainage, water supply, sewage or excreta disposal, or solid waste disposal without first obtaining a written permit to install or establish such system or method from the state director of health or his authorized representative. All such systems or methods shall be installed or established in accordance with plans, specifications and instructions issued by the state director of health or which have been approved in writing by the state director of health or his authorized representative.

Whenever the state director of health or his authorized representative finds upon investigation that any system or
method of drainage, water supply, sewage or excreta disposal, or solid waste disposal, whether publicly or privately owned, has not been installed in accordance with plans, specifications and instructions issued by the state director of health or approved in writing by the state director of health or his authorized representative, the state director of health or his duly authorized representative may issue an order requiring the owner of such system or method to make alterations as may be necessary to correct the improper condition. Such alterations shall be made within a reasonable time which shall not exceed thirty days, unless a time extension is authorized by the state director of health or his duly authorized representative.

The presence of sewage, excreta or solid waste being disposed of in a manner not approved by the state director of health or his authorized representative shall constitute prima facie evidence of the existence of a condition endangering public health.

The personnel of the state department of health shall be available to consult and advise with any person, firm, company, corporation, institution, whether public or privately owned, county or municipal, or public service authority, as to the most appropriate design, method of operation or alteration of any such system or method.

Any person, firm, company, corporation, institution, whether public or private, county or municipal, who shall violate any provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars. The continued failure or refusal of such convicted person, firm, company, corporation, institution, whether public or private, county or municipal, to make the alterations necessary to protect the public health required by the state director of health or his duly authorized representative shall constitute a separate, distinct and additional offense for each twenty-four hour period of such failure or refusal, and, upon conviction thereof, the violator shall be fined not less than twenty-five dollars nor more than five hundred dollars for each such conviction: Provided, That none of the provisions contained in this
section shall apply to those commercial or industrial
wastes which are subject to the regulatory control of the West
Virginia department of natural resources or the West Virginia
air pollution control commission.

Justices of the peace shall have concurrent jurisdiction with
the circuit courts of this state for violations of any provisions
of this section.

ARTICLE 9. OFFENSES GENERALLY.
§16-9-2. Throwing or releasing dead animals or offensive substances into
waters used for domestic purposes; penalties; jurisdiction; failure
to bury or destroy offensive substances after conviction; successive
offenses.
§16-9-3. Depositing dead animals or offensive substances in or near waters or
on or near roads or on public or private grounds; penalties; failure
to bury or destroy offensive substances after conviction; successive
offenses.
§16-9-8. Jurisdiction of justices and municipal judges.

§16-9-2. Throwing or releasing dead animals or offensive sub­
stances into waters used for domestic purposes; penal­
ties; juridiction; failure to bury or destroy offensive
substances after conviction; successive offenses.

Any person who knowingly and willfully throws, causes to
be thrown or releases any dead animal, carcass, or part
thereof, garbage, sink or shower waste, organic substance,
human or animal excrement, contents of privy vault, septic
tank, cesspool or the effluent from any cesspool or nauseous
or offensive or poisonous substances into any well, cistern,
spring, brook, pond, stream or other body of water which
is used for domestic purposes, shall be guilty of a mis­
demeanor, and, upon conviction thereof, shall be fined not
less than twenty-five dollars nor more than two hundred
dollars. None of the provisions contained in this section
shall apply to those commercial or industrial wastes which
are subject to the regulatory control of the West Virginia
department of natural resources or the West Virginia air
pollution control commission.

Upon conviction of any such offense, the person con­
icted shall, within twenty-four hours after such conviction,
removed and bury or cause to be buried at least three feet
under the ground or destroy or cause to be destroyed as
otherwise directed by the state director of health or his
duly authorized representative any of such offensive materials
which the person so convicted has thrown, caused to be
thrown, released or knowingly permitted to remain in water
used for domestic purposes, contrary to the provisions
of this section, and his failure or refusal to do so shall
constitute a misdemeanor and a second violation of the pro-
visions of his section. The continued failure or refusal
of such convicted person to so bury or destroy such offensive
materials shall constitute a separate, distinct and additional
offense for each successive twenty-four hour period of such
failure or refusal. Any person convicted of any offense des-
cribed in this paragraph shall be fined not less than twenty-five
doors nor more than two hundred dollars, or imprisoned
in the county jail not more than ninety days, or both fined
and imprisoned.

§16-9-3. Depositing dead animals or offensive substances in or
near waters or on or near roads or on public or private
grounds; penalties; failure to bury or destroy offensive
substances after conviction; successive offenses.

Any person (1) who throws, causes to be thrown or releases
any dead animal, carcass, or part thereof, garbage, sink or
shower waste, organic substances, contents of a privy vault,
septic tank, cesspool or the effluent from any cesspool,
spoiled meat or nauseous or offensive or poisonous sub-
stances into any river, creek or other stream, or upon the
surface of any land adjacent to any river, creek or other
stream in such a location that high water or normal
drainage conditions will cause such offensive materials to
be washed, drained or cast into the river, creek or other stream;
or (2) who throws, or causes to be thrown or releases any of
such offensive materials upon the surface of any road, right-
of-way, street, alley, city or town lot, public ground, mar-
ket space, common or private land, or (3) who, being the
owner, lessee or occupant of any city or town lot, public
ground, market space, common or private land knowingly
permits any such offensive materials to remain thereon or
neglects or refuses to remove or abate the public health
menace or nuisance occasioned thereby, within twenty-four
hours of the service of notice thereof in writing from the
state director of health or his duly authorized representative,
shall be guilty of a misdemeanor, and, upon conviction there-
of, shall be fined not less than one hundred dollars nor more than one thousand dollars. None of the provisions contained in this section shall apply to those commercial or industrial wastes which are subject to the regulatory control of the West Virginia department of natural resources or the West Virginia air pollution control commission.

Upon a conviction for any such offense, the person shall, within twenty-four hours after such conviction, remove and bury or cause to be buried at least three feet under the ground, or destroy or cause to be destroyed as otherwise directed by the state director of health or his duly authorized representative, any of such offensive materials which the person so convicted has placed or knowingly permitted to remain upon such city or town lot, public ground, market space, common or private land, contrary to the provisions of this section. Such person's failure or refusal to do so shall constitute a misdemeanor and a second offense against the provisions of this section. The continued failure or refusal of such convicted person to remove and bury or destroy such offensive materials shall constitute a separate, distinct and additional offense for each successive twenty-four hour period of such failure and refusal. Any person convicted of any offense described in this paragraph shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not more than ninety days, or both fined and imprisoned.

§16-9-8. Jurisdiction of justices and municipal judges.

Justices of the peace and municipal judges shall have concurrent jurisdiction with the circuit and criminal courts of this state for violations under sections one to seven, both inclusive, of this article.

CHAPTER 55

(House Bill No. 569—By Mrs. Smirl and Mr. Harman)

(Passed March 5, 1973; In effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section four, article three, chapter sixteen of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, relating to prevention and control of communicable, infectious and other diseases; compulsory immunization of school children; penalties; removal of smallpox immunization.

Be it enacted by the Legislature of West Virginia:

That section four, 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.

§16-3-4. Compulsory immunization of school children; offenses; penalties.

All children entering school for the first time in this state shall have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that an immunization for any or all diphtheria, polio, rubeola, rubella, tetanus and whooping cough is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be immunized for diphtheria, polio, rubeola, rubella, tetanus and whooping cough prior to being admitted in any of the schools of the state. No child or person shall be admitted or received in any of the schools of the state until he or she has been immunized as hereinafter provided, or produces a certificate from a reputable physician showing that an immunization for diphtheria, polio, rubeola, rubella, tetanus and whooping cough has been done or is impossible or improper or other sufficient reason why such immunizations have not been done. Any teacher, having information concerning any person who attempts to enter school for the first time without having been immunized against diphtheria, polio, rubella, rubeola, tetanus and whooping cough shall report the names of all such persons to the county health officer. It shall be the duty of the health officer in counties having a full-time health officer to see that such persons are immunized before entering school.

In counties where there is no full-time health officer or district health officer, the county court or municipal council shall
appoint competent physicians to do the immunizations and fix their compensation. The expense incurred in carrying into effect the provisions of this section shall be deemed part of the expense of the county, city, town or village as the case may be, and shall be charged and paid in the same manner as other expenses. County health departments shall furnish the biologicals for this immunization free of charge.

Health officers and physicians who shall do this immunization work shall give to all persons and children a certificate free of charge showing that they have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, or he may give the certificate to any person or child whom he knows to have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. If any physician shall give any person a false certificate of immunization against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, he shall be guilty of a misdemeanor, and, upon conviction, he shall be fined not less than twenty-five nor more than one hundred dollars.

Any parent or guardian who refuses to permit his or her child to be immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, who cannot give satisfactory proof that the child or person has been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough previously or a certificate from a reputable physician showing that an immunization for any or all is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be guilty of a misdemeanor, and, except as here-otherwise provided, shall, upon conviction, be punished by a fine of not less than ten nor more than fifty dollars for each offense.

CHAPTER 56
(Com. Sub. for House Bill No. 709—By Mrs. Withrow)

[Passed March 21, 1973; in effect ninety days from passage. Approved by the Governor.]
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, AND OTHER INFECTIOUS 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.

1 All kindergarten pupils and all first grade pupils who have not had an approved tuberculin skin test in kindergarten 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, unless such pupil has moved to this state from another state less than four months prior to starting the school year, in which event such pupil shall have such test as soon in advance of the start of the school as is reasonable, or if the school year has already started, the pupil shall take such test within one month of the time he enters school. 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.

20 All school personnel shall have a chest X ray or an approved tuberculin skin test once every two years. 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.

CHAPTER 57

(House Bill No. 734—By Mr. McCuskey and Mr. Shingleton)

[Passed March 21, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article six, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-five, relating to public health; regulation of microwave ovens; notice to persons having heart pacemakers; powers and duties of state director of health and county and combined local boards of health.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. HOTELS AND RESTAURANTS.

§16-6-25. Microwave ovens.

Any restaurant, hotel, motel, dining room, hospital, snack bar or any food dispensing facility utilizing a microwave oven shall prominently display a public notice in the following words:

"NOTICE TO PERSONS HAVING HEART PACEMAKERS: This Establishment Uses A Microwave Oven."

The state director of health shall be responsible for administering this section. He may delegate the duties to any county
9 board of health or combined local boards of health.

10 The state health department shall purchase such notices
11 assuring a uniform size and color of the notices.

12 Any person, firm or corporation who shall violate any pro-
13 vision of this section shall be guilty of a misdemeanor, and,
14 upon conviction thereof, shall be fined not less than one hun-
15 dred dollars nor more than five hundred dollars.

CHAPTER 58

(Senate Bill No. 79—By Mr. Brotherton, Mr. President)

[Passed April 5, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and four, article
nineteen, chapter sixteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to pub-
lic health; relating to the uniform anatomical gift act; relating
to the persons who may become donees of gifts under the act;
relating to the purposes for which anatomical gifts may be
made; relating to the manner of making and executing ana-
tomical gifts; and relating to the carrying out of procedures
to effect the gift.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article nineteen, 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 19. UNIFORM ANATOMICAL GIFT ACT.

§16-19-3. Persons who may become donees; purposes for which anatomical
    gifts may be made.


§16-19-3. Persons who may become donees; purposes for which anatomical
    gifts may be made.

1 The following persons may become donees of gifts of bodies
2 or parts thereof for the purposes stated:
3 (1) Any hospital, surgeon, or physician, for medical or
dental education, research, advancement of medical or dental
4 science, therapy, or transplantation; or
(2) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) Any person operating a bank or storage facility for blood, arteries, eyes, pituitaries, or other human parts, for use in medical or dental education, advancement of medical or dental science, research, therapy or transplantation to individuals; or

(4) Any specified individual for therapy or transplantation needed by him.


(a) A gift of all or part of the body under subsection (a), section two of this article may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under subsection (a), section two of this article may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part, except that this prohibi-
tion shall not apply to the removing or transplanting of an
eye or eyes.

(d) Notwithstanding subsection (b), section seven of this
article, the donor may designate in his will, card or other
document of gift the surgeon or physician to carry out the
appropriate procedures, or in the case of a gift of an eye or
eyes, the surgeon or physician or the technician properly
trained in the surgical removal of eyes to carry out the ap-
propriate procedures. In the event of the nonavailability of
such designee, or in the absence of a designation, the donee
or other person authorized to accept the gift may employ or
authorize for the purpose any surgeon or physician or in the
case of a gift of an eye or eyes, any surgeon or physician or
technician properly trained in the surgical removal of eyes.

(e) Any gift by a person designated in subsection (b),
section two of this article shall be made by a document
signed by him or made by his telegraphic, recorded tele-
phonic, or other recorded message.

(f) No particular words shall be necessary for donation of
all or part of a body, but the following words, in substance,
properly signed and witnessed, shall be legally valid for
donations made pursuant to subsection (b) of this section:

"UNIFORM DONOR CARD

Print or type name of donor

In the hope that I may help others, I hereby make this
anatomical gift, if medically acceptable, to take effect upon
my death. The words and marks below indicate my de-
sires.

I give: (a) __________ any needed organs or parts
       (b) __________ only the following organs or parts

Specify the organ (s) or part (s)

for the purposes of transplantation, therapy, medical re-
search or education;

(c) __________ my body for anatomical study if needed.

Limitations or special wishes, if any: _____________________
Signed by the donor and the following two witnesses in the presence of each other:

Signature of Donor

Date of Birth of Donor

Date Signed

City and State

Witness

Witness

This is a legal document under the Uniform Anatomical Gift Act or similar laws.”

CHAPTER 59

(Com. Sub. for House Bill No. 545—By Mr. Speaker, Mr. McManus, and Mrs. Merritt)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-four, relating to hearing-aid dealers and fitters generally; providing for the definition of terms; creating a West Virginia board of hearing-aid dealers and providing for its members; providing for the qualifications, terms of office, oath, salary and expenses for such members; the powers and duties of the board generally; providing for the powers of the state department of health and the state director of health with respect to hearing-aid dealers and fitters; providing for the licensing and qualification of hearing-aid dealers and fitters; fees required to be paid by such licensees; requiring an examination to determine the qualification of such licensees and the scope and subject of such examination; providing for the posting and renewal of license; requiring all licensees to maintain a permanent place of business in this state and advising the board with respect to change thereof; providing for reciprocity for persons licensed in other states or jurisdictions; providing for temporary trainee permits and the conditions under which such permits may be issued; the refusal to issue a license or the suspension of
revocation of such license and the grounds therefor; defining false and deceptive advertising and practices; requiring licensees to ascertain certain matters prior to the sale or fitting of hearing aids and the duties of a hearing-aid dealer with respect to such sale; hearing procedures and judicial review thereof; certain prohibited acts and practices; offenses and penalties; injunctive powers of the board; and providing for the construction and severability of this article.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 24. HEARING-AID DEALERS AND FITTERS.

§16-24-1. Definitions.

§16-24-2. Engaging in practice of hearing-aid dealer or trainee without license prohibited; exceptions.

§16-24-3. West Virginia board of hearing-aid dealers created; members; qualifications; term; oath; salary and expenses; powers and duties.

§16-24-4. Powers and duties of the state department of health.

§16-24-5. Application for licenses; qualifications of applicants; fees; duties of the board with respect thereto.

§16-24-6. Standards, scope and subject of examination.

§16-24-7. Results of examination disclosed to applicant; issuance of license; fees.

§16-24-8. Posting of license required; duplicate copies.

§16-24-9. Renewal of license.

§16-24-10. Notification of change of address of licensee required.

§16-24-11. Reciprocity.

§16-24-12. Temporary trainee permits.

§16-24-13. Refusal to issue, suspension or revocation of license or trainee permit; false and deceptive advertising.

§16-24-14. Matters to be ascertained by licensee prior to the sale or fitting of hearing aids.

§16-24-15. Receipt required to be furnished to a person supplied with hearing aid; information required.

§16-24-16. Hearing procedures; judicial review.

§16-24-17. Prohibited acts and practices.

§16-24-18. Offenses and penalties.


§16-24-20. Construction and severability.

§16-24-1. Definitions.

1 Unless the context clearly requires otherwise, as used in this article:
(1) "Advertise," and any of its variants, means and includes the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or dealing in hearing aids.

(2) "Board" means the West Virginia board of hearing-aid dealers.

(3) "Department" means the state department of health and, when appropriate, shall include the state director of health or the state board of health.

(4) "Hearing aid" means any wearable device or instrument or any combination thereof, designed for, represented as or offered for sale for the purpose of aiding, improving or compensating for defective or impaired human hearing and shall include earmold, parts, attachments or other accessories thereto, but excluding batteries and cords.

(5) "Hearing-aid dealer" and "hearing-aid fitter" means any person engaged in the practice of dealing in or fitting of hearing aids.

(6) "License" means any license issued under the provisions of this article and shall include a temporary license.

"Licensee" means any person holding any such license.

(7) "Person" means and includes any individual, partnership, trust, association, corporation or other like organization, or any combination thereof.

(8) "Practice of dealing in or fitting of hearing aids" means and includes:

(a) The measurement or other testing of human hearing by means of an audiometer, or by any other means;

(b) The selection, adaptation, fitting or sale of hearing aids by a person for the use of another person; or

(c) The making of impressions for earmolds.

(9) "Sell" or "sale" or any variant thereof, means any transfer of title or of the right to use by lease, bailment or any other contract, but shall not include transactions between
distributors, dealers or licensees where the item transferred is intended for sale.

(10) "Trainee" means any person training to become a licensed hearing-aid dealer or fitter.

§16-24-2. Engaging in practice of hearing-aid dealer or trainee without license prohibited; exceptions.

(a) Except as provided in subsections (b), (c) and (d) hereof, no person shall, on or after the effective date of this article, engage in the practice of dealing in or fitting of hearing aids, either as a hearing-aid dealer or fitter or as a trainee, nor shall any person advertise or assume any such practice, without first being licensed or otherwise qualified under the provisions of this article.

(b) If the applicant is a partnership, trust, association, corporation or other like organization, the application, in addition to such other information as the board may require, shall be accompanied by an application for a license for each person, whether owner or employee, of such applicant who serves in the capacity of a hearing-aid dealer or fitter, or shall contain a statement that such applications for all such persons are submitted separately. No partnership, trust, association, corporation or other like organization shall permit any unlicensed person to sell hearing aids or to engage in the practice of dealing in or fitting of hearing aids.

(c) This article is not intended to prevent any person who is not licensed under this article from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided such person or organization employing such person does not sell hearing aids or accessories thereto, except in the case of earmolds to be used only for the purpose of audiologic evaluation.

(d) Any person who is licensed to practice medicine in this state or any person holding a degree in audiology may sell hearing aids or accessories thereto without obtaining a license under this article.

§16-24-3. West Virginia board of hearing-aid dealers created; members; qualifications; term; oath; salary and expenses; powers and duties.

There is hereby created the West Virginia board of hearing-
aid dealers, which shall be composed of five members to be
appointed by the governor, by and with the advice and consent
of the Senate. The members of the board shall be residents of
this state. One member shall be a person licensed to practice
medicine in this state and one member shall hold a degree in
audiology from an accredited college or university. The re-
mainning three members shall be persons having no less than
five years experience as hearing-aid dealers or fitters and
shall hold a valid license under the provisions of this article,
except that the hearing-aid dealers or fitters to be first appoint-
ed to the board shall obtain a license under the provisions of
this article within six months following their appointment to the
board.

The term of office of each member of the board shall be
four years, excepting that as to the members first appointed to
the board, one shall be appointed for two years; two shall be
appointed for three years; and two shall be appointed for four
years. A board member shall serve until his successor has been
duly appointed and qualified and any vacancy in the office of
a member shall be filled by appointment for the unexpired
term of such member. Any member of the board shall
be eligible for reappointment. Three members of the board
shall constitute a quorum.

The board shall, annually at its meeting first succeeding
July one, elect from its own members a chairman and
vice chairman. The state director of health or his designee
shall serve as ex officio secretary of the board.

Each member of the board shall receive for each day
actually engaged in the duties of his office, a per diem
salary of fifty dollars and shall be reimbursed for all rea-
sonable and necessary expenses actually incurred in the
performance of his duties as a member of such board.
All fees and other moneys collected by the board, pur-
suant to the provisions of this article, shall be kept in a
separate fund and shall be expended solely for the pur-
poses of this article. The compensation for the members
of the board and all expenses incurred under this article
shall be paid from this special fund and no such compensation
or expenses shall be paid from the general revenue fund of this
state. All disbursements of funds necessary to carry out the
provisions of this article shall be so disbursed only upon the authority of the board.

The board is hereby empowered, with the assistance of the department and the state director of health, to generally supervise, regulate and control the practice of dealing in or fitting of hearing aids in this state, and in so doing, shall administer qualifying examinations in accordance with the provisions of this article to test the knowledge and proficiency of all prospective licensees or trainees.

The board may purchase and maintain or rent audiometric equipment and other facilities necessary to carry out the examination of applicants as provided in this article and may purchase such other equipment and supplies and employ such persons as it deems appropriate to carry out the provisions of this article.

The board shall promulgate reasonable rules and regulations in accordance with and subject to the provisions of chapter twenty-nine-a of this code:

(a) For the proper performance of its duties;

(b) To define and prescribe the ethical practice of dealing in or fitting of hearing aids for the safety, protection and welfare of the public;

(c) To govern the time, place and manner of conducting the examinations required by this article and the standard, scope and subject of such examinations, which examinations shall, as a minimum, conform with the standards, scope and subjects set forth in section six of this article and the manner and form in which applications for such examinations shall be filed;

(d) To establish procedures for determining whether persons holding similar valid licenses from other states or jurisdictions shall be required to take and successfully pass the appropriate qualifying examination as a condition for such licensing in this state.

§16-24-4. Powers and duties of the state department of health.

The administrative work of the board shall be performed by the state director of health or his designee. The director shall keep full and complete records of all of the proceedings
of the board and of its accounts, which said records and accounts shall be open to the public inspection at all reasonable times. The department is hereby authorized to assist in the supervision and administration of the qualifying examinations authorized and required by this article, to maintain for the board a register or record of persons who apply for a license or a temporary trainee permit as well as a register or record of the name and last known business address of all persons to whom a license or trainee permit is issued pursuant to this article.

At the direction and request of the board the department shall conduct periodic inspections of the establishment and facilities of persons who are licensed to engage in the practice of dealing in or fitting of hearing aids and shall report its findings and the results of such inspections to the board.

When requested by the board, the department may assist the board generally in carrying out any of the powers and duties granted to the board, but none of the cost incidental to such assistance, powers, functions and duties given to the department pursuant to this article shall be borne from any of the appropriations made to the department, but shall be borne by the board and to this extent the department shall be entitled to reimbursement from the funds of the board.

§16-24-5. Application for licenses; qualifications of applicants; fees; duties of the board with respect thereto.

Each person desiring to obtain a license from the board to engage in the practice of dealing in or fitting of hearing aids shall make application to the board. The application shall be made in such manner and form as prescribed by the board and shall be accompanied by a fee of fifty dollars. The application shall state under oath that the applicant:

(1) Intends to maintain a permanent office or place of business in this state or that the applicant has at the time of application a permanent office or place of business in another state within a reasonable commuting distance from this state. The board shall determine and prescribe by regulation the term "reasonable distance" as used herein;

(2) Is a person of good moral character and that he
has never been convicted of nor is presently under indictment for a crime involving moral turpitude;
(3) Is eighteen years of age or older;
(4) Has an education equivalent to a four-year course in an accredited high school; and
(5) Is free of chronic infectious or contagious diseases.

Any person who fails to meet any of the standards set forth in the next-preceding paragraph shall not be eligible or qualified to take the examination nor shall any such person be eligible or qualified to engage in the practice of dealing in or fitting of hearing aids.

The board, after first determining that the applicant is qualified and eligible in every respect to take the examination, shall notify the applicant that he has fulfilled all of the qualifications and eligibility requirements as required by this section and shall advise him of the date, time and place for him to appear to be examined as required by the provisions of this article and the regulations promulgated by the board pursuant to this article.

The board, with the aid and assistance of the department, shall give at least one annual examination of the type required by this article and may give such additional examinations, at such times and places, as the board and the department may deem proper, giving consideration to the number of applications.

§16-24-6. Standards, scope and subject of examination.

The board by rules and regulations shall determine and set minimum standards to be met in the qualifying examination provided for in this article, which examination shall be designed to demonstrate the applicant’s technical competency and other qualifications by:

(1) A test of knowledge in the following areas as they pertain to the fitting and sale of hearing aids:
   (a) Basic physics of sound;
   (b) The anatomy and physiology of the ear; and
   (c) The function of hearing aids.
(2) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:
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13 (a) Pure tone audiometry, including air conduction testing;
14 (b) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
15 (c) Masking when indicated and effective masking.
16
17 (3) Evidence of:
18 (a) Ability to counsel the person or family who will receive the hearing aid relative to the care and use of the instrument;
19 (b) Knowledge regarding the medical and rehabilitative facilities for hearing-handicapped children and adults in the area being served;
20 (c) Knowledge and understanding of the grounds for revocation, suspension, or probation of a license as outlined in this article;
21 (d) Knowledge and understanding of criminal offenses as outlined in this article.

§16-24-7. Results of examination disclosed to applicant; issuance of license; fees.

1 (a) Any person who has taken the examination shall be notified by the board within thirty days following such examination as to whether he has satisfactorily passed the examination. If such person has failed to pass the examination, he shall be notified of the reasons for such failure and the particular portions of the examination which he failed to pass. Such person shall also be advised of his right to take the examination in the future.

2 If such applicant has satisfactorily passed the examination, he shall be advised of that fact by the board and, upon payment of twenty dollars, the board shall register the applicant as a licensee and shall issue a license to such applicant. Such license shall remain in effect for a period of one year from the date of its issuance.

3 (b) Within six months following the effective date of this article, any applicant for license who has been engaged in the practice of dealing in or fitting of hearing aids in this state for a period of three years immediately prior to such
effective date, shall be so registered and issued a license without being required to undergo or take the examination required by this article providing such person meets all other requirements of this article and the rules and regulations promulgated pursuant thereto. All of the fees which such prospective licensee would be otherwise required to pay shall be paid by such prospective licensee in the same manner and to the same extent as if such prospective licensee had not so engaged in such practice in this state for such three-year period.

(c) The issuance of a license by the board must have the concurrence of a majority of its members.

§16-24-8. Posting of license required; duplicate copies.

Each person who holds a hearing-aid dealer’s or fitter’s license and engages in the practice of dealing in the fitting of hearing aids shall display such license in a conspicuous place in his office or place of business at all times. Each person who maintains more than one office or place of business shall post a duplicate copy of the license at each location. The board shall issue duplicate copies of a license upon receipt of a properly completed application and payment of one dollar for each copy requested.

§16-24-9. Renewal of license.

A person who is engaged in the practice of dealing in or fitting of hearing aids shall annually pay to the board a fee of forty dollars for a renewal of his license. A thirty-day period shall be allowed after expiration of a license during which any such license may be renewed on payment of a fee of forty-five dollars to the board. After the expiration of such thirty-day period, the board may renew such a license upon the payment of fifty dollars to the board. No person who applies for renewal, whose license was suspended for failure to renew shall be required to submit to any examination as a condition of renewal if application for renewal is made within two years following the date such license was so suspended.

§16-24-10. Notification of change of address of licensee required.

Every licensee under the provisions of this article shall notify the board in writing of the address of each place where
he is, or intends to be, engaged in the practice of dealing in or fitting of hearing aids. The board shall cause to be kept a record of each place of business of every such licensee. Any notice required to be given by the board or the department to any such licensee shall be given by mailing the same to him at the address shown upon such records.

§16-24-11. Reciprocity.

Whenever the board determines that another state or jurisdiction has requirements for the licensing of persons to engage in the practice of dealing in or fitting of hearing aids, which requirements meet the minimum requirements and standards set forth in this article and the rules and regulations promulgated pursuant to this article, the board may, in the manner prescribed by its rules and regulations, issue a license without the examination required by this article, to any person holding license in such other state or jurisdiction, upon application, providing such prospective licensee meets all of the requirements set forth in this article and the rules and regulations of the board with respect thereto. All of the fees which such prospective licensee would be otherwise required to pay, shall be paid by such prospective licensee in the same manner and to the same extent as if such prospective licensee was not qualified to engage in such other state or jurisdiction.

§16-24-12. Temporary trainee permits.

A person who meets all of the qualifications and requirements set forth in subdivision (2), section five of this article may obtain a temporary trainee permit upon application to the board. All such applications for a temporary trainee permit shall be made in the manner and form prescribed in the rules and regulations of the board.

Upon receiving an application for a temporary trainee permit as prescribed in this section, accompanied by a fee of twenty-five dollars, the board shall issue such permit which shall entitle the applicant trainee to engage in the practice of dealing in or fitting of hearing aids for a period of one year under the supervision and control of a licensee, such licensee to be responsible for the supervision, training and control of such trainee.
If a person holding a temporary trainee permit under this section has not successfully passed the licensing examination within one year from the date of issuance of such permit, the permit may be renewed or reissued under such conditions as the board may require in its rules and regulations for an additional one-year period upon the payment of a fee of fifty dollars. No such temporary trainee permit shall be reissued, renewed or extended more than once.

§16-24-13. Refusal to issue, suspension or revocation of license or trainee permit; false and deceptive advertising.

(a) The board may either refuse to issue, or may refuse to renew, or may suspend or revoke any license or trainee permit for any one, or any combination, of the following causes:

1. Violation of a rule or regulation governing the ethical practice of dealing in or fitting of hearing aids promulgated by the board under the authority granted by this article; conviction of a felony, as shown by a certified copy of the record of the court wherein such conviction was had when such conviction is final; the obtaining of or the attempt to obtain a license, money or any other thing of value, by fraudulent misrepresentation; malpractice; continued practice of dealing in or fitting of hearing aids by a person knowingly having a chronic infectious or contagious disease; habitual drunkenness or addiction to the use of a controlled substance as defined in chapter sixty-a of this code; advertising, practicing or attempting to practice under a name other than one's own; advertising by means of or selling by the use of knowingly false or deceptive statements.

(b) False and deceptive advertisement shall constitute unethical practice and the board, by rule and regulation may regulate and prescribe acts considered by it to be false and deceptive advertisement.

The rules and regulations promulgated pursuant to this subsection shall include prohibitions against advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established, that the purpose of the advertisement is to obtain prospects for the sale of a different model or type.
than that advertised, representing that the service or advice
of a person licensed to practice medicine will be used or
made available in the selection, fitting, adjustment, mainten-
ance or repair of hearing aids when that is not true, or using
the words "doctor," "clinic" or similar words, abbreviations or
symbols which tend to connote the medical profession when
such use is not accurate, advertising a manufacturer's product
or using a manufacturer's name or trademark which implies
a relationship with the manufacturer that does not exist or
using the words "audiologist," "state licensed clinic," "state
registered," "state certified," or "state approved" or any other
term, abbreviation or symbol when it would falsely give the
impression that service is being provided by persons holding
a degree in audiology or trained in clinical audiology, or that
licensee's service has been recommended by the state when
such is not the case.

(c) The refusal to issue or renew a license or trainee permit
or the suspension or revocation of a license or trainee permit
by the board must have the concurrence of a majority of the
members of the board.

§16-24-14. Matters to be ascertained by licensee prior to the sale or
fitting of hearing aids.

(a) Every licensee engaged in the practice of dealing in or
fitting of hearing aids shall, prior to the sale or the fitting of a
hearing aid intended to be worn or used by a child sixteen
years of age or under, first ascertain whether such child has,
within the next preceding ninety days, been examined by an
otolaryngologist, or other duly licensed physician or person
holding a degree in audiology or an audiologist holding a
certificate of clinical competence. If such child has been
so examined, the licensee shall, prior to the sale or fitting of
such hearing aid, determine the recommendations of such
otolaryngologist, physician or person holding a degree in
audiology or audiologist. If such child has not been so exam-
ined, the licensee shall recommend that such examination be
made and his recommendation must be made in writing to the
parent or guardian of such child in the manner and form pre-
scribed by the board.

(b) Prior to the sale of a hearing aid, every licensee shall
be required to advise in writing, in the manner and form pre-
scribed by the board, the person to whom he intends to sell
or fit with such hearing aid that such person's best interest
would be served by consulting an otolaryngologist or other
physician specializing in diseases of the ear, or any other phy-
sician duly licensed to practice medicine in this state, if any
of the following conditions is found upon examination of
such person:

   (1) Visible congenital or traumatic deformity of the ear;

   (2) History of active ear discharge within the previous nine-
ty days;

   (3) History of a sudden or rapidly progressive hearing loss
within the previous ninety days;

   (4) Acute or chronic dizziness;

   (5) Unilateral hearing loss of sudden or recent onset with-
in the previous ninety days;

   (6) Significant air-bone gap.

(c) A copy of any writing or form required to be given to
a prospective purchaser or other person by the terms of this
section shall be retained in the records of the licensee for a
period of seven years following the issuance of each writing.

§16-24-15. Receipt required to be furnished to a person supplied
with hearing aid; information required.

Any person who practices the fitting and sale of hearing
aids shall deliver to each person supplied with a hearing
aid a receipt which shall contain his signature and show
his business address and the number of his license, to-
gether with specifications as to the make and model of
the hearing aid furnished, and shall contain the full terms
of the sale. If a hearing aid which has been previously sold
at retail is sold, the receipt shall be clearly marked as "used"
or "reconditioned" whichever is applicable, with terms of
guarantee, if any.

Such receipt shall be in the manner and form as prescribed
by the board in its rules and regulations. Such rules and
regulations shall prescribe the type and size of print to be
used in such receipt and the receipt shall set forth such addi-
§16-24-16. Hearing procedures; judicial review.

Any person, including a person who brings a complaint against a licensee or trainee before the board, adversely affected by any decision, ruling or order of the board shall be entitled to a hearing before the board. The hearing may be held by the board or a majority thereof either in the county wherein the licensee, trainee, prospective licensee or prospective trainee resides or may be held in the county wherein the person adversely affected resides or may be so held in some other county as the board may direct. All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to any hearing held by the board and the administrative procedures in connection with and following such hearing shall apply with like effect as if the provisions of said article five were set forth in extenso in this section. For the purpose of conducting such hearing the board 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. Any such hearing shall be held within thirty days after the date upon which a request therefor was made. All requests for hearings shall be made in writing to the board by certified or registered mail, return receipt requested. The board may postpone or continue any hearing on its own motion or upon application for good cause shown.

Any person, including a person who brings a complaint against a licensee or trainee before the board, who may be adversely affected by any ruling or order made or entered by the board following a hearing, shall be entitled to judicial review of such order, in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code and the provisions of said section four shall apply to and govern such appeal with like affect as if the provisions of said section four were set forth in extenso in this section and the provisions of article six of said chapter twenty-nine-a shall apply with respect to appeals to the supreme court of appeals in the same manner.
§16-24-17. Prohibited acts and practices.

1 Any of the following acts is hereby prohibited and shall be punishable under section eighteen of this article and shall also constitute unethical practice and no person shall:

2 (1) Sell, barter or offer to sell or barter a license issued pursuant to this article.

3 (2) Purchase or procure by barter any such license with intent to use it as evidence of the holder's qualifications to engage in the practice of dealing in or fitting of hearing aids.

4 (3) Alter materially a license issued pursuant to this article.

5 (4) Use or attempt to use as a valid license any license which has been purchased, fraudulently obtained, counterfeited or materially altered.

6 (5) Willfully make any false statement in an application for license or for renewal thereof.

7 (6) Advertise for the mail-order sale of hearing aids in any advertising medium or sell hearing aids by mail to any person other than distributors, dealers or those excluded from the provisions of this article.

§16-24-18. Offenses and penalties.

1 Any person who shall engage in the practice of dealing in or fitting of hearing aids without qualifying to do so under the provisions of this article or any person who commits any of the acts prohibited under the provisions of section seventeen of this article shall be guilty of a misdemeanor, and, upon conviction for the first offense, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail for not more than six months, or be subject to both such fine and imprisonment, and for the second or any subsequent offense, shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned in the county jail for not less than thirty days nor more than one year or be subject to both such fine and imprisonment. Each sale made in violation of this article shall constitute a separate offense. Justices of the peace shall have concurrent jurisdiction with circuit courts or

Notwithstanding the existence of any other remedy, the board may, in the manner provided by law, maintain an action for an injunction against any person to restrain or prevent the practice of dealing in or fitting of hearing aids when such person repeatedly refuses to obtain a license therefor and continues such practice without first obtaining a license therefor in the manner herinbefore provided, and an action for an injunction may be maintained for any continued and repeated violation of any of the provisions of this article and the rules and regulations promulgated pursuant thereto.

§16-24-20. Construction and severability.

The provisions of this article and the regulations promulgated thereunder shall be liberally construed so as to carry into effect its purposes and to protect the health, safety and welfare of the public.

If any provision of this article or the application thereof to any person or circumstance shall be held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

CHAPTER 60

(House Bill No. 860—By Mr. Tucker and Mr. Paterna)

[Passed March 27, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the industrial development bond act; defining terms used in said act; expanding the definition of the term "industrial plant" as used in said act; and specifically expanding said term to include a warehouse or dis-
tribution facility, industrial park and water dock and port facilities.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2C. INDUSTRIAL DEVELOPMENT BOND ACT.


1 Unless the context clearly indicates otherwise, as used in this article:
2
3 (a) "County court" means the governmental body created by section twenty-two, article eight of the West Virginia constitution.
4
5 (b) "Governmental body" means the county court, a town or city council or any other governing body in lieu thereof.
6
7 (c) "Industrial plant" means any site, structure, building, industrial park, water dock and port facilities, fixtures, machinery, equipment and related facility, including real and personal property, or any combination thereof, suitable as a factory, mill or shop, or processing, assembly, manufacturing or fabricating plant, or warehouse or distribution facility, or research or development facility or pollution abatement or control facility and includes the reconstruction, modernization and modification of any existing industrial plant for the abatement or control of industrial pollution. Such term does not include, except to the extent above provided, any facility designed for sale or distribution to the public of electricity, gas, water, telephone or any other service commonly classified as a "public utility."
8
9 (d) "Industrial pollution" means any gaseous, liquid or solid waste substances or adverse thermal effects or combinations thereof resulting from any process of industry, manufacturing, trade or business or from the development, processing or recovery of any natural resources which pollute the land, water or air of this state.
10
11 (e) "Municipality" means any incorporated town or city.
AN ACT to amend and reenact section five, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the approval of authority of an industrial loan company to do business from the commissioner of banking.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. INDUSTRIAL LOAN COMPANIES.

§31-7-5. Approval of authority to do business from commissioner of banking.

Whenever the certificate of incorporation has been duly recorded and filed as herein provided and the recording and filing of the same certified to the commissioner of banking accompanied by an examination and investigation fee of five hundred dollars payable to the commissioner, the commissioner shall, before the corporation shall be authorized to transact business in this state other than such as relates to formation and organization, satisfy himself that such corporation has complied with all of the provisions of this article required to entitle it to engage in business. If it shall appear to the commissioner of banking that such corporation is lawfully entitled to commence business, he shall, within twenty days after the receipt and filing of this certificate, give to such corporation his certificate under his hand and seal that such corporation is duly and legally organized under this article as an industrial loan company and authorized to transact business as such in this state.
CHAPTER 62
(Com. Sub. for House Bill No. 1244—By Mr. Morasco and Mr. Shiflet)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance; relating to the authority of the insurance commissioner to refuse to renew or to revoke or suspend the license of an insurer; specifying certain grounds therefor; authorizing the insurance commissioner to impose a penalty in a sum not exceeding ten thousand dollars for certain conduct of an insurer; and relating to the authority of the insurance commissioner to reissue, terminate the suspension of or renew a license.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.
§33-3-11. Discretionary refusal, revocation or suspension; penalty in lieu thereof; reissuance.

(a) The commissioner may after notice and hearing refuse to renew, or may revoke or suspend the license of an insurer, in addition to other grounds therefor in this chapter, if the insurer:

1. Violates any provision of this chapter other than those as to which refusal, suspension or revocation is mandatory;

2. Fails to comply with any lawful rule, regulation or order of the commissioner;

3. Is transacting insurance in an illegal, improper or unjust manner;

4. Is found by the commissioner to be in an unsound condition or in such condition as to render its further transaction of insurance in West Virginia hazardous to its policyholders or to the people of West Virginia;
(5) Compels insureds under its policies to accept less than the amount due them or to bring suit against it to secure full payment when it has no substantial defense;

(6) Refuses to be examined or to produce its accounts, records and files for examination by the commissioner when required;

(7) Fails to pay any final judgment rendered against it in West Virginia within thirty days after the judgment became final or time for appeal expired, whichever is later;

(8) Fails to pay when due to the state of West Virginia any taxes, fees, charges or penalties required by this chapter.

(b) In lieu of refusing to renew, revoking or suspending the license of an insurer in any case except where such action is mandatory, the commissioner may, by order, require the insurer to pay to the state of West Virginia a penalty in a sum not exceeding ten thousand dollars, and upon the failure of the insurer to pay such penalty within thirty days after notice thereof, the commissioner may revoke or suspend the license of such insurer.

(c) When any license has been revoked or suspended or renewal thereof refused, the commissioner may reissue, terminate the suspension or renew such license when he is satisfied that the conditions causing such revocation, suspension or refusal to renew have ceased to exist and are unlikely to recur.

CHAPTER 63
(House Bill No. 770—By Mrs. Withrow and Mr. Mulneix)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the insurance policy and the inclusion of chiropractors in the definition of physicians for the purpose of extending policy benefits for chiropractic services.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. THE INSURANCE POLICY.

§33-6-30. Construction of policies.

Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended or modified by any rider, endorsement or application attached to and made a part of the policy: Provided, That the word "physician" when used in any accident and sickness policy or other contract providing for the payment of surgical procedures shall be construed to include a physician, dentist or chiropodist-podiatrist performing such surgical procedure or chiropractor performing other health care services within the scope of his professional license: Provided, however, That any policy of insurance or medical or health service contract providing for payment or reimbursement for any professional services pertaining to eye examination, refractions or the fitting of corrective lenses shall be construed to include payment or reimbursement for such professional service rendered by either a duly licensed physician or a duly licensed optometrist, within the scope of their respective professional licenses, and that the insured or subscriber shall have freedom of choice to select either a physician or an optometrist to render or perform such professional service.

CHAPTER 64

(House Bill No. 736—By Mr. Speaker, Mr. McManus, and Mr. Cookman)

[Passed March 19, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one and six, article fourteen, chapter thirty-three 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 five-a, relating to insurance; establishing requirements
for and limitations upon group life insurance; relating to ex-
ceptions; relating to matters not governed by article; authorizing
group life insurance for members of one or more credit unions;
establishing requirements for and limitations upon group life
insurance for members of one or more credit unions; and relat-
ing to limitations upon amount of group life insurance.

Be it enacted by the Legislature of West Virginia:

That sections one and six, article fourteen, chapter thirty-three 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 five-a,
all to read as follows:

ARTICLE 14. GROUP LIFE INSURANCE.

§33-14-1. Requirements.

§33-14-5a. Credit union groups.

§33-14-6. Limitation on amount.

§33-14-1. Requirements.

1 (a) No life insurance policy or certificate shall be delivered
2 or issued for delivery in this state insuring the lives of more
3 than one individual unless to one of the groups as provided for
4 in sections two to five-a, inclusive, of this article, and unless
5 in compliance with the other applicable provisions of those
6 sections.
7 (b) Subsection (a) above, shall not apply to life insurance
8 policies:
9 (1) Insuring only individuals related by marriage, blood or
10 legal adoption;
11 (2) Insuring only individuals having a common interest
12 through ownership of a business enterprise, or a substantial
13 legal interest or equity therein, and who are actively engaged
14 in the management thereof; or
15 (3) Insuring only individuals otherwise having an insurable
16 interest in each other's lives.
17 (c) Nothing in this article validates any charge or practice
18 illegal under any rule of law or regulation governing usury,
19 small loans, retail installment sales, or the like, or extends the
application of any such rule of law or regulation to any trans-
action not otherwise subject thereto.

§33-14-5a. Credit union groups.
1 The lives of a group of individuals may be insured under a
2 policy issued to a credit union or to the trustees of a fund
3 established by one or more credit unions, which credit union
4 or trustees shall be deemed to be the policyholder for the pur-
5 pose of this section, for the benefit of some person or persons
6 other than the credit union or credit unions or trustees or any
7 of their officials, and subject to the following requirements:
8
(1) The members of a credit union eligible for insurance
9 shall be all of the members of the credit union or all of any
10 class or classes thereof determined by conditions pertaining to
11 their age or to their membership in the credit union or to both;
12
(2) The premium for the policy shall be paid by the policy-
13 holder wholly from the funds of the credit union or credit
14 unions or from any fund established by such credit union or
15 credit unions. No part of the premium may be paid from funds
16 contributed by or charged to the insured members specifically
17 for their insurance;
18
(3) The policy must insure at least twenty-five eligible mem-
19 bers at date of issue;
20
(4) The policy shall, at all times while it is in force, insure
21 all eligible members, excluding any as to whom evidence of
22 individual insurability is not satisfactory to the insurer; and
23
(5) The amounts of insurance under the policy must be
24 based upon some plan which precludes individual selection
25 either by the members or by the credit union, the credit unions
26 or the trustees.

§33-14-6. Limitation on amount.
1 No such policy of group life insurance may be issued to an
2 employer, or to a labor union, or to the trustees of a fund es-
3 tablished in whole or in part by an employer or a labor union,
4 which provides term insurance on any person which together
5 with any other term insurance under any group life insurance
6 policy or policies issued to the employer or employers of such
person or to a labor union or labor unions of which such per-
son is a member or to the trustees of a fund or funds establish-
ed in whole or in part by such employer or employers or such
labor union or labor unions, exceeds twenty thousand dollars,
unless two hundred percent of the annual compensation of such
person from his employer or employers exceeds twenty thou-
sand dollars, in which event all such term insurance shall not
exceed fifty thousand dollars or two hundred percent of such
annual compensation, whichever is the lesser.

No such policy of group life insurance may be issued pur-
suant to the provisions of section five-a of this article which
provides term insurance on any person which together with any
other term insurance under any group life insurance policy or
policies issued pursuant to the provisions of said section five-
a exceeds twenty thousand dollars.

CHAPTER 65
(House Bill No. 769—By Mrs. Withrow and Mr. Mulineix)
[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and three, article twenty-
four, chapter thirty-three of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
hospital service corporations, medical service corporations and
dental service corporations; authorizing duly licensed chiro-
practors to participate in medical service plans; relating to
standards in connection therewith; and relating to the composi-
tion of the board of directors of a medical service corporation
and a dental service corporation.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article twenty-four, chapter thirty-
three of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted to read as
follows:
ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS AND DENTAL SERVICE CORPORATIONS.


§33-24-3. Corporations affected by article; eligibility of hospitals, physicians, dentists, chiropodists-podiatrists and chiropractors.


1 For the purpose of this article:
2 (a) “Corporation” shall mean either a hospital service corporation, a medical service corporation or a dental service corporation.
3 (b) “Hospital service corporation” shall mean a nonprofit, nonstock corporation, organized in accordance with the provisions of article one, chapter thirty-one of this code, for the sole purpose of contracting with the public and with hospitals and other health agencies for hospital or other health services to be furnished to subscribers under terms of their contract with the corporation.
4 (c) “Hospital service” shall mean only such hospital or other health care, to be provided by hospitals or other health agencies, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.
5 (d) “Medical service corporation” shall mean a nonprofit, nonstock corporation, organized in accordance with the provisions of article one, chapter thirty-one of this code, for the sole purpose of contracting with the public and with duly licensed physicians, duly licensed dentists and duly licensed chiropodists-podiatrists for medical or surgical services and with duly licensed chiropractors and other health agencies for other health services to be furnished to subscribers under terms of their contracts with the corporation, and controlled by a board of directors, the majority of whom are duly licensed physicians.
6 (e) “Medical service” shall mean only such medical, surgical, or other health care, to be provided by duly licensed physicians, duly licensed dentists, duly licensed chiropodists-podiatrists or other health agencies and only such health care, to be provided by duly licensed chiropractors, or such payment...
therefor, as may be specified in the contract made by the
subscriber with the corporation.

(f) "Dental service corporation" shall mean a nonprofit,
nonstock corporation, organized in accordance with the pro-
visions of article one, chapter thirty-one of this code, for the
sole purpose of contracting with the public and with duly
licensed dentists for dental services to be furnished to sub-
scribers under terms of their contracts with the corporations,
and controlled by a board of directors, the majority of whom
are duly licensed dentists.

(g) "Dental service" shall mean only such dental care, to
be provided by duly licensed dentists, duly licensed physicians,
or such payment therefor, as may be specified in the contract
made by the subscriber with the corporation.

(h) "Service" shall mean such hospital, medical, dental or
other health service as shall be provided under the terms of
the contracts issued by the corporation to subscribers.

(i) "Commissioner" shall mean the insurance commis-

§33-24-3. Corporations affected by article; eligibility of hospitals,
physicians, dentists, chiropodists-podiatrists and chi-
ropraactors.

(a) Every such corporation operating within this state shall
be subject to the provisions of this article.

(b) Every hospital or other health agency in this state
meeting the standards prescribed by the board of directors of
each such corporation shall be eligible for participation in any
hospital service plan operating in this state. Every duly licensed
physician, duly licensed dentist, duly licensed chiropodist-
podiatrist, duly licensed chiropractor or other health agency in
this state meeting the standards prescribed by the board of
directors of each such corporation shall be eligible for partic-
ipation in any medical service plan operating in this state.
Every duly licensed dentist or duly licensed physician in this
state meeting the standards prescribed by the board of direc-
tors of each such corporation shall be eligible for participa-
tion in any dental service plan operating in this state. The
board of directors of every such corporation may also pre-
17 scribe standards for hospitals, physicians, dentists, chiropodists-podiatrists, chiropractors and other health agencies located in states adjoining this state, and all such hospitals, physicians, dentists, chiropodists-podiatrists, chiropractors and other health agencies meeting such standards shall be eligible for participation in such plans.

CHAPTER 66

(Senate Bill No. 149—By Mr. Brotherton, Mr. President)

[Passed March 9, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections five and seven, article eleven, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the judicial council; providing for recommendations and proposals of the council to the supreme court of appeals and to the governor; and providing for the expenses of members of the judicial council.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. JUDICIAL COUNCIL FOR STUDY OF PROCEDURE AND PRACTICE.

§56-11-5. Recommendations of council to supreme court of appeals; proposals for legislation to governor.

§56-11-7. Expenses of council members.

§56-11-5. Recommendations of council to supreme court of appeals; proposals for legislation to governor.

1 The judicial council of West Virginia shall propose to the supreme court of appeals such changes in the practice and procedure of the state as it shall deem expedient. The council shall also file with the governor prior to the convening of the regular session of the Legislature such pro-
6 posals for legislation as it may deem necessary for making 
7 the administration of justice more efficient.

§56-11-7. Expenses of council members.
1 The members of the council shall receive no compensa-
2 tion for their services, but they shall be entitled to be re-
3 imbursed for all reasonable and necessary expenses ac-
4 tually incurred by them in the performance of their official 
5 duties. Requisition for such expenses shall be accompanied 
6 by a sworn and itemized statement which shall be filed 
7 with the auditor and preserved as a public record.

CHAPTER 67
(House Bill No. 885—By Mr. Rollins and Mr. Harman)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section sixteen, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections thirteen and fifteen of said article, relating to justices of the peace, their written receipts for fines, costs and other moneys; relating to the monthly disposition of fines, costs and other moneys collected by justices; and providing a penalty for failure to comply with said section fifteen; and to amend chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article seventeen-a, relating to audits of the criminal and civil dockets of each justice of the peace, relating to the use of prenumbered, duplicate civil receipts, and relating to special bank accounts; prompt payment to parties and officers; registering special account with the circuit clerk; criminal offenses and penalties for violations of said article by justices of the peace.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections thirteen and fifteen of said article be
amended and reenacted, and that chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article seventeen-a, all to read as follows:

Article
   17. Fees, Fines and Costs.
   17A. Fiscal Responsibility.

ARTICLE 17. FEES, FINES AND COSTS.
§50-17-13. Receipts for fines, costs and other payments.
§50-17-15. Disposition of moneys collected; penalty for failure to comply.

§50-17-13. Receipts for fines, costs and other payments.
   1 When any money is paid to a justice of the peace on account of a fine, costs, cash bond, penalty, restitution or other matter in a criminal case, he shall give to the person paying the same a receipt therefor, stating briefly but intelligently for what purpose the money has been paid, showing separately the amount of the fine and the amount of the costs and the amount of any other payment, the name of the defendant and the docket page upon which the case appears. These receipts shall be prepared and furnished to the justices by the state tax commissioner and shall be numbered and made out in triplicate, one copy to be delivered to the person paying over the money, one copy to be forwarded to the clerk of the county court by the justice, and one copy to be retained and to remain in the receipt book for the inspection of the state tax commissioner.

§50-17-15. Disposition of moneys collected; penalty for failure to comply.
   1 All fines, costs, forfeitures or penalties which accrue to the state, collected or paid in any proceeding before a justice, except as otherwise provided, shall be paid, on a monthly basis on or before the seventh day of the next succeeding month by the justice receiving the same, to the sheriff of the county, and at the time of making such payment the justice shall furnish to the sheriff a list of the persons fined, the amount collected from each person as a fine, costs, forfeiture or penalty and the number of the receipt issued for each payment received by him and such other information as the state tax commissioner may by rules and regulations
12 prescribe. If any justice fails to pay over all fines, costs, 13 forfeitures and penalties as above required, he shall be 14 personally liable therefor, and if a justice fails to comply 15 with any provision of this section, he shall be penalized, by 16 the state tax commissioner, an amount equal to twenty 17 percent of the total of such fines, costs, forfeitures or penalties 18 collected by him during the month in question.

ARTICLE 17A. FISCAL RESPONSIBILITY.

§50-17A-1. Audits of civil and criminal dockets by the chief inspector.

§50-17A-2. Justices to use prenumbered duplicate civil receipts furnished by the chief inspector.

§50-17A-3. All funds received by justices of the peace to be deposited in special bank account; prompt payment to parties and officers; account to be registered with circuit clerk.

§50-17A-4. Violations of article; penalties.

§50-17A-1. Audits of civil and criminal dockets by the chief inspector.

Every justice of the peace shall be subject to an annual audit of his criminal docket, and materials relating to said dockets, by the chief inspector of public offices. Every justice of the peace shall also be subject to an audit of his civil docket, and materials and accounts relating to said docket, if the chief inspector deems such an audit to be necessary.

§50-17A-2. Justices to use prenumbered duplicate civil receipts furnished by the chief inspector.

The chief inspector of public offices shall prepare and furnish to each justice of the peace prenumbered duplicate civil receipts. These receipts shall be issued by the justice to any person paying money to him in connection with any civil proceeding. The second copy shall be retained by the justice for the inspection of the chief inspector.

§50-17A-3. All funds received by justices of the peace to be deposited in special bank account; prompt payment to parties and officers; account to be registered with circuit clerk.

Every justice of the peace shall keep a special trust bank account. All moneys received by a justice shall be deposited in this account. A justice shall only receive from this account
moneys constituting fees to which he is entitled by law. Parties
and officers entitled to moneys in said account shall be
promptly paid by the justice; said payment must be made
within thirty days from receipt. Every justice must register
his special account with the chief inspector of public offices.

§50-17A-4. Violations of article; penalties.

Any justice of the peace who violates any of the provisions
of this article 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 six
months, or both fined and imprisoned.

CHAPTER 68

(Com. Sub. for House Bill No. 506—By Mr. Myles)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three, five, seven and twelve,
article thirteen-a, chapter thirty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended; and to
further amend said article by adding thereto a new section,
designated section sixteen, all relating to land surveyors; the
board of examiners of land surveyors and the terms of its
members; the fees to be charged by such board; the application
of person for license and certificate as land surveyor and
underground surveyor; procedures for authorizing nonresidents
to practice land surveying in this state; duties of county clerks to
record certain documents without land surveyor's certification;
requiring land surveyors to furnish plat and description of
property surveyed.

Be it enacted by the Legislature of West Virginia:

That sections three, five, seven and twelve, article thirteen-a,
chapter thirty of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, be amended and reenacted; and that
said article be further amended by adding thereto a new section,
designated section sixteen, all to read as follows:
ARTICLE 13A. LAND SURVEYORS.

§30-13A-3. Board of examiners of land surveyors created; appointment, terms, removal, etc., of members; officers; meetings; quorum; compensation and expenses.

§30-13A-5. Qualifications of applicants for licenses; exceptions; applications; fees; examinations.

§30-13A-7. Exemption from regulation and licensing.


§30-13A-3. Board of examiners of land surveyors created; appointment, terms, removal, etc., of members; officers; meetings; quorum; compensation and expenses.

1 (a) There is hereby created the state board of examiners of land surveyors which shall be composed of three members appointed by the governor by and with the advice and consent of the Senate. Each member shall have been actively engaged in the practice of land surveying for at least ten years and shall be the holder of a license under the provisions of this article.

2 (b) The members of the board shall be appointed for overlapping terms of three years each ending on the thirtieth day of June, and until their respective successors have been appointed and qualified. Members may be reappointed for any number of terms. Before entering upon the performance of his duties, each member shall take and subscribe to the oath required by section five, article four of the constitution of this state. Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

3 (c) The board shall elect from its membership a chairman and secretary-treasurer. A majority of the members of the board shall constitute a quorum and meetings shall be held at the call of the chairman or upon the written request of two members at such time and place as designated in such call or request, and, in any event, the board shall meet at least once annually to conduct the examination hereinafter provided for and to transact such other business as may come before it.
(d) Members shall be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties, which compensation and expenses shall be paid in accordance with the provisions of subsection (b), section four of this article.

§30-13A-5. Qualifications of applicants for licenses; exceptions; applications; fees; examinations.

(a) To be eligible for a license to engage in the practice of land surveying, the applicant must:

1. Be at least eighteen years of age;
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. 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
5. 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 require-
ments 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 applica-
tion a license fee of twenty dollars, half of 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 addi-
tional information as requested by the board. Each such
application shall be accompanied by a license fee of twenty
dollars, half of which fee shall be returned if the applicant
is again denied a license.
§30-13A-7. Exemption from regulation and licensing.

1 The following persons are exempt from regulation and licensing under the provisions of this article and any reasonable rules and regulations promulgated hereunder, and may engage in the practice of land surveying without a license issued under the provisions of this article and any such reasonable rules and regulations:

(a) Any professional engineer authorized to practice the profession of engineering as provided in article thirteen of this chapter;

(b) Any resident of another state, when such practice in this state does not exceed in the aggregate more than thirty days per calendar year, or such additional time as may be approved by the board, if such person is licensed, certified or registered in his own state and the requirements for obtaining a license or certificate or becoming registered in such other state are not lower than those specified in this article: Provided, That the person shall first have secured a letter of authorization for the calendar year from the board and have paid a fee of five dollars to the board;

(c) Any employee of a person holding a license to engage in the practice of land surveying in this state or any employee of a person exempted from regulation and licensing under sub-
divisions (a) and (b) of this section: Provided, That the work
of any such employee is done under the supervision of and
certified by his employer;
(d) Any employee of a person, firm, association or corpora-
tion, when such employee is engaged in the practice of land
surveying exclusively for the person, firm, association or cor-
poration by which employed, or, if a corporation, its parents,
affiliates or subsidiaries, and such person, firm, association or
corporation does not hold himself or itself out to the public as
being engaged in the business of land surveying;
(e) Any employee or officer of the United States, this state
or any political subdivision thereof, when such employee is
engaged in the practice of land surveying exclusively for such
governmental unit.

No document prepared by or alleged to have been prepared
by a land surveyor shall be filed by any clerk of a county court
or accepted by any public official of this state unless the seal
required by section eleven of this article has been affixed thereto, except that any document prepared by a person exempted
from the regulation and licensing requirements of this article,
as provided in section seven of this article, shall not be required
to have the seal required by section eleven of this article
affixed thereto. Nothing in this section shall prevent a docu-
ment prepared prior to the twenty-fifth day of May, one thou-
sand nine hundred sixty-nine, from being recorded without
such seal. If a seal of such exempt person is not affixed to said
document, a certificate shall be placed thereon by the exempt
person, stating upon what the exemption is claimed. Said certi-
ficate may be in a form similar to the following:

"I certify that I am engaged in surveying exclusively
for ____________________________ and believe
I am exempt from regulations and licensing under
West Virginia Code 30-13a-7
______________________________
Signature"

When any land surveyor makes a property boundary sur-
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vy as defined in section two of this article, he shall make a
plat and description thereof, and shall furnish a copy thereof
to the client or landowner. If the title to the land surveyed is
conveyed, the plat shall be recorded simultaneously with the
instrument conveying title, except when such plat has already
been recorded and reference given in lieu of a second recording
of said plat.

CHAPTER 69
(House Bill No. 567—By Mr. Harman)
[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article three, chapter
two of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to full legal capacity of persons
eighteen years of age to conduct or deal in their own affairs, but
providing certain savings or limiting provisions.

Be it enacted by the Legislature of West Virginia:

That section one, article three, 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 3. LEGAL CAPACITY.

§2-3-1. Legal capacity; saving provisions.

On and after June nine, one thousand nine hundred seventy-
two, 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 or personal property, create a lien, execute any
legal or other written instrument, prosecute or defend legal
actions, assert claims or deal in his own affairs in any manner
whatsoever.

The provisions of this section, and the provisions of chapter
sixty-one, acts of the Legislature, regular session, one thousand
nine hundred seventy-two, reducing various prescribed age re-
quirements to eighteen years of age, shall not, however, by
operation of law affect any rights, duties, obligations or inter-
estests accruing or vesting by virtue of any statute, act, event,
transaction, order, judgment or decree prior to June nine, one
thousand nine hundred seventy-two, or any cause of action
which arose or any civil action or claim instituted or asserted
prior to such date, and any such right, duty, obligation, interest,
cause of action, civil action or claim may be enforced, exercised,
 enjoyed, terminated, discharged, consummated, prosecuted,
maintained or asserted with like effect as if said chapter sixty-
one had not been enacted: Provided, That any person who
has attained the age of eighteen years shall have full power and
authority to exercise any and all of the rights, privileges and
powers granted to him in the first paragraph of this section
with respect to any legal or equitable interest acquired by or
which vested in such person before he became eighteen years
of age: Provided, however, That under no circumstances what-
ever shall any of the changes made by said chapter sixty-one
have any effect upon any of the terms or provisions of or any
conditions imposed by any last will and testament, trust agree-
ment or any other written instrument of any kind or character
executed prior to such date of June nine, one thousand nine
hundred seventy-two. 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 June
nine, one thousand nine hundred seventy-two. 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 such date of
June nine, one thousand nine hundred seventy-two.

CHAPTER 70
(Com. Sub. for Senate Bill No. 112—By Mr. Moreland and Mrs. Leonard)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two and three, article
two, chapter two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to legal holidays
and the return day of a summons or other court proceeding or notice and to a time fixed; providing that legal school holidays shall not be affected; relating to situations when proceedings are to take place or acts are to be done on a particular day which is a Saturday, Sunday or legal holiday or when the last day within any period of time prescribed or allowed falls on a Saturday, Sunday or legal holiday; relating to terms of court and adjournments thereof; relating to the computation of time within which an act is to be done, with particular reference to situations when the last day is a Saturday, Sunday or legal holiday; constituting Saturday as a legal holiday solely for the purpose of Rule 6 (a) of the Rules of Civil Procedure for Trial Courts of Record; and specifying that the provisions dealing with the computation of time shall not change any rule of law relating to bills of exchange or negotiable notes.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, 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.

§2-2-2. When acts to be done fall on Saturday, Sunday or legal holiday; adjournments from day to day.


§2-2-1. Legal holidays; official acts or court proceedings.

The following days shall be regarded, treated and observed as legal holidays, viz: The first day of January, commonly called “New Year’s Day”; the twelfth day of February, commonly called “Lincoln’s Birthday”; the 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, hereafter referred to as “Veterans Day”; the fourth Thursday of Novem-
ber, 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 which may be ap-
pointed or recommended by the governor of this state, or the
president of the United States, as days of thanksgiving, or for
the general cessation of business; and when any of said days
or dates falls on Sunday, then the succeeding Monday shall be
regarded, treated and observed as such legal holiday. When
the return day of any summons or other court proceeding or
any notice or time fixed for holding any court or doing any
official act shall fall on any of said holidays, the ensuing day
which is not a Saturday, Sunday or legal holiday shall be taken
as meant and intended: Provided, That nothing herein con-
tained shall increase nor diminish the legal school holidays
provided for in section two, article five, chapter eighteen-a
of this code.

§2-2-2. When acts to be done fall on Saturday, Sunday or legal holi-
day; adjournments from day to day.

1 When a proceeding is directed to take place or any act to
be done on any particular day of the month or within any peri-
od of time prescribed or allowed, including those provided by
article two, chapter fifty-five of this code, if that day or the
last day falls on a Saturday, Sunday or legal holiday, the next
day which is not a Saturday, Sunday or legal holiday shall
be deemed to be the one intended, and when the day upon
which a term of court is directed by law to commence, falls
on a Saturday, Sunday or legal holiday, the following day
which is not a Saturday, Sunday or legal holiday shall be
deemed to be the day intended. When an adjournment is
authorized from day to day, an adjournment from Friday to
Monday will be legal.


1 The time or period prescribed or allowed within which an
act is to be done shall be computed by excluding the first
day and including the last; or if the last be a Saturday,
Sunday or legal holiday, it shall also be excluded, and any
such Saturday shall be a legal holiday solely for the purpose
of Rule 6 (a) of the Rules of Civil Procedure for Trial Courts of Record; but the provisions of this section shall not be deemed to change any rule of law applicable to bills of exchange or negotiable notes.

CHAPTER 71

(Com. Sub. for House Bill No. 811—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

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, relating to apportionment of the House of Delegates; providing a short title for said section; defining the terms “county,” “enumeration district,” “census tract” and “magisterial district” for the purposes of said section; requiring that the clerk of the House of Delegates file United States census maps in the office of the secretary of state; dividing the state into thirty-six delegate districts for the purpose of electing one hundred members of the House of Delegates; providing certain residency requirements for persons who are elected or appointed to the House of Delegates; requiring county courts to alter the boundary lines of any election precinct that contains territory contained in more than one delegate district as established by said election so that no election precinct contains territory included in more than one delegate district; providing that members of the House of Delegates elected in the general election of one thousand nine hundred seventy-two, as well as any persons appointed to fill a vacancy in the office of member of the House of Delegates, shall continue to represent the county or delegate district for the term for which each was elected or appointed; and providing a severability clause.

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 to read as follows:
ARTICLE 2. APPORTIONMENT OF REPRESENTATION.


(a) This section shall be known and may be cited as "The House of Delegates Apportionment Act of 1973."

(b) As used in this section:

(1) "County" means the territory comprising a county of this state as it existed on the first day of January, one thousand nine hundred seventy, notwithstanding any boundary changes made subsequent thereto;

(2) "Enumeration district" and "census tract" mean those geographic areas as defined by the bureau of the census of the United States department of commerce for the taking of the one thousand nine hundred seventy census of population and described on census maps prepared by the bureau of the census. Such maps are, at the time of this enactment, maintained by the said bureau of the census and shall be filed in the office of the secretary of state by the clerk of the House of Delegates not later than the first day of July, one thousand nine hundred seventy-three;

(3) "Magisterial district" means the territory comprising a magisterial district of this state as it existed on the first day of January, one thousand nine hundred seventy, as defined in the official records of the county courts of the several counties, notwithstanding any boundary changes made subsequent thereto.

(c) If an election precinct in this state, as it exists at the time of passage of this section, includes territory contained in more than one delegate district, as such delegate districts are established by subsection (d) of this section, it shall be the duty of the county court of the county in which such precinct is located, prior to the first day of February, one thousand nine hundred seventy-four, to alter the boundary lines of its election precincts so that no precinct contains territory included in more than one delegate district.

(d) The House of Delegates shall be composed of one hundred members elected from the delegate districts hereinafter described.
(1) The county of Hancock (except for census tracts two hundred one and two hundred two of Butler magisterial district) shall constitute the first delegate district and shall elect two delegates;

(2) The county of Brooke, and census tracts two hundred one and two hundred two of Butler magisterial district of the county of Hancock, shall constitute the second delegate district and shall elect two delegates;

(3) The county of Ohio shall constitute the third delegate district and shall elect four delegates;

(4) The county of Marshall shall constitute the fourth delegate district and shall elect two delegates;

(5) The county of Wetzel (except for enumeration districts eighteen, nineteen and twenty of Magnolia magisterial district) shall constitute the fifth delegate district and shall elect one delegate;

(6) The counties of Doddridge and Tyler, and enumeration districts eighteen, nineteen and twenty of Magnolia magisterial district of the county of Wetzel, shall constitute the sixth delegate district and shall elect one delegate;

(7) The counties of Pleasants and Ritchie shall constitute the seventh delegate district and shall elect one delegate;

(8) The county of Wood shall constitute the eighth delegate district and shall elect five delegates;

(9) The counties of Roane and Wirt shall constitute the ninth delegate district and shall elect one delegate;

(10) The counties of Jackson, Mason and Putnam shall constitute the tenth delegate district and shall elect four delegates: Provided, That not less than one nor more than two delegates shall be elected or appointed who are residents of any single county within the tenth delegate district;

(11) The county of Cabell shall constitute the eleventh delegate district and shall elect six delegates;

(12) The county of Wayne shall constitute the twelfth delegate district and shall elect two delegates;
The county of Mingo shall constitute the thirteenth delegate district and shall elect two delegates;

The county of McDowell shall constitute the fourteenth delegate district and shall elect three delegates;

The counties of Boone and Wyoming shall constitute the fifteenth delegate district and shall elect three delegates: Provided, That not more than two delegates shall be elected or appointed who are residents of any single county within the fifteenth delegate district;

The counties of Lincoln and Logan shall constitute the sixteenth delegate district and shall elect four delegates: Provided, That not more than three delegates shall be elected or appointed who are residents of any single county within the sixteenth delegate district;

The county of Kanawha shall constitute the seventeenth delegate district and shall elect thirteen delegates;

The county of Raleigh shall constitute the eighteenth delegate district and shall elect four delegates;

The counties of Mercer, Monroe and Summers shall constitute the nineteenth delegate district and shall elect five delegates: Provided, That not more than four delegates shall be elected or appointed who are residents of any single county within the nineteenth delegate district;

The county of Greenbrier shall constitute the twentieth delegate district and shall elect two delegates;

The county of Fayette shall constitute the twenty-first delegate district and shall elect three delegates;

The counties of Nicholas and Webster shall constitute the twenty-second delegate district and shall elect two delegates: Provided, That not more than one delegate shall be elected or appointed who is a resident of any single county within the twenty-second delegate district;

The counties of Braxton, Calhoun, Clay and Gilmer shall constitute the twenty-third delegate district and shall elect two delegates: Provided, That not more than one dele-
(24) The county of Lewis shall constitute the twenty-fourth delegate district and shall elect one delegate;

(25) The county of Harrison shall constitute the twenty-fifth delegate district and shall elect four delegates;

(26) The counties of Marion and Taylor shall constitute the twenty-sixth delegate district and shall elect four delegates:

Provided, That not more than three delegates shall be elected or appointed who are residents of any single county within the twenty-sixth delegate district;

(27) The county of Monongalia, and Grant, Pleasant and Valley magisterial districts of the county of Preston, shall constitute the twenty-seventh delegate district and shall elect four delegates;

(28) The county of Preston (except for Grant, Pleasant and Valley magisterial districts) shall constitute the twenty-eighth delegate district and shall elect one delegate;

(29) The counties of Barbour and Upshur shall constitute the twenty-ninth delegate district and shall elect two delegates:

Provided, That not more than one delegate shall be elected or appointed who is a resident of any single county within the twenty-ninth delegate district;

(30) The counties of Pocahontas and Randolph (except for enumeration districts two and three of Dry Fork magisterial district) shall constitute the thirtieth delegate district and shall elect two delegates;

(31) The counties of Hardy and Pendleton, and enumeration districts two and three of Dry Fork magisterial district of the county of Randolph, shall constitute the thirty-first delegate district and shall elect two delegates;

(32) The counties of Grant and Tucker shall constitute the thirty-second delegate district and shall elect one delegate;

(33) The county of Mineral (except for enumeration districts one, two, three, four, five, six and eight of Frankfort magisterial district) shall constitute the thirty-third delegate district and shall elect one delegate;

(34) The county of Hampshire, and enumeration districts one, two, three, four, five, six and eight of Frankfort magis-
terial district of the county of Mineral, shall constitute the thirty-fourth delegate district and shall elect one delegate;

(35) The counties of Berkeley and Morgan, and Shepherdstown magisterial district of the county of Jefferson, shall constitute the thirty-fifth delegate district and shall elect three delegates: Provided, That not more than two delegates shall be elected or appointed who are residents of any single county, or part of a county, within the thirty-fifth delegate district;

(36) The county of Jefferson (except for Shepherdstown magisterial district) shall constitute the thirty-sixth delegate district and shall elect one delegate.

(e) Regardless of the changes in delegate district boundaries made by the provisions of subsection (d) of this section, the delegates elected at the general election held in the year one thousand nine hundred seventy-two shall continue to hold their offices as members of the House of Delegates for the term, and as representatives of the county or delegate district, for which each thereof, respectively, was elected. Any appointment made prior to the first day of December, one thousand nine hundred seventy-four, to fill a vacancy in the office of a member of the House of Delegates shall be made for the remainder of the term, and as representative of the county or delegate district, for which the vacating delegate was elected or appointed.

(f) If any provision or proviso of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions, provisos or applications of the section, and to this end the provisions and provisos of this section are declared to be severable.

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CHAPTER 72

(Com. Sub. for House Bill No 543—By Mr. Speaker, Mr. McManus)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by
adding thereto a new section, designated section ten-a, relating to filling vacancies in the offices of president of the Senate and speaker of the House of Delegates.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. OFFICERS, MEMBERS AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAGS; RECORDS; USE OF CAPITOL BUILDING.

§4-1-10a. Filling vacancies in the office of presiding officer of the two houses.

1 In case of a vacancy in the office of president of the Senate or speaker of the House of Delegates, when the Legislature is not in session, resulting from death, resignation or any other cause, the governor shall by proclamation convene the house in which the vacancy exists in session within ten days after such vacancy occurs for the purpose of choosing a presiding officer as provided by section twenty-four, article six of the constitution of the state.

CHAPTER 73

(House Bill No. 1239—By Mr. Dinsmore and Mr. Stone)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections seventeen and eighteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liens and mechanics' liens; specifying the extent of the priority of mechanics' liens over other liens; providing the extent to which any lien created by deed of trust or otherwise shall, however, have priority over any mechanics' lien for labor which shall have begun to be performed or for material or machinery or other necessary equipment which shall have begun to be fur-
lished after such lien is created by deed of trust or otherwise; and relating to priority as among mechanics' lienors.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. MECHANICS' LIENS.

§38-2-17. Priority of mechanics' liens over other liens.


§38-2-17. Priority of mechanics' liens over other liens.

1 A lien authorized and created by this article shall, when perfected, attach as of the date such labor, material, machinery or other necessary equipment shall have begun to be furnished, and shall have priority over any other lien secured by a deed of trust or otherwise which is created subsequent to such date. Each lien authorized and created by this article shall be subordinate to any other lien created by a deed of trust or otherwise which is duly recorded or otherwise perfected to constitute constructive notice prior to the date labor, material, machinery or other necessary equipment giving rise to such lien shall have begun to be furnished, notwithstanding the fact that some other lien authorized and created by this article may have priority over such other lien created by deed of trust or otherwise which is so recorded or otherwise perfected.


1 Of the persons acquiring liens by virtue of this article and solely for determining priorities as among such persons, laborers, artisans, mechanics, workmen and furnishers of material, machinery and other necessary equipment, shall have first liens, and the lien of such persons, when perfected and preserved as required by this article, shall take precedence over any lien taken or to be taken by the contractor or subcontractor indebted to them for labor, material, machinery or other equipment, to the extent of the amount of the lien of such contractor or subcontractor, and the lien of a subcontractor shall take precedence over any lien taken or to be taken by a
contractor indebted to him upon his subcontract, to the extent
of the amount of the lien of such contractor, and every assign-
ment or transfer by any such head contractor of his contract
with the owner or by any such subcontractor of his contract
with the contractor, or any proceeding in attachment or other-
wise against such head contractor or subcontractor, with the
purpose of encumbering or subjecting his interest in such con-
tact, shall be subject and subordinate to the liens of all such
subcontractors, laborers, workmen, artisans, materialmen and
furnishers of machinery and other necessary equipment who
shall perfect their liens according to the provisions of this
article. But all of such perfected liens of such laborers and
workmen and of such materialmen and furnishers of machine-
ry and of such contractors and subcontractors, respectively,
shall be of equal dignity without priority among themselves,
except as otherwise provided in this article.

CHAPTER 74
(House Bill No. 687—By Mr. Burke and Mr. Shaffer)

[Passed March 20, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article one, chapter
twenty-seven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the definition of
superintendent and clinical director of a state hospital for the
care and treatment of the mentally ill and mentally retarded,
providing that the superintendent shall be the chief executive of-
icer of such state hospital; specifying that all other employees
at such a state hospital are under the jurisdiction and authority
of its superintendent; relating to the qualifications of the
clinical director of such a state hospital; and specifying that
the clinical director of such a state hospital be a person other
than the superintendent of such state hospital.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter twenty-seven of the code
of West Virginia, one thousand nine hundred thirty-one, as amended,
be amended and reenacted to read as follows:
ARTICLE 1. WORDS AND PHRASES DEFINED.

§27-1-7. Superintendent and clinical director.

(a) The superintendent of a state hospital shall be its chief executive officer and shall have the authority to manage and administer the financial, business and personnel affairs of such state hospital. All other persons employed at a state hospital shall be under the jurisdiction and authority of the superintendent of such state hospital.

(b) The clinical director of a state hospital shall have the responsibility for decisions involving clinical and medical treatment of patients and shall be a physician. The clinical director of a state hospital shall be a person other than the superintendent of such state hospital.

CHAPTER 75

(House Bill No. 944—By Mrs. Withrow and Mr. Grewe)

[Passed April 14, 1973; in effect July 1, 1973. 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, relating to mental health facilities; separate budget for Roney's Point center.

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 to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

§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 re-
tardation facility for the evaluation, diagnosis, treatment, research and training and rehabilitation of persons disabled by mental illness 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: Provided, That the Roney’s Point center shall have its own budget separate and apart from any other “state hospital” referenced 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.”

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CHAPTER 76

(House Bill No. 1055—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 10, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article six-a, chapter twenty of the code of West Virginia, one thousand nine hundred
Be it enacted by the Legislature of West Virginia:

That section one, article six-a, 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 6A. LIMITATIONS ON SURFACE MINING.

§20-6A-1. Limitation on the issuance of new permits for surface mining.

Commencing on the thirteenth day of March, one thousand two thousand nine hundred seventy-three, and ending on the twelfth day of March, one thousand nine hundred seventy-five, no new permits, including prospecting permits, shall be issued under the provisions of article six of this chapter for the surface mining of coal in any county where no surface mining existed under lawful permit during the calendar year one thousand nine hundred seventy.

CHAPTER 77

(House Bill No. 1197—By Mr. Speaker, Mr. McManus, and Mr. Christian)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions used in the mine safety law; certified mine electricians with prior experience exempt from examination.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-1. Definitions.

Unless the context in which used clearly requires a different
meaning, the following definitions shall apply to articles one
and two of this chapter:

Mine: The term “mine” includes the shafts, slopes, drifts or
inclines connected with excavations penetrating coal seams or
strata, which excavations are ventilated by one general air cur-
rent or divisions thereof, and connected by one general sys-
tem of mine haulage over which coal may be delivered to one
or more points outside the mine, and the surface structures or
equipment connected therewith which contribute directly or
indirectly to the mining, preparation or handling of coal.

Agent: The term “agent” means any person charged with
responsibility for the operation of all or a part of a mine or
the supervision of the miners in a mine.

Imminent danger: The term “imminent danger” means the
existence of any condition or practice in a coal mine which
could reasonably be expected to cause death or serious physi-
cal harm before such condition or practice can be abated.

Department: The term “department” shall mean the state
department of mines provided for in section two of this article.

Director of the department of mines: The term “director of
the department of mines” shall mean the director of the de-
partment of mines provided for in section three of this article,
and is synonymous with the term “chief of the department of
mines.”

Mine inspector: The term “mine inspector” shall mean a
state mine inspector provided for in section seven of this article.

Mine inspectors’ examining board: The term “mine inspec-
tors’ examining board” shall mean the mine inspectors’ exam-
ing board provided for in section twelve of this article.

Operator: The term “operator” shall mean any firm, cor-
poration, partnership or individual operating any coal mine or
part thereof.

Person: The term “person” shall mean any individual,
partnership, association, corporation, firm, subsidiary of a
corporation or other organization.

Miner: The term “miner” shall mean any individual working
in a coal mine.
39 Work of preparing the coal: The term "work of preparing the coal" shall mean the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing and loading of bituminous coal or lignite, and such other work of preparing such coal as is usually done by the operator of the coal mine.

40 Accident: The term "accident" shall mean any mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of any person.

41 Abandoned workings: The term "abandoned workings" shall mean excavation, either caved or sealed, that is deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly.

42 Excavations and workings: The term "excavations and workings" shall mean any or all parts of a mine excavated or being excavated, including shafts, slopes, drifts, tunnels, entries, rooms and working places, whether abandoned or in use.

43 Shaft: The term "shaft" shall mean a vertical opening through the strata that is or may be used for the purpose of ventilation, drainage, and the hoisting and transportation of men and material, in connection with the mining of coal.

44 Slope: The term "slope" shall mean a plane or incline roadway, usually driven to a coal seam from the surface and used for the same purposes as a shaft.

45 Drift: The term "drift" shall mean a horizontal or approximately horizontal opening through the strata or in a coal seam and used for the same purposes as a shaft.

46 Panel: The term "panel" shall mean workings that are or have been developed off of submain entries which do not exceed three thousand feet in length.

47 Active workings: The term "active workings" shall mean all places in a mine that are ventilated and inspected regularly.

48 Inactive workings: The term "inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned.

49 Superintendent: The term "superintendent" shall mean the
person who shall have, on behalf of the operator, immediate supervision of one or more mines.

Mine foreman: The term "mine foreman" shall mean the certified person whom the operator or superintendent shall place in charge of the inside workings of the mine and of the persons employed therein.

Supervisor: The term "supervisor" shall mean a superintendent, mine foreman, assistant mine foreman, or any person specifically designated by the superintendent or mine foreman to supervise work or employees and who is acting pursuant to such specific designation and instructions.

Assistant mine foreman: The term "assistant mine foreman" shall mean a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein.

Shot firer: The term "shot firer" shall mean any person having had at least two years of practical experience in coal mines, who has a knowledge of ventilation, mine roof and timbering, and who has demonstrated his knowledge of mine gases, the use of a flame safety lamp, and other approved detecting devices by examination and certification given him by the department of mines.

Qualified person: The term "qualified person" shall mean a person who has completed an examination and is considered qualified on record by the department of mines.

Interested persons: The term "interested persons" shall include the operator, members of any mine safety committee at the mine affected and other duly authorized representative of the mine workers and department of mines.

Return air: The term "return air" shall mean a volume of air that has passed through and ventilated all the working places in a mine section.

Mechanical working section: The term "mechanical working section" shall mean an area of a mine (1) in which coal is loaded mechanically, (2) which is comprised of a number of working places that are generally contiguous, and (3) which is of such size to permit necessary supervision during shift opera-
tion, including preshift and on-shift examinations and tests required by law.

Working section: The term "working section" shall mean all areas of the coal mine from the loading point of the section to and including the working faces.

Working face: The term "working face" shall mean any place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle.

Working place: The term "working place" shall mean the area of a coal mine in by the last open crosscut.

Working unit: The term "working unit" shall mean an area of a mine in which coal is mined with a set of production equipment; a conventional mining unit by a single loading machine; a continuous mining unit by a single continuous mining machine, which is comprised of a number of working places.

Face equipment: The term "face equipment" shall mean mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in an entry or room.

Approved: The term "approved" shall mean in strict compliance with mining law, or, in the absence of law, accepted by a recognized standardizing body or organization whose approval is generally recognized as authoritative on the subject.

Permissible: The term "permissible" shall mean any equipment, device or explosive that has been approved as permissible by the United States bureau of mines and meets all requirements, restrictions, exceptions, limitations and conditions attached to such classification by the bureau.

Certified electrician: The term "certified electrician" shall mean any person who is qualified as a mine electrician and who has passed an examination given by the department of mines, or has at least three years of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine
equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by the department of mines.

**Armored cable:** The term “armored cable” shall mean a cable provided with a wrapping of metal, usually steel wires or tapes, primarily for the purpose of mechanical protection.

**Borehole cable:** The term “borehole cable” shall mean a cable designed for vertical suspension in a borehole or shaft and used for power circuits in the mine.

**Cable:** The term “cable” shall mean a standard conductor (single conductor cable) or a combination of conductors insulated from one another (multiple conductor cable).

**Flame-resistant cable, portable:** The term “flame-resistant cable, portable” shall mean a portable flame-resistant cable that has passed the flame tests of the federal bureau of mines.

**Portable (trailing) cable:** The term “portable (trailing) cable” shall mean a flexible cable or cord used for connecting mobile, portable or stationary equipment in mines to a trolley system or other external source of electric energy where permanent mine wiring is prohibited or is impracticable.

**Branch circuit:** The term “branch circuit” shall mean any circuit, alternating current or direct current, connected to and leading from the main power lines.

**Circuit breaker:** The term “circuit breaker” shall mean a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

**High voltage:** The term “high voltage” shall mean voltages of more than one thousand volts.

**Medium voltage:** The term “medium voltage” shall mean voltages from six hundred sixty-one to one thousand volts.

**Low voltage:** The term “low voltage” shall mean up to and including six hundred sixty volts.

**Lightning arrestor:** The term “lightning arrestor” shall mean
a protective device for limiting surge voltage on equipment by
discharging or by passing surge current; it prevents continued
flow of follow current to ground and is capable of repeating
these functions as specified.

Mine power center or distribution center: The term “mine
power center or distribution center” shall mean a combined
transformer or distribution unit, complete within a metal en-
closure from which one or more low-voltage power circuits
are taken.

Delta connected: The term “delta connected” shall mean a
power system in which the windings or transformers or a.c.
generators are connected to form a triangular phase relation-
ship, and with phase conductors connected to each point of
the triangle.

Wye-connected: The term “wye-connected” shall mean a
power system connection in which one end of each phase
windings or transformers or a.c. generators are connected to-
gether to form a neutral point, and a neutral conductor may
or may not be connected to the neutral point, and the neutral
point may or may not be grounded.

Zig-zag transformer (grounding transformer): The term “zig-
zag transformer (grounding transformer)” shall mean a trans-
former intended primarily to provide a neutral point for
grounding purposes.

Neutral point: The term “neutral point” shall mean the con-
nection point of transformer or generator windings from which
the voltage to ground is nominally zero, and is the point gen-
erally used for system groundings in wye-connected a.c. power
system.

Neutral (derived): The term “neutral (derived)” shall mean
a neutral point or connection established by the addition of a
“zig-zag” or grounding transformer to a normally ungrounded
power system.

Effectively grounded: The term “effectively grounded” is an
expression which means grounded through a grounding con-
nection of sufficiently low impedance (inherent or intention-
ally added or both) so that fault grounds which may occur
cannot build up voltages in excess of limits established for apparatus, circuits or systems so grounded.

Grounded (earthed): The term "grounded (earthed)" shall mean that the system, circuit, or apparatus referred to is provided with a ground.

Ground or grounding conductor (mining): The term "ground or grounding conductor (mining)," also referred to as a safety ground conductor, safety ground, and frame ground, shall mean a metallic conductor used to connect the metal frame or enclosure of any equipment, device or wiring system with a mine track or other effective grounding medium.

Board of appeals: The term "board of appeals" shall mean as provided for in section thirty-one of this article.

Certified person: The term "certified person," when used to designate the kind of person to whom the performance of a duty in connection with the operation of a mine shall be assigned, shall mean a person who is qualified under the provisions of this law to perform such duty.

AN ACT to amend and reenact section twenty-five, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to place and time for examinations of mine foremen.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-25. Place and time for examinations.

The director of the department of mines shall determine the location where the mine foreman examiner shall meet for the
purpose of holding examinations, and at least two weeks’ notice of the time and place where the examinations are to be held shall be given.

The examinations shall be given at any location where there are at least five men to be tested, and adequate facilities to conduct such examination. The office of the secretary to the mine foreman examiner shall be located in the capitol complex in Charleston. All records pertaining to the examinations shall be kept at such office.

CHAPTER 79

(Com. Sub. for Senate Bill No. 60—By Mr. Nealey)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor]

AN ACT to amend and reenact sections one, one-c, one-e, one-k, two, two-a, two-b, eight-a, nine, ten and ten-a, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend article four of said chapter twenty-two by adding thereto a new section, designated section nineteen, all relating to oil and gas wells; giving additional duties to examining board, increasing the scope of article to include any physical damage to well and providing limits for the drilling of wells near fresh water wells; increasing amounts of bond; requiring additional notice to be given; requiring plats to be made by registered engineer or licensed land surveyor; and increasing the scope of article to provide rebuttable presumption in actions for contamination or deprivation of fresh water source or supply.

Be it enacted by the Legislature of West Virginia:

That sections one, one-c, one-e, one-k, two, two-a, two-b, eight-a, nine, ten and ten-a, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article four of said chapter twenty-two be further amended by adding thereto a new section, designated section nineteen, to read as follows:
ARTICLE 4. OIL AND GAS WELLS.

§22-4-1. Definitions.

§22-4-1c. Oil and gas inspectors; supervising inspectors; tenure; oath and bond.

§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.

§22-4-1k. Permits required; application for permit; information; responsible agent; drilling permit number; when permits not to be issued; penalty.

§22-4-2. Plats prerequisite to drilling or fracturing wells; preparation and contents; notice and information furnished to coal operators; issuance of permits; performance bonds or securities in lieu thereof; bond forfeiture.

§22-4-2a. Notice to coal operators and department of mines of intention to fracture certain other wells; contents of such notice; permit required.

§22-4-2b. Plats prerequisite to introducing liquids or waste into wells; preparation and contents; notices and information furnished to coal operators and chief of water resources; issuance of permits; performance bonds of security in lieu thereof.

§22-4-8a. Protective devices—Installation of fresh water casings.

§22-4-9. Plugging and abandonment of well; notice of intention; performance bonds or securities in lieu thereof; affidavit showing time and manner.

§22-4-10. Methods of plugging well.

§22-4-10a. Introducing liquid pressure into producing strata to recover oil contained therein.

§22-4-19. Civil action for contamination or deprivation of fresh water source or supply; presumption.

§22-4-1. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this article:

2 (a) “Deputy director” shall mean the deputy director for oil and gas;

3 (b) “Well” shall mean any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction or injection or placement of any liquid or gas, or any shaft or hole sunk or used in conjunction with such extraction or injection or placement. The term “well” shall not have included within its meaning any shaft or hole sunk, drilled, bored or dug into the earth for the sole purpose of core drilling or pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural or public use;

4 (c) “Facility” shall mean any facility utilized in the oil and gas industry in this state and specifically named or
referred to in this article or in articles five or seven of this
chapter, other than a well or well site;
(d) "Owner" when used with reference to any such well,
shall include any person or persons, firm, partnership,
partnership association or corporation that owns, manages,
operates, controls or possesses such well as principals,
or as lessee or contractor, employee or agent of such
principal;
(e) "Well operator" or "operator" shall include any per-
son or persons, firm, partnership, partnership association or
corporation that proposes to or does locate, drill, operate or
abandon any well as herein defined;
(f) "Chief" shall mean chief of the division of water
resources of the department of natural resources;
(g) "Coal operator" shall include any person or persons,
firm, partnership, partnership association or corporation that
proposes to or does operate a coal mine;
(h) "Department" or "department of mines" includes the
duly constituted authorities under the laws of this state having
jurisdiction over coal mining operations;
(i) "Plat" means a map, drawing or print showing the
location of a well or wells as herein defined;
(j) "Casing" means a string or strings of pipe commonly
placed in wells drilled for natural gas or petroleum or both;
(k) "Oil" and "gas" are synonyms for petroleum and
natural gas respectively;
(l) "Cement" means hydraulic cement properly mixed
with water only;
(m) "Workable coal bed" means a coal bed in fact
being operated commercially, or which, in the judgment
of the department of mines, can, and that it is reasonably
to be expected will, be so operated, and which, when
operated, will require protection if wells are drilled through
it;
(n) "Stimulate" means any action taken by any well
operator to increase oil or gas production from any oil
or gas well, including fracturing, shooting or acidizing, but
excluding cleaning out or bailing operations.
§22-4-1c. Oil and gas inspectors; supervising inspectors; tenure; oath and bond.

Notwithstanding any other provisions of law, oil and gas inspectors shall be selected, serve and be removed as in this article provided.

The deputy director for oil and gas shall divide the state into not more than eight oil and gas districts, so as to equalize, as far as practical, the work of each oil and gas inspector. He may designate a supervising inspector and other inspectors as may be necessary, and may designate their places of abode, at points convenient to the accomplishment of their work.

The deputy director for oil and gas shall make each appointment from among the three qualified eligible candidates on the register having the highest grades. The director of the department of mines or the deputy director for oil and gas may, for good cause, at least thirty days prior to making an appointment, strike any name from the register. Upon striking any name from the register, the director or deputy director, as the case may be, shall immediately notify in writing each member of the oil and gas inspectors' examining board of his action, together with a detailed statement of the reasons therefor. Thereafter, the oil and gas inspectors' examining board, after hearing, if it finds that the action of striking such name was arbitrary or unreasonable, may order the name of any candidate so stricken from the register to be reinstated thereon. Such reinstatement shall be effective from the date of removal from the register.

Any candidate passed over for appointment for three years shall be automatically stricken from the register.

After having served for a probationary period of one year to the satisfaction of the deputy director for oil and gas and the director, an oil and gas inspector or supervising inspector shall have permanent tenure until he becomes seventy years of age, subject only to dismissal for cause in accordance with the provisions of section one-d of this article. No oil and gas inspector or supervising inspector while in office shall be directly or indirectly interested as
owner, lessor, operator, stockholder, superintendent or engineer of any oil or gas drilling or producing venture or of any coal mine in this state. Before entering upon the discharge of his duties as an oil and gas inspector or supervising inspector, he shall take the oath of office prescribed by the constitution, and shall execute a bond in the penalty of two thousand dollars, with security to be approved by the director of the department of mines, conditioned upon the faithful discharge of his duties, a certificate of which oath and bond shall be filed in the office of the secretary of state.

The supervising inspector and oil and gas inspectors shall perform such duties as are imposed upon them by this chapter, and related duties assigned by the deputy director for oil and gas upon approval of the director.

§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 a professor in the petroleum engineering department of the school of mines at West Virginia University appointed by the dean of said school; 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 section five, article four 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 department of mines. Notice of each meeting shall be given in writing to each member by the secretary at least five days in advance of the meeting. Three 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 examinations 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 regulations relating to the examination, qualification and certification of candidates for appointment, and relating to hearings for removal of inspectors or the supervising inspector, 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 depart-
ment of mines may be designated to give to a candidate 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 differenti-
tation, 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 annual-
ly, 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, grad-
ing sheets and other papers of all applicants for appoint-
ment 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 qualifications 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;

(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; and

(10) Render such advice and assistance to the deputy director for oil and gas as he shall from time to time determine necessary or desirable in the performance of his duties.

§22-4-1k. Permits required; application for permit; information; responsible agent; drilling permit number; when permits not to be issued; penalty.

It shall be unlawful for any well to be drilled, redrilled, deepened, fractured, stimulated, plugged, pressured, converted, combined or physically changed to allow the migration of fluid from one formation to another unless a permit therefor has been issued by the department. An application for any such permit shall be filed with the deputy director and shall contain the following:

(a) The name and address of the well operator;
(b) The name and address of the owner of the surface lands upon which the well is or may be located;

(c) The name and address of the agent of the well operator, if any such agent is required to be designated under the provisions of this section;

(d) The approximate depth to which the well is to be drilled;

(e) The proposed casing program of such well including the sizes of all such casing, the depth to which all casing is to be run and the extent to which such casing is to be cemented; and

(f) Any other information which the deputy director by rule or regulation may require.

If the well operator named in such application is a corporation, partnership or a nonresident of the state of West Virginia, then there shall be designated the name and address of an agent for such operator who shall be the attorney in fact for the operator and who shall be a resident of the state of West Virginia upon whom notices, orders or other communications issued pursuant to this article or article five-a, chapter twenty, may be served, and upon whom process may be served. Every well operator required to designate an agent under this section shall within five days after the termination of such designation notify the department of such termination and designate a new agent.

The well owner or operator shall install the permit number as issued by the deputy director in a legible and permanent manner to the well upon completion of any permitted work. The dimensions, specifications and manner of installation shall be in accordance with the administrative rules and regulations of the department.

For the purpose of ascertaining whether or not issuance of any permit to drill, redrill, deepen, case, fracture, stimulate, pressure, operate, plug, abandon, convert or combine any well, or physically change any well to allow the migration of fluid from one formation to another, will contribute to an existing pollution problem, the deputy director shall have the right and it shall be his duty to
consult with the director of the department of natural resources. In the event the issuance of any such permit may reasonably be expected to contribute to any such existing pollution then the deputy director will not issue such permit.

Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding two thousand dollars, or imprisonment in jail for not exceeding twelve months, or both such fine and imprisonment.

§22-4-2. Plats prerequisite to drilling or fracturing wells; preparation and contents; notice and information furnished to coal operators; issuance of permits; performance bonds or securities in lieu thereof; bond forfeiture.

Before drilling for oil or gas, or before fracturing or stimulating a well on any tract of land, the well operator shall have a plat prepared by a licensed land surveyor or registered engineer showing the district and county in which the tract of land is located, the name and acreage of the same, the names of the owners of adjacent tracts, the proposed or actual location of the well determined by survey, the courses and distances of such location from two permanent points or landmarks on said tract and the number to be given the well and the date of drilling completion of a well when it is proposed that such well be fractured and shall forward by registered mail a copy of the plat to the department of mines. In the event the tract of land on which the said well proposed to be drilled or fractured is located is known to be underlaid with one or more workable beds of coal, copies of the plat shall be forwarded by registered mail to each and every coal operator, if any, operating said beds of coal beneath said tract of land, or within five hundred feet of the boundaries of the same, who has mapped the same and filed his maps as required by law. With each of such plats there shall be enclosed a notice (form for which shall be furnished on request by the department of mines) addressed to the department of mines and to each such coal operator, if any, at their respective addresses, informing them that such plat and notice are being mailed to them respectively
by registered mail, pursuant to the requirements of this article. If no objections are made, or are found by the department, to such proposed location or proposed fracturing within ten days from receipt of such plat and notice by the department of mines, the same shall be filed and become a permanent record of such location or fracturing subject to inspection at any time by any interested person, and the department may forthwith issue to the well operator a permit reciting the filing of such plat, that no objections have been made by the coal operators, if any, or found thereto by the department, and authorizing the well operator to drill at such location, or to fracture the well. Unless the department has objections to such proposed location or proposed fracturing or stimulating, such permit may be issued prior to the expiration of such ten-day period upon the obtaining by the well operator of the consent in writing of the coal operator or operators to whom copies of the plat and notice shall have been mailed as herein required, and upon presentation of such written consent to the department. The notice above provided for may be given to the coal operator by delivering or mailing it as above to any agent or superintendent in actual charge of mines.

A permit to drill, or to fracture or stimulate an oil or gas well, shall not be issued unless the application therefor is accompanied by a bond of the operator in the sum of two thousand five hundred 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, conditioned on full compliance with all laws, rules and regulations relating to the drilling, redrilling, deepening, casing, plugging and abandonment of wells and for furnishing such reports and information as may be required by the department: Provided, That when such operator makes or has made application for permits to drill a number of wells or fracture or stimulate a well or wells the operator may in lieu of furnishing a separate bond furnish a blanket bond in the sum of fifteen 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, and conditioned as aforesaid: Provided, however,
That in lieu of corporate surety on a separate or blanket bond, as the case may be, the operator may elect to deposit with the deputy director for oil and gas cash or the following collateral securities or any combination thereof:

1. Bonds of the United States or agency thereof, or those guaranteed by, or for which the credit of the United States or agency thereof is pledged for the payment of the principal and interest thereof;
2. Direct general obligation bonds of this state, or any other state, or territory of the United States, or the District of Columbia, unconditionally guaranteed as to the principal and interest by such other state or territory of the United States, or the District of Columbia if such other state, territory, or the District of Columbia has the power to levy taxes for the payment of the principal and interest of such securities, and if at the time of the deposit such other state, territory, or the District of Columbia is not in default in the payment of any part of the principal or interest owing by it upon any part of its funded indebtedness;
3. Direct general obligation bonds of any county, district, city, town, village, school district or other political subdivision of this state issued pursuant to law and payable from ad valorem taxes levied on all the taxable property located therein, that the total indebtedness after deducting sinking funds and all debts incurred for self-sustaining public works does not exceed five percent of the assessed value of all taxable property therein at the time of the last assessment made before the date of such deposit, and that the issuer has not, within five years prior to the making thereof, been in default for more than ninety days in the payment of any part of the principal or interest on any debt evidenced by its bonds;
4. Revenue bonds issued by this state or any agency of this state when such bonds are payable from revenues or earnings specifically pledged for the payment of principal and interest, and a lawful sinking fund or reserve fund has been established and is being maintained for the payment of such bonds;
5. Revenue bonds issued by a municipality in this state for the acquisition, construction, improvement or extension of a waterworks system, or a sewerage system, or a combined waterworks and sewerage system, when such bonds are payable from reve-
or earnings specifically pledged for the payment of principal and interest, and a lawful sinking fund or reserve fund has been established and is being maintained for the payment of such bonds; (6) revenue bonds issued by a public service board of a public service district in this state for the acquisition, construction, improvement or extension of any public service properties, or for the reimbursement or payment of the costs and expenses of creating the district, when such bonds are payable from revenue or earnings specifically pledged for the payment of principal and interest, and a lawful sinking fund or reserve fund has been established and is being maintained for the payment of such bonds; (7) revenue bonds issued by a board of trustees of a sanitary district in this state for the corporate purposes of such district, when such bonds are payable from revenue or earnings specifically pledged for the payment of principal and interest, and a lawful sinking fund or reserve fund has been established and is being maintained for the payment of such bonds; and (8) bonds issued by a federal land bank or home owners' loan corporation. The cash deposit or market value, or both, of the collateral securities shall be equal to or greater than the penalty of the separate or blanket bond, as the case may be. Upon receipt of any such deposit or cash or collateral securities, the deputy director for oil and gas shall immediately deliver the same to the treasurer of the state of West Virginia. The treasurer shall determine whether any such securities satisfy the requirements of this section. If the securities are approved they shall be accepted by the treasurer. If the securities are not approved, they shall be rejected and returned to the operator and no permit shall be issued until a corporate surety bond is filed or cash or proper collateral securities are filed in lieu of such surety. The treasurer shall hold any cash or securities in the name of the state in trust for the purposes for which the deposit was made. The operator shall be entitled to all interest and income earned on the collateral securities filed by such operator so long as the operator is in full compliance with all laws, rules and regulations relating to the drilling, redrilling, deepening, casing, plugging and abandonment of wells and for furnishing such reports and information as
may be required by the department. The operator making
the deposit shall be entitled from time to time to receive
from the treasurer, upon the written order of the deputy
director for oil and gas, the whole or any portion of
such securities upon depositing with the treasurer in lieu
thereof cash equal to or greater than the penalty of the
bond, or other approved securities of the classes herein
specified having a market value equal to or greater than
the penalty of the bond, or a corporate surety bond.

Any such bond shall remain in force until released by the
department and the department shall release the same
when it is satisfied the conditions thereof have been fully
performed. Upon the release of any such bond, any cash
or collateral securities deposited shall be returned by the
deputy director for oil and gas to the operator who deposit-
ed same.

If any of the requirements of this article or rules and
regulations promulgated pursuant thereto or the orders of
the deputy director for oil and gas have not been complied
with within the time limit set by the violation notice as
defined in sections one-g, one-h and one-i, article four,
chapter twenty-two of this code the performance bond shall
then be forfeited.

When any bond is forfeited pursuant to the provisions of
this article or rules and regulations promulgated pursuant
thereto the deputy director shall give notice to the attorney
general who shall collect the forfeiture without delay.

All forfeitures shall be deposited in the treasury of the
state of West Virginia in the special reclamation fund as
defined in section twelve-a, article four, chapter twenty-two
of this code.

§22-4-2a. Notice to coal operators and department of mines of
intention to fracture certain other wells; contents of
such notice; permit required.

Before fracturing any well the well operator shall, by
registered mail, forward a notice of intention to fracture such
well to the department of mines and to each and every coal
operator operating said beds of coal beneath said tract of
land, or within five hundred feet of the boundaries of the
same, who has mapped the same and filed his maps as required by law.

The notice shall be addressed to the department of mines and to each such coal operator at their respective addresses, shall contain the number of the drilling permit for such well and such other information as may be required by the department to enable the department and the coal operators to locate and identify such well and shall inform them that such notice is being mailed to them, respectively, by registered mail, pursuant to the requirements of this article. (The form for such notice of intention shall be furnished on request by the department of mines.) If no objections are made, or are found by the department, to such proposed fracturing within ten days from receipt of such notice by the department of mines, the same shall be filed and become a permanent record of such fracturing, subject to inspection at any time by any interested person, and the department shall forthwith issue to the well operator a permit reciting the filing of such notice, that no objections have been made by the coal operators, or found thereto by the department, and authorizing the well operator to fracture such well. Unless the department has objections to such proposed fracturing, such permit shall be issued prior to the expiration of such ten-day period upon the obtaining by the well operator of the consent in writing of the coal operator or operators to whom notice of intention to fracture shall have been mailed as herein required, and upon presentation of such written consent to the department. The notice above provided for may be given to the coal operator by delivering or mailing it as above to any agent or superintendent in actual charge of mines.

§22-4-2b. Plats prerequisite to introducing liquids or waste into wells; preparation and contents; notices and information furnished to coal operators and chief of water resources; issuance of permits; performance bonds or security in lieu thereof.

Before drilling a well for the introduction of liquids for the purposes provided for in section ten-a of this article or for the introduction of liquids for the disposal of sewage,
industrial waste or other waste or the effluent therefrom on any tract of land, or before converting an existing well for such purposes, the well operator shall have a plat prepared by a registered engineer or licensed land surveyor showing the district and county in which the tract of land is located, the name and acreage of the same, the names of the owners of all adjacent tracts, the proposed or actual location of the well or wells determined by a survey, the courses and distances of such location from two permanent points of land marked on said tract and the number to be given to the well, and shall forward by registered or certified mail the original and one copy of the plat to the department of mines. In addition, the well operator shall provide the following information on the plat or by way of attachment thereto to the department in the manner and form prescribed by the department's rules and regulations:

(a) The location of all wells, abandoned or otherwise located within the area to be affected; (b) where available, the casing records of all such wells; (c) where available, the drilling log of all such wells; (d) the maximum pressure to be introduced; (e) the geological formation into which such liquid or pressure is to be introduced; (f) a general description of the liquids to be introduced; (g) the location of all water bearing horizons above and below the geological formation into which such pressure, liquid or waste is to be introduced; and (h) such other information as the deputy director by rule and regulation may require.

In the event the tract of land on which said well proposed to be drilled or converted for the purposes provided for in this section is located is known to be underlaid with one or more workable beds of coal, copies of the plat and all information required by this section shall be forwarded by the operator by registered or certified mail to each and every coal operator, if any, operating said beds of coal beneath said tracts of land, or within five hundred feet of the boundaries of the same, who has mapped the same and filed his maps as required by law. With each of such plats, there shall be enclosed a notice (form for which shall be furnished on request by the department of mines) addressed to the department of mines and to each such coal
operator, if any, at their respective addresses, informing
them that such plat and notice are being mailed to them,
respectively, by registered or certified mail, pursuant to
the requirements of this section. The deputy director shall
forward a copy of the plat, notice and all other information
required by this section to the chief of the division of
water resources of the department of natural resources.

If no objections are made by any such coal operator or
such chief, or are found by the department to such pro-
posed drilling or converting of the well or wells for the
purposes provided for in this section within thirty days
from the receipt of such plat and notice by the department
of mines, the same shall be filed and become a permanent
record of such location or well, subject to inspection at any
time by any interested person, and the department shall
forthwith issue to the well operator a permit reciting the
filing of such plat and notice, that no objections have
been made by the coal operators, if any, or found thereto
by the department of mines or by the chief, and authorizin
the well operator to drill at such location or convert such
existing well or wells for the purposes provided for in
this section. Such permit shall be issued prior to the expira-
tion of such thirty-day period upon the obtaining by the
well operator of the consent in writing of the coal operator
or operators to whom copies of the plat and notices must
have been mailed as herein required and upon obtaining
the consent in writing of the chief, and upon presentation
of such written consent in writing of the chief, and upon
presentation of such written consent to the department. The
notices above provided for may be given to the coal operator
by delivering or mailing it as above to any agent or superin-
tendent in actual charge of the mines.

A permit to drill a well or wells or convert an existing
well or wells for the purposes provided for in this section
shall not be issued until all of the bonding provisions
required by the provisions of section two of this article
have been fully complied with and all such bonding
provisions shall apply to all wells drilled or converted for the
purposes provided for in this section as if such wells had
been drilled for the purposes provided for in section two
of this article, except that such bonds shall be conditioned upon full compliance with all laws, rules and regulations relating to the drilling of a well or the converting of an existing well for the purposes provided for in said section ten-a, or introducing of liquids for the disposal of sewage, industrial waste or other waste or the effluent therefrom including the redrilling, deepening, casing, plugging or abandonment of all such wells.

§22-4-8a. Protective devices—Installation of fresh water casings.

1 When a permit has been issued for the drilling of an oil or gas well or both, each well operator shall run and permanently cement a string of casing in the hole through the fresh water bearing strata in such a manner and to the extent provided for in rules and regulations promulgated by the director of the department of mines in accordance with the provisions of chapter twenty-nine-a.

2 No oil or gas well shall be drilled nearer than two hundred feet from an existing water well or dwelling without first obtaining the written consent of the owner of such water well or dwelling.

§22-4-9. Plugging and abandonment of well; notice of intention; performance bonds or securities in lieu thereof; affidavit showing time and manner.

1 All dry or abandoned wells or wells presumed to be abandoned under the provisions of section seven of this article shall be plugged in accordance with this section and the other provisions of this article and in accordance with the rules and regulations promulgated by the deputy director.

2 Prior to the commencement of plugging operations and the abandonment of any well, the well operator shall either (a) notify, by registered or certified mail, the department of mines and the coal operator or operators, if any, to whom notices are required to be given by section two of this article and the coal operator or operators to whom notices are required to be given by section two-a of this article of its intention to plug and abandon any such well (using such form of notice as the department may provide), giving the number of the well and its location and fixing
the time at which the work of plugging and filling will be
commenced, which time shall be not less than five days
after the day on which such notice so mailed is received
or in due course should be received by the department of
mines, in order that a representative or representatives of
the department and the coal operator or operators, if any
or of both, may be present at the plugging and filling of
the well: Provided, That whether such representatives
appear or do not appear, the well operator may proceed
at the time fixed to plug and fill the well in the manner
hereinafter described, or (b) first obtain the written ap-
proval of the department of mines and the coal operator
or operators, if any, to whom notices are required to be
given by section two of this article and the coal operator
or operators to whom notices are required to be given by
section two-a of this article, or (c) in the event the well
to be plugged and abandoned is one on which drilling or
reworking operations have been continuously progressing
pursuant to authorization granted by the department, first
obtain the verbal permission of the deputy director for oil
and gas or his designated representative to plug and
abandon such well, except, that the well operator, shall,
within a reasonable period not to exceed five days after
the commencement of such plugging operations, give the
written notices required by subdivision (a) above.
No well shall be plugged or abandoned unless prior to
the commencement of plugging operations and the aban-
donment of any well the department is furnished a bond of
the operator in the sum of two thousand five hundred
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, conditioned on
full compliance with all laws, rules and regulations relat-
ing to the casing, plugging and abandonment of wells and
for furnishing such reports and information as may be
required by the department. When a number of wells are
involved, the operator may in lieu of furnishing a separate
bond furnish a blanket bond in the sum of fifteen 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, and conditioned
as aforesaid. In lieu of corporate surety on a separate or
blanket bond, as the case may be, the operator may elect
to deposit with the deputy director for oil and gas cash
or collateral securities as specified in section two of this
article. All of the provisions of section two dealing with
cash or collateral securities in lieu of corporate surety
shall be fully applicable hereto except for the condition of
the bond with respect to which the operator must be in
full compliance in order to be entitled to the interest and
income earned on such securities. The operator shall be
entitled to such interest and income under this section
so long as the operator is in full compliance with all
laws, rules and regulations relating to the casing, plug-
ning and abandonment of wells and for furnishing such
reports and information as may be required by the depart-
ment. Any such bond shall remain in force until released
by the department and the department shall release the
same when it is satisfied the conditions thereof have been
fully performed. Notwithstanding the foregoing provi-
sions, any operator who, in accordance with section two
of this article, has furnished a separate bond, which has
not been released by the department, for the drilling, con-
verting or drilling for the introduction of liquids, for the
disposal of sewage, industrial waste or other waste or
the effluent therefrom, or introducing pressure, whether
liquid or gas, or introducing liquid for the purposes pro-
vided for in section ten-a of this article or fracturing of the
well it is now proposed be plugged and abandoned, or
who, in accordance with the provisions of said section
two of this article, has furnished a blanket bond which
has not been released by the department shall not be
required by this section to furnish any other bond. When
the plugging and filling of a well have been completed,
an affidavit, in triplicate, shall be made (on a form to be
furnished by the department) by two experienced men
who participated in the work, in which affidavit shall be
set forth the time and manner in which the well was
plugged and filled. One copy of this affidavit shall be
retained by the well operator, another (or true copies
of same) shall be mailed to the coal operator or operators,
if any, and the third to the department of mines.
§22-4-10. Methods of plugging well.

1 Upon the abandonment or cessation of the operation of any well drilled for natural gas or petroleum, or drilled or converted for the introduction of pressure, whether liquid or gas, or for the introduction of liquid for the purposes provided for in section ten-a of this article or for the disposal of sewage, industrial waste or other waste or the effluent therefrom, the well operator, at the time of such abandonment or cessation, shall fill and plug the well in the following manner:

(a) Where the well does not penetrate workable coal beds, it shall either be filled with mud, clay or other non-porous material from the bottom of the well to a point twenty feet above the top of its lowest oil, gas or water-bearing stratum; or a permanent bridge shall be anchored thirty feet below its lowest oil, gas or water-bearing stratum, and from such bridge it shall be filled with mud, clay or other nonporous material to a point twenty feet above such stratum; at this point there shall be placed a plug of cement or other suitable material which will completely seal the hole. Between this sealing plug and a point twenty feet above the next higher oil, gas or water-bearing stratum, the hole shall either be filled, or bridged and filled, in the manner just described; and at such point there shall be placed another plug of cement or other suitable material which will completely seal the hole. In like manner the hole shall be filled and plugged, or bridged, filled and plugged with reference to each of its oil, gas or water-bearing strata. However, whenever such strata are not widely separated and are free from water, they may be grouped and treated as a single sand, gas or petroleum horizon, and the aforesaid filling and plugging be performed as though there were but one horizon. After the plugging of all oil, gas or water-bearing strata, as aforesaid, a final plug shall be anchored approximately ten feet below the bottom of the largest casing in the well; from this point to the surface the well shall be filled with mud, clay or other nonporous material. In case any of the oil or gas-bearing strata in a well shall have been shot, thereby creating cavities which cannot readily be filled in the manner above de-
scribed, the well operator shall follow either of the following methods:

(1) Should the stratum which has been shot be the lowest one in the well, there shall be placed, at the nearest suitable point, but not less than twenty feet above the stratum, a plug of cement or other suitable material which will completely seal the hole. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, plugging in the manner specified shall be done at the nearest suitable points, but not less than twenty feet below and above the stratum shot. Or

(2), when such cavity shall be in the lowest oil or gas-bearing stratum in the well, a liner shall be placed which shall extend from below the stratum to a suitable point, but not less than twenty feet above the stratum in which shooting has been done. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, the liner shall be so placed that it will extend not less than twenty feet above, nor less than twenty feet below, the stratum in which shooting has been done. Following the placing of the liner in the manner here specified it shall be compactly filled with cement, mud, clay or other nonporous sealing material;

(b) Where the well has penetrated one or more workable coal beds, it shall be filled and securely plugged in the manner aforesaid, to a point forty feet below the lowest workable coal bed. If, in the judgment of the well operator, the coal operator and the department of mines, a permanent outlet to the surface is required, such outlet shall be provided in the following manner: A plug of cement, or other suitable material, shall be placed in the well at a suitable point, not less than thirty feet below the lowest workable coal bed. In this plug and passing through the center of it shall be securely fastened an open pipe not less than two inches in diameter, which shall extend to the surface. At or above the surface the pipe shall be provided with a device which will permit the free passage of gas, and prevent obstruction of the same. Following the setting of the cement plug and outlet pipe as aforesaid, the hole shall be filled with cement to a point twenty feet above the lowest workable coal bed. From this point the hole shall be filled
with mud, clay or other nonporous material to a point thirty feet beneath the next overlying workable coal bed, if such there be, and the next succeeding fifty feet of the hole filled with cement, and similarly, in case there are more overlying workable coal beds. If, in the judgment of the well operator, the coal operator and the department of mines, no outlet to the surface is considered necessary, the plugging, filling and cementing shall be as last above described.

Where a coal protection string of casing has been cemented in and circulated to the surface, if a coal outlet pipe is not required in a well which penetrates one or more workable coal beds, then a fifty foot cement plug shall be placed from thirty feet below the casing seat. The well shall then be filled to twenty feet of surface with nonporous material, and cement plug with the monument installed in cement from twenty feet to the surface and extending thirty inches above ground level.

Where a coal protection string of casing has been cemented in and circulated to the surface, if a coal outlet pipe is required in a well which penetrates one or more workable coal beds, then a fifty foot cement plug shall be placed in the well from thirty feet to eighty feet below casing seat completely sealing the well. The outlet pipe shall be placed twenty feet below the casing seat centrally located in the casing. A cement basket shall be installed on the outlet pipe and placed ten feet above the casing seat with twenty feet of cement in the annulus between the outlet pipe and the casing. The remaining annulus shall be filled with nonporous material to ten feet of surface. The outlet pipe and monument shall then be cemented from ten feet to the surface with a bleeder pipe which will permit the free passage of gas and prevent obstructions of the same.

§22-4-10a. Introducing liquid pressure into producing strata to recover oil contained therein.

The owner or operator of any well or wells which produce oil or gas may allow such well or wells to remain open for the purpose of introducing water or other liquid pressure into and upon the producing strata for the purpose of recovering the oil contained therein, and may drill additional
wells for like purposes, provided that the introduction of
such water or other liquid pressure shall be controlled as to
volume and pressure and shall be through casing or tubing
which shall be so anchored and packed that no water-bear-
ing strata or other oil, or gas-bearing sand or producing
stratum, above or below the producing strata into and upon
which such pressure is introduced, shall be affected thereby,
fulfilling requirements as set forth under section two-b.

§22-4-19. Civil action for contamination or deprivation of fresh
water source or supply; presumption.

In any action for contamination or deprivation of a fresh
water source or supply within one thousand feet of the site of
drilling for an oil or gas well, there shall be a rebuttable
presumption that such drilling, and such oil or gas well, or
either, was the proximate cause of the contamination or de-
privation of such fresh water source or supply.

CHAPTER 80
(House Bill No. 1009—By Mr. Whitlow and Mr. Gilliam)

[Passed April 7, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section four, article three, chapter
seventeen-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended; to amend and reenact section
six, article one, chapter seventeen-c of said code; and to amend
and reenact section three, article one, chapter twenty-four-a
of said code, relating to application for certificate of title for
motor vehicles; including busses for transporting mentally
retarded or physically handicapped children and vehicles of
duly chartered rescue squads among vehicles exempted from
tax for privilege for certificate of title; requiring affidavit to
accompany application; providing penalty for false swearing;
expanding definition of authorized emergency vehicle to in-
clude duly chartered rescue squad vehicles; and exempting duly
chartered rescue squad vehicles from the provisions of chapter
twenty-four-a.
Be it enacted by the Legislature of West Virginia:

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

Chapter

17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions.

17C. Traffic Regulations and Laws of the Road.

24A. Motor Carriers of Passengers and Property for Hire.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTITHEFT PROVISIONS.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-4. Application for certificate of title; tax for privilege of certification of title; penalty for false swearing.

1 Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the department of motor vehicles or any other officer charged with such duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of such vehicle. Such application shall be upon a blank form to be furnished by the department of motor vehicles and shall contain a full description of the vehicle, which description shall contain a manufacturer's serial or identification number or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon such vehicle, the names and addresses of the holders of such liens and such other information as the department of motor vehicles may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certifica-
tion of title of each vehicle in the amount equal to five percent of the value of said motor vehicle at the time of such certification. If the vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of said vehicle; if the vehicle is a used or secondhand vehicle, the present market value at time of transfer or purchase shall be deemed the value thereof for the purpose of this section: Provided, That so much of the purchase price or consideration as is represented by the exchange of other vehicles on which the tax herein imposed has been paid by the purchaser shall be deducted from the total actual price or consideration paid for said vehicle, whether the same be new or secondhand; if the vehicle be acquired through gift, or by any manner whatsoever, unless specifically exempted in this section, the present market value of the vehicle at the time of the gift or transfer shall be deemed the value thereof for the purposes of this section. No certificate of title for any vehicle shall be issued to any applicant unless such applicant shall have paid to the department of motor vehicles the tax imposed by this section which shall be five percent of the true and actual value of said vehicle whether the vehicle be acquired through purchase, by gift, or by any other manner whatsoever except gifts between husband and wife or between parents and children: Provided, however, That husband or wife, or parents or children previously have paid said tax on the vehicle so transferred to the state of West Virginia. The tax imposed by this section shall not apply to vehicles to be registered as Class H vehicles, or Class S vehicles, as defined in section one, article ten of this chapter, which are used or to be used in interstate commerce, nor shall the tax imposed by this section apply to titling of vehicles by a registered dealer of this state for resale only, nor shall the tax imposed by this section apply to titling of vehicles by this state or any political subdivision thereof, or by any volunteer fire department or duly chartered rescue squad organized and incorporated under the laws of the state of West Virginia for protection of life or property. The total amount of revenue collected by reason of this tax shall be paid into the state road fund and expended by the commissioner of highways for matching federal aid funds allocated for West Virginia. In addition to said tax, there shall be a charge of two dollars for each original certificate
of title or duplicate certificate of title so issued: Provided further, That this state or any political subdivision thereof, or any such volunteer fire department, or duly chartered rescue squad, shall be exempted from payment of such charge.

Such certificate shall be good for the life of the vehicle, so long as the same is owned or held by the original holder of such certificate, and need not be renewed annually, or any other time, except as herein provided.

If, by will or direct inheritance, a person becomes the owner of a motor vehicle and the tax herein imposed previously has been paid, to the department of motor vehicles, on that vehicle, he shall not be required to pay such tax.

A person who has paid the tax imposed by this section shall not be required to pay the tax a second time for the same motor vehicle, but he shall be required to pay a charge of two dollars for the certificate of retitle of that motor vehicle, except that such tax shall be paid by such person when the title to such vehicle has been transferred either in this or another state from such person to another person and transferred back to such person.

Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter shall be subject to the privilege tax imposed by this section: And provided further, That mobile homes, house trailers, modular homes and similar nonmotive propelled vehicles susceptible of being moved upon the highways but primarily designed for habitation and occupancy, rather than for transporting persons or property, or any vehicle operated on a nonprofit basis and used exclusively for the transportation of mentally retarded or physically handicapped children when the application for certificate of registration for such vehicle is accompanied by an affidavit stating that such vehicle will be operated on a nonprofit basis and used exclusively for the transportation of mentally retarded and physically handicapped children, shall not be subject to the tax imposed by this section, but shall be taxable under the provisions of articles fifteen and fifteen-a of chapter eleven of this code.
If any person making any affidavit required under any provision of this section, shall therein knowingly swear falsely, or if any person shall counsel, advise, aid or abet another in the commission of false swearing, he shall be guilty of a misdemeanor, and, on conviction therefor, shall be fined not more than one hundred dollars or be imprisoned in the county jail for a period not to exceed thirty days, or in the discretion of the court be subject to both such fine and imprisonment.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-6. Authorized emergency vehicle.

"Authorized emergency vehicle" means vehicles of the fire department, duly chartered rescue squad, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commissioner or the chief of police of an incorporated city, and such privately owned ambulances and emergency vehicles as are designated by the commissioner.

CHAPTER 24A. MOTOR CARRIERS OF PASSENGERS AND PROPERTY FOR HIRE.

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

The provisions of this chapter, except where specifically otherwise provided, shall not apply to:

(1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers;

(2) Motor vehicles owned and operated by the United States of America, the state of West Virginia or any 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;
(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, packinghouses, canneries, railway shipping points and cold storage plants, and in the transportation of agricultural or horticultural supplies to such farm or orchards to be used thereon;

(4) Motor vehicles used exclusively in the transportation of human or animal excreta;

(5) Motor vehicles used exclusively in ambulance service, or duly chartered rescue squad service;

(6) Motor vehicles used exclusively for volunteer fire department service;

(7) Motor vehicles used exclusively in the transportation 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, 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 insurance 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 81

(House Bill No. 1321—Originating in the House Committee on Roads and Transportation)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two and four, article four, chapter seventeen-a; and to amend and reenact section
four, article four-a of said chapter seventeen-a, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to expiration of motor vehicle registration on transfer by owner; transfer, surrender or retention of plates; endorsement of certificate of title upon transfer by owner; transfer to dealers and others; and deferred purchase money lien or encumbrance.

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, article four, chapter seventeen-a; and section four, article four-a of said chapter seventeen-a, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article
4. Transfers of Title or Interest.
4A. Liens and Encumbrances on Vehicles to be Shown on Certificate of Title; Notice to Creditors and Purchasers.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.
§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of plates.
§17A-4-2. Endorsement of certificate of title upon transfer by owner.
§17A-4-4. Transfers to dealers and others.

§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of plates.

Whenever the owner of a registered vehicle transfers or assigns his title, or interest thereto, the registration of such vehicle shall expire: Provided, however, That such owner, if he has made application to the department to have said registration plates transferred to be used on another vehicle owned by said owner, may then operate the other vehicle for a period of forty days, but in no event longer than forty days from the date of original transfer. Upon such transfer, it shall be the duty of the original owner to retain the registration plates issued therefor and to immediately notify the commissioner of such transfer upon such form as may be provided therefor and to deliver to him the certificate of registration, whereupon the commissioner shall, upon the payment of a fee of one dollar, issue a new certificate showing the use to be made of such plates. Such plates may then be used by such owner on another vehicle of the same class as the vehicle for which they were
originally issued if such other vehicle does not require a greater license fee than was required for such original vehicle. If such other vehicle requires a greater license fee than such original vehicle, then such plates may be used by paying such difference to the commissioner. When such transfer of ownership is made to a licensed dealer in motor vehicles it shall be the duty of such dealer to immediately execute notification of transfer, in triplicate, and to have this notification properly signed by the owner making the transfer. The dealer shall immediately forward to the department the original copy of the notification of transfer. One copy of the notification of transfer shall be given to the owner and one shall be retained by the dealer. The owner shall immediately send to the department the transfer fee of one dollar with any additional fee that may be required under the terms of this chapter. The owner's copy, properly signed by the dealer, will be the owner's identification until he receives a new registration card from the department.

The owner of a set of registration plates may surrender them to the commissioner together with the registration card and, upon the payment of one dollar as an exchange fee and upon the payment of such additional fees as are necessary to equalize the value of the plates surrendered with the value of registration plates desired, receive in exchange a set of plates and registration card for a vehicle of a different class.

§17A-4-2. Endorsement of certificate of title upon transfer by owner.
Whenever the owner of a registered vehicle transfers or assigns his title, he shall endorse an assignment and warranty of title upon the certificate of title for such vehicle with a statement of all liens and encumbrances thereon, which statement shall be verified under oath by the owner, and he shall within twenty days from date of sale deliver the certificate of title to the purchaser or transferee, except in the case of a vehicle sold as scrap or to be dismantled.

§17A-4-4. Transfers to dealers and others.
When the transferee of a vehicle is a dealer who holds the same for resale and lawfully operates the same under dealer's plates, such dealer shall not be required to obtain a new registration of said vehicle or be required to forward the
certificate of title to the department, but such dealer upon
transferring his title or interest to another person shall execute
and acknowledge an assignment and warranty of title upon the
certificate of title and deliver the same not later than thirty days
from date of sale to the person to whom such transfer is made.

When the transferee of a vehicle does not drive such vehicle
or permit it to be driven upon the highways, such transferee
shall not be required to obtain a new registration of said
vehicle, but such transferee shall be required within thirty days
from the date of such transfer to forward the certificate of
title to the department accompanied by an application for a
new certificate of title in his name.

ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE
SHOWN ON CERTIFICATE OF TITLE; NOTICE TO
CREDITORS AND PURCHASERS.

§17A-4A-4. Deferred purchase money lien or encumbrance may be
filed within thirty days after purchase.

If application for a certificate of title showing a deferred
purchase money lien or deferred purchase money encumbrance
to be placed upon a vehicle be filed in the office of the
department within thirty days from the date of such appli-
cant's purchase of such vehicle, it shall be as valid as to all
persons, whomsoever, including the state, as if such filing had
been done on the day such lien or encumbrance was acquired.

CHAPTER 82

(House Bill No. 1043—By Mr. Kopp)

(Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section fifteen, article six, chapter
seventeen-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to motor vehicles;
temporary license plates by extending the time such plates
are valid.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DISMANTLERS; SPECIAL PLATES; TEMPORARY PLATES OR MARKERS, ETC.

§17A-6-15. Temporary registration plates or markers.

(a) In order to permit a vehicle which is sold to a purchaser by a dealer to be operated on the streets and highways pending receipt of the annual registration plate from the department for such vehicle, the commissioner may, subject to the limitations and conditions hereinafter set forth, deliver temporary vehicle registration plates or markers to dealers who in turn may, subject to the limitations and conditions hereinafter set forth, issue the same to purchasers of vehicles, but such purchasers must comply with the pertinent provisions of this section.

(b) Application by a dealer to the commissioner for such temporary registration plates or markers shall be made on the form prescribed and furnished by the commissioner for such purpose and shall be accompanied by a fee of one dollar for each such temporary registration plate or marker. No refund or credit of fees paid by dealers to the commissioner for temporary registration plates or markers shall be allowed, except that in the event the commissioner discontinues the issuance of such temporary plates or markers, dealers returning temporary registration plates or markers to the commissioner may petition for and be entitled to a refund or a credit thereof. No temporary registration plates or markers shall be delivered by the commissioner to any dealer in house trailers only, and no such temporary plates or markers shall be issued for or used on any house trailer for any purpose.

(c) Every dealer who has made application for and received temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to him, a record of all temporary registration plates or markers issued by him, and a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers which the commissioner may require. Each such record shall be kept for a period of
at least three years from the date of the making thereof. Every
dealer who issues a temporary registration plate or marker
shall, within three days after he issues such plate or marker,
send to the department a copy of the temporary registration
plate or marker certificate properly executed by such dealer
and the purchaser. No temporary registration plates or
markers may be delivered to any dealer until such dealer has
fully accounted to the commissioner for the temporary registra-
tion plates or markers last delivered to such dealer, by showing
the number issued to purchasers by such dealer and any on
hand.

(d) A dealer shall not issue, assign, transfer or deliver a
temporary registration plate or marker to anyone other than
the bona fide purchaser of the vehicle to be registered; nor
shall a dealer issue a temporary registration plate or marker
to anyone possessed of an annual registration plate for a
vehicle which has been sold or exchanged, except a dealer
may issue a temporary registration plate or marker to the bona
fide purchaser of a vehicle to be registered who possesses
an annual registration plate of a different class and makes
application to the department to exchange such annual
registration plate of a different class in accordance with the
provisions of section one, article four of this chapter; nor
shall a dealer lend to anyone, or use on any vehicle which
he may own, a temporary registration plate or marker. It
shall be unlawful for any dealer to issue any temporary registra-
tion plate or marker knowingly containing any misstatement
of fact, or knowingly to insert any false information upon the
face thereof.

(e) Every dealer who issues temporary registration plates
or markers shall affix or insert clearly and indelibly on the face
of each temporary registration plate or marker the date of
issuance and expiration thereof, and the make and motor
or serial number of the vehicle for which issued.

(f) If the commissioner finds that the provisions of this
section or his directions are not being complied with by a
dealer, he may suspend the right of such dealer to issue tem-
porary registration plates or markers.

(g) Every person who is issued a temporary registration
plate or marker shall execute and send an application for an
weekly registration plate to the department, previous to or not later than fifteen days from the day on which the temporary registration plate or marker is issued to such purchaser.

(h) Every person to whom a temporary registration plate or marker has been issued shall permanently destroy such temporary registration plate or marker immediately upon receiving the annual registration plate for such vehicle from the department: Provided, That if the annual registration plate is not received within forty days of the issuance of the temporary registration plate or marker, the owner shall, notwithstanding the fact that the annual registration plate has not been received, immediately and permanently destroy the temporary registration plate or marker: Provided, however, That not more than one temporary registration plate or marker shall be issued to the same bona fide purchaser for the same vehicle.

(i) A temporary registration plate or marker shall expire and become void upon the receipt of the annual registration plate from the department or upon the rescission of the contract to purchase the vehicle in question, or upon the expiration of forty days from the date of issuance, depending upon whichever event shall first occur.

CHAPTER 83
(Com. Sub. for House Bill No. 774—By Mr. Kincsieid)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-six, article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article fourteen of said chapter by adding thereto a new section, designated section thirteen, all relating to traffic regulations; words and phrases defined; providing that it is unlawful for owners of vehicles to park on a private road, driveway or private property, and that the property owner may move, or have moved, such vehicles without cost to him and without any liability for moving such vehicles; and notification of police.
Be it enacted by the Legislature of West Virginia:

That section thirty-six, article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article fourteen of said chapter be amended by adding thereto a new section, designated section thirteen, all to read as follows:

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-36. Private road or driveway; private property.

(a) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(b) "Private property" means real estate in private ownership without regard to the manner in which it is used.

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-13. Vehicles parked on private property.

It shall be unlawful for any driver of a vehicle to stop, park or leave standing unattended any vehicle on a private road or driveway or on private property without having express or implied permission from the owner, tenant or lessee of such land. The owner, tenant or lessee of such private road or driveway or private property may move, or have moved, any vehicle stopped, parked or left standing unattended on his private road, driveway, or private property as above prohibited without any liability for the cost of moving any vehicle, nor shall he be liable to the owner of the vehicle for any damage done to such vehicle in moving it, unless the owner, tenant or lessee of such private road or driveway or private property was negligent in removing or authorizing the removal of the vehicle. The owner of such vehicle shall be responsible to the persons removing such vehicle for paying all removal costs. Any person who removes any vehicle under the provisions of this section shall notify the department of public safety of such action, and, if such vehicle is
AN ACT to amend article thirteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six, relating to granting stopping, standing or parking privileges for physically disabled persons; providing for the issuance of an identifying insignia to such persons by the commissioner of motor vehicles and fee therefor; and providing criminal penalties for persons who wrongly misuse such privileges or certify falsely concerning the need for grant of such privileges.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. STOPPING, STANDING OR PARKING.

§17C-13-6. Stopping, standing or parking privileges for disabled; qualification; application; violation; revocation.

1 A physically disabled person who displays upon a motor vehicle stopped, left standing either attended or unattended, or parked by him, or a vehicle under his direction and for his use, a distinguishing insignia provided for in this section may exercise the stopping, standing or parking privileges provided in this section. The distinguishing insignia shall be displayed on the motor vehicle in the manner prescribed by the commissioner.

9 A person desiring to have a distinguishing insignia issued to him under this section shall submit to the commissioner:

(1) An application therefor on a form prescribed and furnished by the commissioner;
(2) A certificate issued by a person licensed to practice medicine in this state stating that the applicant is physically disabled within the meaning of this section; and

(3) A fee of one dollar.

Upon receipt of the application, the physician’s certificate and the registration fee if the commissioner finds that the applicant qualifies for the stopping, standing or parking privileges provided for in this section, the commissioner may issue to such applicant either, as the case may warrant:

(1) A temporary insignia to be used by persons who are temporarily disabled, such insignia to be valid for such period of time as the aforementioned physician determines the applicant will be disabled, or

(2) A permanent insignia to be used by persons who are certified as permanently disabled by the aforementioned physician.

The two types of insignia shall be identical in size and form while being clearly distinguishable by color and lettering from each other for identification purposes. The commissioner shall adopt and promulgate rules and regulations in accordance with chapter twenty-nine-a as needed to administer the provisions of this section.

Free stopping, standing or parking places marked “reserved for disabled persons” shall be designated in close proximity to all state, county and municipal buildings or other public facilities. Such places shall be reserved solely for physically disabled persons during the hours that such buildings are open for business.

In this section “physically disabled person” means any person who has sustained a permanent disability rendering it difficult and burdensome for such person to walk, or any person who is similarly disabled for a temporary period of time.

Any person who is not disabled permanently or temporarily and who applies for the stopping, standing or parking privileges provided for in this section, or any person who upon having been granted such privileges wrongfully uses or abuses them or any person who falsely certifies that a person is disabled permanently or temporarily in order that such person may be granted such privileges shall be guilty of a misdemeanor, and, upon conviction thereof, in addition to any other
penalty he may otherwise incur or have imposed upon him by law, shall be fined not less than fifty dollars nor more than one hundred dollars, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned. The commissioner shall recall and destroy any distinguishing insignia that was issued under improper circumstance.

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CHAPTER 85

(House Bill No. 920—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 22, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article twelve, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, specifically authorizing any city by charter provision or ordinance to establish a department of development; authorizing any such city to transfer to such department of development all or certain of the planning functions of such city's housing authority, urban renewal authority and planning commission and all or any limited part of the powers, privileges, rights, duties, responsibilities and obligations related to such planning functions; and authorizing related ordinances and resolutions.

Be it enacted by the Legislature of West Virginia:

That article twelve, 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 three-a, 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.

§8-12-3a. Cities authorized to create department of development and transfer planning functions of certain independent agencies to such department; authorizing related ordinances and resolutions.

(a) In extension of the power and authority set forth in section two of this article and notwithstanding any provision of
this code or any charter provision to the contrary, any city shall have plenary power and authority by charter provision or ordinance to establish a department of development for such city and to transfer to such department (1) all or any limited part of the planning functions of such city's housing authority, as provided for in article fifteen, chapter sixteen of this code; (2) all or any limited part of the planning functions of such city's urban renewal authority, as provided for in article eighteen, chapter sixteen of this code; (3) all or any limited part of the planning functions of such city's planning commission, as provided for in article twenty-four of this chapter; and (4) all or any limited part of the powers, privileges, rights, duties, responsibilities and obligations related to such planning functions.

(b) Any city adopting any such charter provision or ordinance shall also have plenary power and authority to enact such other ordinances and adopt such resolutions as may be deemed necessary or desirable to (1) implement and make effective the provisions of subsection (a) of this section; and (2) provide for the implementation of the plans prepared by such city's department of development.

CHAPTER 86

(Senate Bill No. 2031—By Mr. Brotherton, Mr. President, and Mr. Palumbo)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article twelve, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen-a, relating to general and specific powers, duties and allied relations of municipalities, governing bodies and municipal officers and employees; authorizing the governing body of any municipality to provide by ordinance that no electrical work may be performed within the jurisdictional limits of such municipality by an electrical contractor or electrician unless such electrical work is performed by an electrician holding an unexpired certificate of competency issued by the state
fire marshal; providing for copy of any such ordinance to be furnished to the state fire marshal; defining terms; requiring examinations by state fire marshal of applicants for such certificates; providing that such examinations shall be based upon the national electric code; setting levels of examinations and passing grade; expiration and renewal of certificates of competency; requiring certification fees and renewal fees; authorizing state fire marshal to promulgate rules and regulations; providing for certification of certain electricians without examination; requiring fees to be paid by such electricians; deposit and disposition of all fees paid under section; providing that no municipality may require any electrician holding an unexpired certificate of competency to obtain a municipal electrician's license or charge any fee therefor; and authorizing action to insure compliance with section.

Be it enacted by the Legislature of West Virginia:

That article twelve, 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 fourteen-a, 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.**

§8-12-14a. **Certification of electricians may be required; definitions; examinations; fees; expiration and renewal; rules and regulations; certification without examination; deposit of fees; section exclusive; compliance action.**

1 (a) The governing body of every municipality shall have plenary power and authority by ordinance to provide that no electrical work may be performed within the jurisdictional limits of such municipality by an electrical contractor or electrician, as those terms are defined in subsection (b) of this section, unless such electrical work is performed by an electrician holding an unexpired certificate of competency for the level of electrical work in question issued by the state fire marshal in accordance with the provisions of subsection (c) of this section. Upon the enactment of any
such ordinance the recorder of such municipality shall
forward a copy of the same to the state fire marshal so
that he may be advised that the examinations provided for
in subsection (c) of this section shall be required.

(b) As used in this section, "electrical contractor" means
any person who engages in the business of or employs
others for the construction, alteration or repair of any
electrical wiring used for the purpose of furnishing heat,
light or power; "electrician" means any individual who either
on his own or as an employee of an electrical contractor
is engaged in the construction, alteration or repair of any
electrical wiring used for the purpose of furnishing heat,
light or power; and "electrical" pertains to the installa-
tion of wires and conduits for the purpose of transmitting
electricity, the installation of fixtures and equipment in
connection therewith, or both: Provided, That the terms
"electrical contractor" and "electrician" shall not be constru-
ed so as to apply to (1) any electrician who performs
electrical work with respect to any property owned or
rented by him, (2) any electrician who performs electrical
work at any manufacturing plant or other industrial establish-
ment as an employee of the person operating such plant
or establishment, (3) any electrician who, while employed
by a person engaged in the business of selling appliances
at retail, performs electrical work with respect to installation
and repair of appliances as part of his regular duties, or
(4) any electrician who, while employed by a public utility
or any of its affiliates, performs electrical work in connection
with the furnishing of public utility service.

(c) The state fire marshal is hereby empowered and
authorized, and directed if any municipality adopts an
ordinance in accordance with the provisions of subsection
(a) of this section, to prepare and arrange for the giving
of an examination, at least four times each year, to all
applicants for certification as a master electrician, journeyman
electrician or helper electrician. Such examination shall be
based upon the national electric code published from time
to time by the national fire protection association. In
preparing such examination, the state fire marshal shall
include questions covering each article of the national
51 electric code, but he shall prepare a different level of
52 examination, depending upon whether the applicant desires
53 to be certified as a master electrician, journeyman electrician
54 or helper electrician. A passing grade of at least eighty
55 percent shall be necessary for certification of an applicant
56 by the state fire marshal. Each applicant for examination
57 shall pay an original certification fee of ten dollars, no part
58 of which shall be returned even if a passing grade is not
59 obtained. Any applicant who shall pass the examination in
60 the classification level tested shall be issued a certificate
61 of competency as a master electrician, journeyman electrician
62 or helper electrician, as the case may be. A certificate of
63 competency must be renewed each year upon the payment of
64 a renewal fee of four dollars. All certificates of competency
65 shall expire on the thirtieth day of June following their
66 issuance or renewal, as the case may be. The state fire
67 marshal is hereby authorized and empowered to promulgate
68 rules and regulations, pursuant to the provisions of chapter
69 twenty-nine-a of this code, to implement the provisions of
70 this section. Notwithstanding the foregoing provisions of this
71 subsection, any applicant for a certificate of competency
72 who shall, within six months from the effective date of this
73 section, furnish to the state fire marshal evidence satis-
74 factory to him that such applicant is working as an
75 electrician in this state on the effective date of this
76 section and who has been so working for a period of one
77 year immediately prior thereto shall be granted, without
78 examination, a certificate of competency in the classification
79 level in which qualification is established, upon payment
80 of an original certification fee of ten dollars, and, if at
81 the time of application, any such applicant holds an unexpired
82 municipal electrician’s license issued by any municipality
83 within this state, the classification level shown on such
84 municipal electrician’s license shall be conclusive evidence
85 of the qualification of such applicant for a certificate of
86 competency at the same classification level. All fees required
87 to be paid by the provisions of this section shall be paid
88 to the state fire marshal and thereafter deposited by him
89 with the state treasurer for deposit in the general revenue
90 fund of this state.

(d) Notwithstanding any other provision of law, charter
or ordinance to the contrary, on and after the effective
date of this section, no municipality may require any
electrician holding an unexpired certificate of competency
to obtain any type of municipal electrician's license as a
condition precedent to performing electrical work within the
jurisdictional limits of such municipality or charge any license
fee therefor.

(e) Every municipality which enacts an ordinance pursuant
to the provisions of subsection (a) of this section shall have
plenary power to take such action as is necessary to make
certain there is full compliance with the provisions of this
section.

CHAPTER 87
(Senate Bill No. 460—By Mr. Brotherton, Mr. President)

[Passed April 7, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eighteen, article twelve,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, authorizing every muni-
cipality to sell, lease as lessor or otherwise dispose of any of
its real or personal property or any interest therein or any part
thereof; specifying detailed provisions concerning any such sale,
lease or other disposition; requiring resolution of governing
body for such lease as lessor; and specifying that such power
and authority to lease as lessor shall be in addition to and not
in derogation of any power and authority vested in any muni-
cipality under any constitutional or other statutory provision.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND AL-
LIED RELATIONS OF MUNICIPALITIES, GOVERN-
ING BODIES AND MUNICIPAL OFFICERS AND EM-
PLOYEES; SUITS AGAINST MUNICIPALITIES.
PART VI. SALE, LEASE OR DISPOSITION
OF OTHER MUNICIPAL PROPERTY.

§8-12-18. Sale, lease or disposition of other municipal property.

(a) Every municipality may sell, lease as lessor or dispose of any of its real or personal property or any interest therein or any part thereof (other than a public utility which shall be sold or leased in accordance with the provisions of section seventeen of this article) as authorized in article five, chapter one of this code, or to the United States of America or any agency or instrumentality thereof for a public purpose for an adequate consideration, without considering alone the present commercial or market value of such property.

(b) In all other cases involving a sale, any municipality is hereby empowered and authorized to sell any of its real or personal property or any interest therein or any part thereof for a fair and adequate consideration, such property to be sold at public auction at a place designated by the governing body, but before making any such sale, notice of the time, terms and place of sale, together with a brief description of the property to be sold, shall be 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 municipality. The requirements of notice and public auction shall not apply to the sale of any one item or piece of property of less value than one thousand dollars, and under no circumstances shall the provisions of this section be construed as being applicable to any transaction involving the trading in of municipally owned property on the purchase of new or other property for the municipality, and every municipality shall have plenary power and authority to enter into and consummate any such trade-in transaction.

(c) In all other cases involving a lease, any municipality is hereby empowered and authorized to lease as lessor any of its real or personal property or any interest therein or any part thereof for a fair and adequate consideration and for a term not exceeding thirty years. Every such lease shall be authorized by resolution of the governing body of such municipality, which resolution may specify terms
and conditions which must be contained in such lease:

Provided, That before any such proposed lease is authorized by resolution of the governing body, a public hearing on such proposed lease shall be held by such governing body after 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. The power and authority granted in this subsection shall be in addition to and not in derogation of any power and authority vested in any municipality under any constitutional or other statutory provision now or hereafter in effect.

CHAPTER 88

(Com. Sub. for Senate Bill No. 111—By Mr. Palumbo and Mr. Gilligan)

[Passed March 26, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-two-a, relating to the investment of municipal funds.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. TAXATION AND FINANCE.

§8-13-22a. Investment of municipal funds.

1 All municipal funds the investment of which is not governed by other provisions of this code and not required for the payment of current obligations may be invested by the treasurer in the following classes of securities and accounts and not otherwise; which securities and accounts mature on such dates as will make available such amount of cash as is required:
(a) Certificates or other obligations of the United States or for which the full faith and credit of the United States is pledged.

(b) Certificates of deposit secured by (1) obligations of the United States of America, (2) general obligation or revenue bonds of the state of West Virginia, (3) general obligation bonds of any other state, (4) general obligation bonds of any county in this state or of any county board of education in this state, or (5) general obligation bonds of any municipality in this state.

(c) Interest bearing savings accounts in banking institutions, the accounts of which are insured by the federal deposit insurance corporation, or in federal savings and loan associations, the accounts of which are insured by the federal savings and loan insurance corporation, or in building and loan associations, the accounts of which are insured by the federal savings and loan insurance corporation: Provided, That an investment in any such savings account in excess of the amount thereof which would be insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, as the case may be, shall not be made unless such banking institution, federal savings and loan association or building and loan association provides adequate bond or other adequate security for the amount of the proposed municipal investment in excess of such insurance coverage, the adequacy of any such bond or other security to be determined by the treasurer of such municipality.

CHAPTER 89

(House Bill No. 1254—By Mr. Potter)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]
the establishment of reserves out of the proceeds from
the sale of revenue bonds.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FI-
NANCING.

§8-16-7. Ordinance for construction, etc., of works.

§8-16-10. Items of expense included in cost of works.

§8-16-17. Sinking fund; sinking fund commission; transfer of funds; purchase
of outstanding bonds.

§8-16-7. Ordinance for construction, etc., of works.

1 Before any municipality or municipalities shall, under the
2 provisions of this article, construct, reconstruct, establish,
3 acquire, improve, renovate, extend, enlarge, increase, equip or
4 repair (including replacements) any municipal public works,
5 the governing body, or the governing body of each partici-
6 pating municipality, shall enact an ordinance or ordinances,
7 which shall (a) set forth a brief and general description of the
8 works, including a reference to the preliminary report or
9 plans and specifications which shall theretofore have been
10 prepared; (b) set forth the estimated cost thereof; (c)
11 order the construction, reconstruction, establishment, acquisi-
12 tion, improvement, renovation, extension, enlargement, in-
13 crease, equipment or repair (including replacements) of such
14 works; (d) direct that municipal revenue bonds be issued
15 pursuant to this article, in such amount as may be found
16 necessary to pay the cost of the works; (e) contain such
17 provisions as the governing body determines are necessary
18 or desirable with regard to the establishment and setting
19 aside of reserves from the proceeds of such revenue bonds
20 or from the revenues of said works, or from both, and the
21 administration and disposition thereof; and (f) contain such
22 other provisions as may be necessary or proper in the premises.

When two or more municipalities take joint action under
the provisions of this article, a certified copy of each such
ordinance shall be filed in the office of the clerk of the county
court of the county or counties in which the municipalities are
located and in the office of the state tax commissioner, and
when any such municipality is located in more than one county, the filing for that municipality shall be in the office of the clerk of the county court in which the major portion of the territory of such municipality is located. Before any such ordinance shall become effective, an abstract of the ordinance, determined by the governing body or each governing body, as the case may be, to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be 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 such municipality or each such municipality, as the case may be. The notice to be published with said abstract of the ordinance shall specify a date, time and place for a public hearing, the date being not less than ten days after the first publication of said abstract and notice at which time and place all parties and interests may appear before the governing body of the municipality or each such municipality and may be heard as to whether or not said ordinance shall be put into effect, and said notice shall also identify the office in which a certified copy of such ordinance shall be on file for review by interested persons during the office hours of such office. At such hearing all objections and suggestions shall be heard and the governing body or each such governing body shall take such action as it or they shall deem proper in the premises: Provided, That if at any such hearing written protest is filed by thirty percent or more of the freeholders of the municipality for which the hearing is held, then the governing body of said municipality shall not take further action unless four fifths of the members of said governing body assent thereto: Provided, however, That in case written protest is filed by thirty percent or more of the freeholders as herein provided, any such governing body shall have authority to appoint a committee to consist of one proponent, one opponent, and the third to be selected by these two, to determine whether or not thirty percent of the freeholders have in fact protested and said committee shall report its findings to any such governing body.

§8-16-10. Items of expense included in cost of works.

The cost of the works shall be deemed to include the cost of
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construction, reconstruction, establishment or acquisition there-
of, the cost of all land, rights, easements, rights-of-way, fran-
chises and other property, real or personal, deemed necessary,
appropriate, useful, convenient or incidental therefor or there-
to and for the improvement, renovation, extension, enlarge-
ment, increase, equipment or repair (including replacements)
determined upon; the interest upon bonds prior to and during
the project and for six months after completion thereof; the
amount of any reserve funded from the proceeds of bonds;
engineering and legal expenses; expenses for estimates of cost
and of revenues; expenses for plans, specifications and sur-
veys; other expenses necessary or incident to determining the
feasibility or practicability of the enterprise; administrative ex-
penses; and such other expenses as may be necessary or inci-
dent to the financing herein authorized, the project, the plac-
ing of the works in operation and the performance of the things
herein required or permitted in connection with any thereof.

§8-16-17. Sinking fund; sinking fund commission; transfer of funds;
purchase of outstanding bonds.

Before the issuance of any such bonds, the governing body
or bodies shall, by ordinance or ordinances, provide for a sink-
ing fund for the payment of the bonds and the interest there-
on, and the payment of the charges of banking institutions or
trust companies for making payment of such bonds and inter-
est, out of the net revenues of said works, and shall set aside
and pledge a sufficient amount of the net revenues of the works
hereby defined to mean the revenues of the works remaining
after the payment of the reasonable expenses of repair (includ-
ing replacements), maintenance and operation, such amount
to be paid by the board into the sinking fund at intervals, to
be determined by ordinance or ordinances adopted prior to the
issuance of the bonds, for (a) the interest upon such bonds as
such interest shall fall due; (b) the necessary fiscal agency
charges for paying bonds and interest; (c) the payment of the
bonds as they fall due, or if all bonds mature at one time, the
proper maintenance of a sinking fund sufficient for the pay-
ment thereof at such time; and (d) a margin for safety and for
the payment of premium upon bonds retired by call or pur-
chase as herein provided, which margin, together with unused
surplus of such margin carried forward from the preceding
year and the amounts set aside as reserves out of the proceeds
from the sale of the bonds, or from the revenues of said works,
or from both, shall equal ten percent of all other amounts so
required to be paid into the sinking fund. Such required pay-
ments shall constitute a first charge upon all the net revenues
of the works. Prior to the issuance of the bonds, the board
may, by ordinance or ordinances, be given the right to use or
direct the trustee or the state sinking fund commission to use
such sinking fund, or any part thereof, in the purchase of any
of the outstanding bonds payable therefrom, at the market
prices thereof, but not exceeding the price, if any, at which
the same shall in the same year be payable or redeemable, and
all bonds redeemed or purchased shall forthwith be cancelled,
and shall not again be issued. After the payments into the
sinking fund as herein required and after reserving an amount
deemed by the board sufficient for repair (including replace-
ments), maintenance and operation for an ensuing period of
not less than twelve months and for depreciation, the board
may at any time in its discretion transfer all or any part of the
balance of the net revenues into the sinking fund or into a
fund for improvement, renovation, extension, enlargement, in-
crease or equipment for or to the works, or the governing body
or bodies may, notwithstanding the provisions of section twen-
ty, article thirteen of this chapter, transfer all or any part of
the balance of the net revenues to the general or any special
fund of the municipality or municipalities and use such reve-
 nues for any purpose for which such general or special fund
may be expended.

All amounts for the sinking fund and interest, as and when
set apart for the payment of same, shall be remitted to the
state sinking fund commission at such periods as shall be de-
signated in the ordinance or ordinances, but in any event at
least thirty days previous to the time interest or principal pay-
ments become due, to be retained and paid out by said com-
mission consistent with the provisions of this article and the
ordinance or ordinances pursuant to which such bonds have
been issued. The state sinking fund commission is hereby au-
thorized to act as fiscal agent for the administration of such
sinking fund under any ordinance or ordinances passed or
adopted pursuant to the provisions of this article and shall
invest all sinking funds as provided by general law.

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CHAPTER 90

(House Bill No. 1007—By Mr. Seibert)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article eighteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal corporations; assessments to improve streets, sidewalks and sewers; providing that the rate of interest on assessments shall be eight percent a year.

Be it enacted by the Legislature of West Virginia:

That section four, article eighteen, 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 18. ASSESSMENTS TO IMPROVE STREETS, SIDEWALKS AND SEWERS; SEWER CONNECTIONS AND BOARD OF HEALTH.

PART II. PROCEDURES RELATED TO IMPROVEMENTS AND ASSESSMENTS.

§8-18-4. Ordinance or resolution authorizing improvements; approval of plans, specifications and estimates; provisions for advertisement of bids and payment of cost; default.

1 After hearing held pursuant to notice as provided in section three of this article, the governing body, by ordinance or resolution, may authorize such improvements and the assessing of the total cost or any part thereof on abutting property as herein provided. In the same or subsequent ordinances or resolutions, but before advertising for bids from contractors, the governing body shall cause to be prepared plans, specifications and estimates of the cost of the proposed improvements under the supervision of the engineer for the municipality. Such plans, specifications and estimates shall show the
proposed grade and sufficient data for any owner of abutting
property to calculate approximately what proportionate part
of the estimated cost thereof might be assessed against his
property, and shall be filed with the recorder and open
to the inspection of interested persons before advertise-
ment for bids of contractors and before the meeting at
which such bids may be accepted or rejected. Before
advertising for bids of contractors, such governing body
shall consider said plans, specifications and estimates and
may amend or modify them, and before advertising for
bids shall by ordinance or resolution approve such plans,
specifications and estimates as so amended and modified.
Such ordinance or resolution shall also provide for ad-
vertisement for bids, for the letting of a contract or contracts
for the work to the lowest responsible bidder, with right
reserved to such governing body to reject any and all bids,
and shall provide for supervision of such work by the mayor,
city manager, if any, municipal engineer, if any, or other
person or committee designated by the governing body. Such
ordinance or resolution shall also provide for payment of the
cost of the work when completed. The governing body shall
provide in such ordinance or resolution for the payment by
abutting property owners of the cost of the work in equal in-
stallments payable over a period of not less than five years
nor more than ten years from the date of assessment, with
interest not to exceed eight percent a year from the date
of assessment, and in said ordinance or resolution the govern-
ing body shall fix the number of installments in which the
amounts assessed shall be payable: Provided, That each of
said assessments or the installments thereof remaining
unpaid shall be payable at any time after assessment without
interest after the date such payment is made: Provided,
however, That on failure of the owner of the property assessed
to pay any installment as and when due, and if such default
continues for sixty days, then at the option of the governing
body (if neither assessment certificates nor bonds are issued as
hereinafter in this article provided), or the holder of the
assessment certificates (if the assessments are evidenced by
such certificates), or the holder of any bonds secured by such
assessments (if bonds are issued), the entire balance due may
be declared immediately due and payable and the munici-
pality, or the holder of the certificates, or bonds, as the case may be, may forthwith proceed to enforce the collection thereof. Provided further, That if the amounts to be assessed against abutting property be less than two dollars for each abutting front foot of property, then said governing body is authorized to make the same payable in one lump sum or in installments, with interest, over a period of less than five years from the date of assessment.

CHAPTER 91

(Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section thirty-six, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to urban and rural planning and zoning; improvement location permits; conformity of structure to comprehensive plan and ordinance.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 24. INTERGOVERNMENTAL RELATIONS — URBAN AND RURAL PLANNING AND ZONING.

PART VI. URBAN AND RURAL PLANNING—IMPROVEMENT LOCATION PERMITS.

§8-24-36. Improvement location permits—Conformity of structure to comprehensive plan and ordinance.

1 After a comprehensive plan and an ordinance containing provisions for subdivision control and the approval of plats and replats have been adopted and a certified copy of the ordinance has been filed with the clerk of the county court as aforesaid, within the corporate limits of the municipality, a structure shall not be located and an improvement location permit for a structure on platted or unplatted lands shall not
be issued unless the structure and its location conform to the
city's comprehensive plan and ordinance. A structure
shall not be located and an improvement location permit shall
not be issued for a structure on unincorporated lands within
the jurisdiction of the county planning commission unless the
structure and its location conform to the county's compre-
hensive plan and ordinance.

CHAPTER 92
(Senate Bill No. 421—By Mr. Oates and Mrs. Leonard)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter eight of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, by adding there-
to a new article, designated article twenty-six-a, relating to munici-
pal and county historic landmarks commissions; setting forth
certain legislative determinations; authorizing any municipality
or county to establish a municipal historic landmarks com-
mission or county historic landmarks commission; relating to
the appointment of members thereto; relating to provisions
to be included in the ordinance or order establishing any
such commission; authorizing the employment of employees,
assistants, technical personnel and consultants; authorizing any
municipality or county to appropriate funds to any such com-
mission; setting forth the powers and duties of any such com-
mission; relating to agreements and restrictions concerning
landmarks; relating to assistance of other agencies; and pro-
viding that every such commission shall cooperate and co-
ordinate its activities with the West Virginia department of
archives and history and the West Virginia antiquities com-
mission.

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
there to a new article, designated article twenty-six-a, to read
as follows:
ARTICLE 26A. MUNICIPAL AND COUNTY HISTORIC LANDMARKS COMMISSIONS.

§8-26A-1. Legislative determinations.

§8-26A-2. Municipality or county may establish historic landmarks commission; appointments; detailed provisions to be provided by ordinance or order; appropriation of funds.


§8-26A-4. Restrictions on use of property designated an historic landmark.

§8-26A-5. Notice to county assessor of designation of historic district.

§8-26A-6. Assistance of state agencies; coordination.

§8-26A-1. Legislative determinations.

It is hereby declared as a matter of legislative determination:

1. That the state of West Virginia is richly endowed with numerous historic buildings, structures and sites which have a close and immediate relationship to the values upon which this state and the nation were founded;

2. That such historic buildings, structures and sites can best be identified, studied, preserved and protected for the benefit of residents of this state and this nation by authorizing and empowering action for this purpose at the local level;

3. That the preservation and protection of such historic buildings, structures and sites aid the development of education in this state;

4. That there is little hope of preserving and protecting such historic buildings, structures and sites unless recognition is provided for the owners thereof in order that the same should be preserved and protected; and

5. That the Legislature hereby finds that it is in the best interest of the education and general welfare of the people of this state and nation to identify, study, preserve and protect historic buildings, structures and sites in this state and this article shall be broadly construed in order to accomplish the purposes herein set forth.

§8-26A-2. Municipality or county may establish historic landmarks commission; appointments; detailed provisions to be provided by ordinance or order; appropriation of funds.

Any municipality by ordinance and any county by order of the county court entered of record may, if it so desires,
establish a municipal historic landmarks commission or county
historic landmarks commission, hereinafter in this article
referred to as the commission, to consist of five members, ap-
pointed by the mayor or county court, as the case may be.

In any such ordinance or order, the governing body shall
include provisions specifying (1) the terms of the members
of such commission; (2) a method of filling vacancies; (3)
whether the members of the commission are to be reim-
bursed for all reasonable and necessary expenses actually incur-
ed in the performance of their duties; (4) the officers of the
commission to be elected from the membership thereof;
(5) requirements as to meetings of the commission; (6) re-
quirements as to a quorum of the commission; (7) require-
ments as to voting by members of the commission; and (8)
such other matters as may be deemed necessary or desirable
for the proper functioning of the commission.

Any such commission may also be authorized and em-
powered by any such ordinance or order to employ, within
the limits of funds available therefor, such employees, assis-
tants, technical personnel and consultants as are necessary
to discharge the duties and responsibilities of the com-
mission.

Any municipality or county establishing any such com-
mission shall have plenary power and authority to appropriate
funds to such commission for expenditure by the com-
mission for the purposes of this article.


Any such commission shall have plenary power and
authority, within the jurisdictional limits of the municipality
or county, as the case may be, and within the limits of
available funds, to:

(1) Make a survey of, and designate as historic landmarks,
buildings, structures and sites which constitute the principal
historical and architectural sites which are of local, regional,
statewide or national significance. No building, structure or
site shall be deemed to be an historic one unless it has been
prominently identified with, or best represents, some major
aspect of the cultural, political, economic, military or social
history of the locality, region, state or nation, or has had a
major relationship with the life of an historic personage or event representing some major aspect of, or ideals related to, the history of the locality, region, state or nation. In the case of buildings or structures which are to be so designated, they shall embody the principal or unique features of an architectural type or demonstrate the style of a period of our history or method of construction, or serve as an illustration of the work of a master builder, designer or architect whose genius influenced the period in which he worked or has significance in current times;

(2) Prepare a register of buildings, structures and sites which meet the requirements of subdivision (1) of this section, publish lists of such properties and, with the consent of the property owners, inspect such properties from time to time and publish a register thereof from time to time setting forth appropriate information concerning the registered buildings, structures and sites;

(3) With the consent of the property owners, certify and mark with appropriately designed markers, buildings, structures and sites which it has registered;

(4) Establish standards for the care and management of certified landmarks and withdraw such certification for failure to maintain the standards so prescribed;

(5) Acquire by purchase, gift or lease and administer registered landmarks and easements and interests therein, both real and personal;

(6) Lease or sell property so acquired under terms and conditions designed to insure the proper preservation of the landmark in question;

(7) Establish historic districts for registered landmarks, utilizing the same guidelines set forth in subdivision (1) above, and designate the area thereof by appropriate markers;

(8) Identify historical districts for registered landmarks and aid and encourage the municipality or county in which the district or landmark is located to adopt rules and regulations for the preservation of historical or architectural values;

(9) Prepare and place historical markers on or along the highway or street closest to the location which is intended to be identified by such marker;
(10) Seek the advice and assistance of individuals, groups and departments and agencies of government who or which are conducting historical preservation programs and coordinate the same insofar as possible;

(11) Seek and accept gifts, bequests, endowments and funds from any and all sources for the accomplishment of the functions of the commission;

(12) Adopt rules and regulations concerning the operation of the commission, the functions and responsibilities of its officers, employees, assistants and other personnel and such other matters as may be necessary to carry out the purposes of this article; and

(13) Adopt such other rules and regulations as may be deemed necessary to effectuate the purposes of this article, but no such rules and regulations shall be inconsistent with the provisions of this article or with any plan of the planning commission of such municipality or county.

§8-26A-4. Restrictions on use of property designated an historic landmark.

Whenever any such commission, with the consent of the property owner, certifies property as being a registered landmark, it may seek and obtain from such property owner an agreement as to such restrictions upon the use of the property as the commission finds are reasonable and are calculated to perpetuate and preserve the features which led it to designate such property as an historical landmark. All such agreements between such commission and the property owner shall be in writing, and when duly signed and acknowledged, shall be recorded in the office of the clerk of the county court of the county wherein such landmark is located and when so recorded shall be notification to the assessor of such county of the restrictions therein set forth.

§8-26A-5. Notice to county assessor of designation of historic district.

When any such commission establishes an historic district, it shall notify the county assessor of the county in which such district or any part thereof is located of the fact of such es-
establishment and the boundaries of the district, together with
the restrictions which are applicable to the properties located
in such district which have been mutually agreed upon by such
commission and the owners of property within such district.
The agreement shall be recorded in the same manner as the
recording of agreements between the commission and owners
of designated landmarks entered into pursuant to the provi-
sions of section four of this article. The county assessor shall
take such factors into consideration in assessing the proper-
ties therein.

§8-26A-6. Assistance of state agencies; coordination.
Upon the request of any such commission, all agencies of
the state shall assist such commission in the discharge of its
duties and functions.
Every such commission shall cooperate and coordinate its
activities with the West Virginia department of archives and
history, the West Virginia historical society and the West Vir-
ginia antiquities commission, with the view of developing a uni-
fied program for the identification, study, preservation and
protection of all historic buildings, structures and sites in this
state.

CHAPTER 93
(House Bill No. 1185—By Mr. Dinsmore and Mr. Jones, of Monongalia)
[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article thirty-two, chapter
eight of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, authorizing counties and municipalities
to make appropriations or convey or lease property to certain
nonstock, nonprofit corporations for public purposes, subject
to certain specified limitations.

Be it enacted by the Legislature of West Virginia:
That section one, article thirty-two, chapter eight of the code of
West Virginia, one thousand nine hundred thirty-one, as amended,
be amended and reenacted to read as follows:
ARTICLE 32. INTERGOVERNMENTAL RELATIONS—CONTRIBUTIONS TO OR INVOLVEMENT WITH NONSTOCK, NONPROFIT CORPORATIONS FOR PUBLIC PURPOSES.

PART I. MUSEUMS; CULTURAL CENTERS, ETC.

§8-32-1. Legislative findings; authority of municipalities and counties to make appropriations, conveyances or leases; limitations and restrictions.

(a) The Legislature hereby finds that the support of nonstock, nonprofit corporations dedicated to making available to the general public (1) museums, historic landmarks, facilities or cultural centers for the appreciation, advancement or enjoyment of art, crafts, music, dance, drama, nature, science or other educational and cultural activities or (2) parks, playgrounds, athletic fields, stadiums, swimming pools, skating rinks, arenas or other public park and recreational facilities for the promotion, advancement or enjoyment of education, recreation and health is for the general welfare of the public and is a public purpose. This section is enacted in view of this finding and shall be liberally construed in the light thereof.

(b) When a nonstock, nonprofit corporation, chartered under the laws of this state, (1) is organized for the construction, maintenance or operation of (i) museums, historic landmarks, facilities or cultural centers for the appreciation, advancement or enjoyment of art, crafts, music, dance, drama, nature, science or other educational and cultural activities or (ii) parks, playgrounds, athletic fields, stadiums, swimming pools, skating rinks, arenas or other public park and recreational facilities for the promotion, advancement or enjoyment of education, recreation and health and provides in its charter that its buildings or facilities, or a designated portion thereof, shall be devoted to the use by the public for all purposes set forth in such charter without regard to race, sex, religion, national origin or economic circumstance, and free from charge except such as is necessary to provide the means to keep the buildings, facilities and grounds in proper condition and repair, and to pay the cost of insurance, care, management, operations, teaching and attendants, so that the general public may have the benefit of such establishment for the uses set forth in such corporation's charter at as little expense as possible, (2) provides in its
charter that no member trustee, or member of the board of directors (by whatever name the same may be called), of the corporation shall receive any compensation, gain or profit from such corporation, and (3) is operated in compliance with such charter provisions as aforesaid, then, notwithstanding any statutory or municipal charter provisions to the contrary, any municipality in which such nonstock, nonprofit corporation is operating or which is or will be served by such nonstock, nonprofit corporation, if any, and the county court of any county in which such nonstock, nonprofit corporation is operating or which is or will be served by such nonstock, nonprofit corporation, may appropriate funds, subject to the provisions and limitations set forth in subsections (c) and (d) of this section, to such nonstock, nonprofit corporation, for such public purposes or convey or lease real or personal property, with or without consideration, to such nonstock, nonprofit corporation, for such public purposes, except that no such conveyance or lease may be made by a municipality or a county court to such nonstock, nonprofit corporation for any of the public purposes set forth in (2) of subsection (a) of this section if such county has a county parks and recreation commission or board operating in or for such county, or participates in a consolidated recreation commission or board with a municipality as the case may be: Provided, That if at any time such property ceases to be used for such public purposes, it shall by operation of law revert to and vest in the municipality or county court which conveyed or leased the same and such nonstock, nonprofit corporation shall thereafter have no right, title or interest therein or thereto.

In every such case, the governing body of any such municipality or any such county court and such corporation may agree for the appointment of additional members to the board of directors of such corporation by such governing body or county court, either as regular members or in an ex officio capacity.

(c) No funds appropriated by a municipality or county court under the authority of this section shall be disbursed by any such nonstock, nonprofit corporation unless and until the expenditure thereof has been approved by the governing body of such municipality or any such county court, as the case may be, which made such appropriation, and such corporation
shall upon demand at any time make a full and complete accounting of all such funds to such governing body or county court, as the case may be, and shall in every event without demand make to such governing body or county court an annual accounting thereof.

(d) Under no circumstances whatever shall any action taken by any municipality or county court under the authority of this section give rise to or create any indebtedness on the part of the municipality, the governing body of such municipality, the county, such county court, any member of such governing body or the county court or any municipal or county official or employee.

CHAPTER 94

(House Bill No. 1111—By Mr. Romine and Mr. Rollins)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one-f, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to leave of absence for public officials and employees for national guard or military reserve drills, parades, etc.

Be it enacted by the Legislature of West Virginia:

That section one, article one-f, 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 1F. PRIVILEGES AND PROHIBITIONS.

§15-1F-1. Leave of absence for public officials and employees for drills, parades, etc.

All officers and employees of the state, or subdivisions or municipalities thereof, who shall be members of the national guard or any military reserve unit of the United States armed services, shall be entitled to leave of absence from their respective offices or employments without loss of pay, status or efficiency rating, on the days during which they shall be en-
engaged in drills, parades or other duty, during business hours
ordered by proper authority, or for field training or active ser-
vice of the state for a maximum period of thirty days in any
one calendar year. The term “without loss of pay” means that
the officer or employee shall continue to receive his normal
salary or compensation, notwithstanding the fact that such
officer or employee may have received other compensation
from federal or state sources during the same period. Benefits
of this section shall not accrue to individuals ordered or called
to active duty by the president.

CHAPTER 95

(House Bill No. 571—By Mr. Ballouz)

[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article one, chapter
twenty of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to the additional powers, du-
ties and services of the director of the department of natural
resources and payment of moving expenses of employees.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-7. Additional powers, duties and services of director.

1 In addition to all other powers, duties and responsibilities
2 granted and assigned to the director in this chapter and else-
3 where by law, the director is hereby authorized and empower-
4 ed to:

5 (1) With the advice of the commission, prepare and ad-
6 minister, through the various divisions created by this chap-
7 ter, a long-range comprehensive program for the conservation
8 of the natural resources of the state which best effectuates the
9 purpose of this chapter and which makes adequate provisions
10 for the natural resources laws of the state;
11 (2) Sign and execute in the name of the state by the “de-
12 partment of natural resources” any contract or agreement with
13 the federal government or its departments or agencies, subdi-
14 visions of the state, corporations, associations, partnerships
15 or individuals;
16 (3) Conduct research in improved conservation methods
17 and disseminate information matters to the residents of the
18 state;
19 (4) Conduct a continuous study and investigation of the
20 habits of wildlife, and for purposes of control and protection
21 to classify by regulation the various species into such cate-
22 gories as may be established as necessary;
23 (5) Prescribe the locality in which the manner and method
24 by which the various species of wildlife may be taken, or
25 chased, unless otherwise specified by this chapter;
26 (6) Fix by regulation the open seasons and the bag, creel,
27 size, age, weight and sex limits with respect to wildlife in this
28 state;
29 (7) Hold at least six meetings each year at such time and at
30 such points within the state, as in the discretion of the direc-
31 tor may appear to be necessary and proper for the purpose of
32 giving interested persons in the various sections of the state an
33 opportunity to be heard concerning open season for their re-
34 spective areas, before such season and bag limits are fixed;
35 (8) Suspend open hunting season upon any or all wildlife
36 in any or all counties of the state with the prior approval of
37 the governor in case of an emergency such as a drought, for-
38 est fire hazard or epizootic of disease among wildlife. The sus-
39 pension shall continue during the existence of the emergency
40 and until rescinded by the director. Suspension, or reopening
41 after such suspension, of open seasons may be made upon
42 twenty-four hours’ notice by delivery of a copy of the order of
43 suspension or reopening to the wire press agencies at the state
44 capitol;
45 (9) Supervise the fiscal affairs and responsibilities of the
46 department;
(10) Designate such localities as he shall determine to be necessary and desirable for the perpetuation of any species of wildlife;

(11) Enter private lands to make surveys or inspections for conservation purposes, to investigate for violations of provisions of this chapter, to serve and execute warrants and processes, to make arrests and to otherwise effectively enforce the provisions of this chapter;

(12) Acquire for the state in the name of the "department of natural resources" by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the department of natural resources, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he deems suitable for the following purposes:

(a) For state forests for the purpose of growing timber, demonstrating forestry, furnishing or protecting watersheds or providing public recreation;

(b) For state parks or recreation areas for the purpose of preserving scenic, esthetic, scientific, cultural, archaeological or historical values or natural wonders, or providing public recreation;

(c) For public hunting, trapping, or fishing grounds or waters for the purpose of providing areas in which the public may hunt, trap or fish, as permitted by the provisions of this chapter, and the rules and regulations issued hereunder;

(d) For fish hatcheries, game farms, wildlife research areas and feeding stations;

(e) For the extension and consolidation of lands or waters suitable for the above purposes by exchange of other lands or waters under his supervision;

(f) For such other purposes as may be necessary to carry out the provisions of this chapter;

(13) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;
(14) Sell, with the approval in writing of the governor, timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. When the appraised value of the timber to be sold is more than five hundred dollars, the director, before making sale thereof, shall receive sealed bids therefor, after notice by publication 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 each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with, and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold, shall be paid to the treasurer of the state of West Virginia, and shall be credited to the department and used exclusively for the purposes of this chapter;

(15) Sell or lease, with the approval in writing of the governor, coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The director, before making sale or lease thereof, shall receive sealed bids therefor, after notice by publication 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 each county in which such lands are located. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performance of the sales contract or lease as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise the bids. The proceeds arising from any such sale or lease shall be paid to the treasurer of the state of West Virginia and shall be credited to the department and used exclusively for the purposes of this chapter;

(16) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(17) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;

(18) Report to the governor each year all information relative to the operation and functions of his department and he shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disbursements of the department of each fiscal year, and he shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;

(19) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody and preservation of all papers and documents pertaining to his office, except as otherwise provided by law;

(20) Offer and pay, in his discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators, of any of the provisions of this chapter;

(21) Require such reports as he may deem to be necessary
from any person issued a license or permit under the provi-
sions of this chapter, but no person shall be required to dis-
close secret processes or confidential data of competitive
significance;

(22) Purchase as provided by law all equipment necessary
for the conduct of his department;

(23) Conduct and encourage research designed to further
new and more extensive uses of the natural resources of this
state and to publicize the findings of such research;

(24) Encourage and cooperate with other public and pri-

tate organizations or groups in their efforts to publicize the
attractions of the state;

(25) Accept and expend, without the necessity of appro-

riation by the Legislature, any gift or grant of money made
to the department for any and all purposes specified in this
chapter, and he shall account for and report on all such re-
ceipts and expenditures to the governor;

(26) Cooperate with the state historian and other appro-

riate state agencies in conducting research with reference to
the establishment of state parks and monuments of historic,
scenic and recreational value, and to take such steps as may
be necessary in establishing such monuments or parks as he
deems advisable;

(27) Maintain in his office at all times, properly indexed
by subject matter, and also, in chronological sequence, all
rules and regulations made or issued under the authority of
this chapter. Such records shall be available for public inspec-
tion on all business days during the business hours of work-
ing days;

(28) Delegate the powers and duties of his office, except
the power to execute contracts, to appointees and employees
of the department, who shall act under the direction and sup-
ervision of the director and for whose acts he shall be respon-
sible;

(29) Conduct schools, institutes and other educational pro-
grams, apart from or in cooperation with other governmental
agencies, for instruction and training in all phases of the
natural resources programs of the state;
(30) Authorize the payment of all or any part of the reasonable expenses incurred by an employee of the department in moving his household furniture and effects as a result of a reassignment of the employee: Provided, That no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months; and

(31) Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, however, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.

CHAPTER 96

(Senate Bill No. 2009—By Mr. Hubbard)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section forty-four-b, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to Class J national forest fishing license.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

§1. Repeal of section relating to Class J national forest fishing license.

Section forty-four-b, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, is hereby repealed.
AN ACT to amend and reenact section eleven, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section fifteen, article five of said chapter, relating to natural resources; relating to the cleanliness and improvement of highways, roads, streets, alleys and other public areas and ways; making it unlawful to place, deposit, dump or throw or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter in or upon any public or private highway, road, street or alley, or upon certain land, private property or any public park or property; specifying that certain activities shall be prima facie evidence that the owner and driver of a motor vehicle intended to violate the prohibitions set forth in said section eleven; relating to the duties of commissioner of motor vehicles; requiring the posting of appropriate signs concerning the maximum penalty for littering; making it unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter into any river, stream, creek, branch, brook, lake or pond, or upon the surface of certain land; providing certain exceptions to the prohibitions contained in said sections eleven and fifteen; specifying that certain activities shall be prima facie evidence of intent to violate the prohibitions set forth in said section fifteen; relating to enforcement authority; providing criminal offenses and penalties; and authorizing the suspension of the execution of any sentence imposed for violating any of the above-stated prohibitions, such suspension to be conditioned upon the performance of certain work.
Be it enacted by the Legislature of West Virginia:

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

Article 4. Parks and Recreation.

ARTICLE 4. PARKS AND RECREATION.

§20-4-11. Highway beautification; unlawful disposal of litter, etc.; notice of section violations; evidence; enforcement; penalties; removal of litter.

1 The director of the department of natural resources in cooperation with the commissioner of highways, the department of public safety, the United States forestry service, and other local, state and federal law-enforcement agencies, shall be responsible for the administration and enforcement of all laws and regulations relating to the maintenance of cleanliness and improvement of appearances on and along highways, roads, streets, alleys and other public areas and ways of the state and shall make recommendations to the director from time to time concerning means and methods of accomplishing state highway beautification consistent with the provisions of this chapter.

It shall be unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter in or upon any public or private highway, road, street or alley, or upon the surface of any land within one hundred yards thereof without the consent of the owner, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than in such place as may be set aside for such purpose by the governing body having charge thereof.
If any such materials be thrown, cast, dumped or discharged from a motor vehicle in violation of the provisions hereof, such action shall be deemed prima facie evidence that the owner and driver of such motor vehicle intended to violate the provisions of this section.

The commissioner of motor vehicles, upon registering a motor vehicle or issuing an operator’s or chauffeur’s license, shall issue to the owner or licensee, as the case may be a copy of this section.

The commissioner of highways shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, informing those entering the state of the maximum penalty herein provided for disposing of litter in, upon and near highways and roads in violation of this section.

No portion of this section shall be construed to restrict a private owner in the use of his own private property or to prohibit the disposal of materials designated in this section in any manner authorized by law.

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than five hundred dollars or imprisoned in the county jail not more than six months, or both fined and imprisoned: Provided, That, in the discretion of the court, execution of any such sentence may be suspended upon the condition that such person pick up and remove from any area of any public or private highway, road, street or alley, private land or property with prior permission of the owner, or public park or other public property, the area to be specified by the court, any and all litter, garbage, refuse, trash, cans, bottles, papers, ashes, cigarette or cigar butts, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter placed, deposited, dumped or thrown thereon contrary to the provisions of this section by anyone prior to the date of such conviction. If execution of any such sentence is so suspended and the person convicted satisfies the condition upon which execution was suspended, he shall be discharged with like effect as if the sentence had been fully executed, and if
he does not satisfy such condition, then such sentence shall be executed.

ARTICLE 5. WATER RESOURCES.

§20-5-15. Litter along streams, etc.

It shall be unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter into any river, stream, creek, branch, brook, lake or pond, or upon the surface of any land within one hundred yards thereof, or in such location that high water or normal drainage conditions will cause any such materials or substances to be washed into any river, stream, creek, branch, brook, lake or pond.

No portion of this section shall be construed to restrict an owner, renter or lessee in the use of his own private property or rented or leased property or to prohibit the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of article five-a of this chapter. But if any owner, renter or lessee, private or otherwise, knowingly permits any such materials or substances to be placed, deposited, dumped or thrown in such location that high water or normal drainage conditions will cause any such materials or substances to wash into any river, stream, creek, branch, brook, lake or pond, it shall be deemed prima facie evidence that such owner, renter or lessee intended to violate the provisions of this section.

In addition to enforcement by the director, the chief of the division of water resources, and the department's chief law-enforcement officer, the provisions of this section may be enforced by all other proper law-enforcement agencies.

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than five hundred dollars or imprisoned in the county jail not more than six months, or both fined and imprisoned: Provided, That, in the discretion of the court, execution of any such sentence may be suspended upon the condition that such
person pick up and remove from any area of a bank of any river, stream, creek, branch, brook, lake or pond or other property with prior permission of the owner, the area to be specified by the court, any and all litter, garbage, refuse, trash, cans, bottles, papers, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter placed, deposited, dumped or thrown contrary to the provisions of this section by anyone prior to the date of such conviction. If execution of any such sentence is so suspended and the person convicted satisfies the condition upon which execution was suspended, he shall be discharged with like effect as if the sentence had been fully executed, and if he does not satisfy such condition, then such sentence shall be executed.

CHAPTER 98

(Com. Sub. for Senate Bill No. 2057—By Mr. Gainer)

[Passed April 14, 1973; in effect July 1, 1973. 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-d; and to amend and reenact section forty-seven, article three, chapter sixty-one of said code, all relating to regulation and control of dams; short title of article; legislative findings, intent and purpose of article to regulate certain dams; definition of terms; general powers and duties of director of department of natural resources regarding dams; establishing maximum fee for certificate of approval; making it unlawful to place, construct, enlarge, alter, repair or remove certain dams without applying for and obtaining a certificate of approval from the director; plans and specifications for dams to be in charge of a registered professional engineer; granting or rejecting applications for certificate of approval by director; publication of notice of application; right to hearing upon application; content of certificates of approval for dams; revocation or suspension of certificates; inspections during progress of work on a dam; procedures for handling emergencies involving dams; requirements for dams completed prior
to effective date of article; requirements for dams under construction prior to effective date of article; dam owner not relieved of legal responsibilities by any provision of article; offenses and penalties; dams or obstructions in watercourses; penalty.

*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-d; and that section forty-seven, article three, chapter sixty-one of said code be amended and reenacted, all to read as follows:

Chapter
20. Natural Resources.
61. Crimes and Their Punishment.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5D. DAM CONTROL ACT.

§20-5D-1. Short title.
§20-5D-2. Legislative findings; intent and purpose of article.
§20-5D-3. Definition of terms used in article.
§20-5D-4. General powers and duties of director; maximum fee established for certificates of approval.
§20-5D-5. Unlawful to place, construct, enlarge, alter, repair or remove dam without certificate of approval; application required to obtain certificate.
§20-5D-6. Plans and specifications for dams to be in charge of registered professional engineer.
§20-5D-7. Granting or rejecting applications for certificate of approval by department; publication of notice of application; hearing upon application.
§20-5D-8. Content of certificates of approval for dams; revocation or suspension of certificates.
§20-5D-9. Inspections during progress of work on dam.
§20-5D-10. Procedures for handling emergencies involving dams; remedial actions to alleviate emergency; payment of costs of remedial actions to be paid by dam owner.
§20-5D-11. Requirements for dams completed prior to effective date of this article.
§20-5D-12. Requirements for dams under construction prior to effective date of article.
§20-5D-13. Dam owner not relieved of legal responsibilities by any provision of article.
§20-5D-14. Offenses and penalties.
§20-5D-1. Short title.

This article shall be known and cited as the "Dam Control Act."

§20-5D-2. Legislative findings; intent and purpose of article.

The Legislature finds that dams may constitute a potential hazard to people and property; therefore, dams in this state must be properly regulated and controlled to protect the health, safety and welfare of people and property in this state. It is the intent of the Legislature by this act to provide for the regulation and supervision of dams in this state to the extent necessary to protect the public health, safety and welfare. The Legislature has ordained this act to fulfill its responsibilities to the people of this state and to protect their lives and private and public property from the danger of a potential or actual dam failure.

§20-5D-3. Definition of terms used in article.

As used in this article, unless used in a context that clearly requires a different meaning, the term:

(a) "Alterations" or "repairs" means only those changes in the structure or integrity of a dam which may affect its safety, which determination shall be made by the director.

(b) "Application for a certificate of approval" means the request in writing by a person to the director requesting that such person be issued a certificate of approval.

(c) "Appurtenant works" mean any structure or facility which is an adjunct of, or connected, appended or annexed to a dam, including, but not limited to, spillways, a reservoir and its rim, low level outlet works, or water conduits such as tunnels, pipelines and penstocks either through the dam or its abutments.

(d) "Certificate of approval" means the approval in writing issued by the director to a person who has applied to the director for such certificate of approval which authorizes such person to place, construct, enlarge, alter, repair or remove a dam and specifies the conditions or limitations under which such work is to be performed by such person.

(e) "Dam" means an artificial barrier or obstruction, includ-
ing any works appurtenant to it and any reservoir created by it, which is or will be placed, constructed, enlarged, altered or repaired so that it does or will impound or divert water and (1) is or will be fifteen feet or more in height from the natural bed of such stream or watercourse measured at the upstream toe of the dam and (2) which does or will create a reservoir of water covering ten acres or more of land. Provided, That the term “dam” shall not include (1) any dam owned by the federal government, or (2) any dam which was designed and constructed by or under the supervision of or which is under the jurisdiction of the United States soil conservation service, or (3) slack-water dams constructed and maintained in connection with public highways, streets, bridges, culverts or viaducts, which shall continue to be regulated and controlled as provided in article five of this chapter.

(f) “Department” means the department of natural resources.

(g) “Director” means the director of the department of natural resources.

(h) “Enlargement” means any change in or addition to an existing dam which (1) raises the height of the dam, (2) raises or may raise the water storage elevation of the water impounded by the dam, (3) increases or may increase the amount of water impounded by the dam, or (4) increases or may increase the watershed area from which water is impounded by the dam.

(i) “Person” means any public or private corporation, institution, association, society, firm, organization or company organized or existing under the laws of this or any other state or country; the state of West Virginia; any state governmental agency; any political subdivision of the state or of its counties or municipalities; 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. The term “person” when used in this article, shall be understood to include and refer to any authorized agent, lessee or trustee of any of the foregoing or receiver or trustee appointed by any court for any of the foregoing.
§20-5D-4. General powers and duties of director; maximum fee established for certificates of approval.

The director shall have the following powers and duties:

(a) To control and exercise regulatory jurisdiction over dams as provided for in this article;

(b) To review all applications for a certificate of approval for the placement, construction, enlargement, alteration, repair or removal of any dam;

(c) To grant, modify, amend, revoke, restrict or refuse to grant any certificate of approval based on a determination by him that such action is proper or necessary to protect life and property as provided in this article;

(d) To adopt, modify, repeal and enforce rules, and issue orders, which he shall do in accordance with the provisions of chapter twenty-nine-a of this code as if the provisions of said chapter twenty-nine-a were set forth in extenso herein to implement and make effective the powers and duties vested in him by the provisions of this article;

(e) To take any lawful action he deems necessary for the effective enforcement of the provisions of this article;

(f) To establish and charge reasonable fees not to exceed twenty-five dollars for the review of applications for certificates of approval and the issuance thereof;

(g) To employ qualified consultants or additional persons in the department as necessary to review applications for certificates of approval and to recommend whether they should be approved, to inspect dams and to enforce the provisions of this article;
(h) To cooperate and coordinate with agencies of the federal government, this state and counties and municipalities of this state to improve, secure, study and enforce dam safety and dam technology within this state;

(i) To make any investigation or inspection necessary to implement or enforce the provisions of this article and to enter upon the public or private property of any dam owner as may be necessary to make such investigations or inspections. The director may make such investigations, inspections or entries after notifying the dam owner or other person in charge of such dam; and

(j) To prepare and publish within a reasonable time, criteria to govern the design, construction, repair, inspection and maintenance of proposed dams herein defined, and to review these criteria annually in order to consider improved technology for inclusion in such criteria.

§20-5D-5. Unlawful to place, construct, enlarge, alter, repair or remove dam without certificate of approval; application required to obtain certificate.

After the thirtieth day of June, one thousand nine hundred seventy-three, it shall be unlawful for any person to place, construct, enlarge, alter, repair or remove any dam under the jurisdiction of the department until he has first (a) filed an application for a certificate of approval with the department and (b) obtained from the department a certificate of approval: Provided, That a person making routine repairs on a dam which do not affect the safety of the dam shall not be required to submit such application or have such certificate. A separate application for a certificate of approval must be submitted by a person for each dam he desires to place, construct, enlarge, alter, repair or remove except that, under rules adopted by the director, one application may be valid for more than one dam involved in a single project or formation of a reservoir.

Each application for a certificate of approval shall be made in writing on a form prescribed by the director and shall be signed and verified by the applicant. The application shall contain and provide information which may be reasonably required by the director to administer the provisions of this article.
§20-5D-6. Plans and specifications for dams to be in charge of registered professional engineer.

1 Plans and specifications for placement, construction, enlargement, alteration, repair or removal of dams shall be in the charge of a registered professional engineer. Any plans or specifications submitted to the department shall bear the seal of a registered professional engineer.

§20-5D-7. Granting or rejecting applications for certificate of approval by department; publication of notice of application; hearing upon application.

1 Upon receipt of an application for a certificate of approval and the fee required under the provisions of this article and rules promulgated thereunder, the director shall proceed to consider the application for sufficiency. The director shall approve or disapprove the application within sixty days after receiving it and the fee.

7 If an application is defective, it shall be returned to the applicant by certified or registered mail, return receipt requested, in order that the applicant may correct any defect: Provided, That the application must be returned to the department by the applicant within thirty days after it has been returned to such applicant or it shall be treated as a new application: Provided, however, That the director may extend the thirty-day period.

14 Upon approval by the director of the sufficiency of the application, the director shall immediately cause a notice of such application to be published at the owner's expense 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 the proposed dam is to be located or in which the existing dam is located. Such notice shall include but not be limited to the name and address of the owner of the dam and the location of the dam for which the application was filed.

24 Any person whose life or property may be adversely affected by the issuance of a certificate of approval shall have a right to a hearing thereon before the director, providing that demand in writing for such hearing containing specific objections to
the issuance of the certificate of approval is served upon the
director within fifteen days following such publication.

Upon receipt by the director of the service of such demand
for hearing, the director shall immediately set a date for such
hearing and notify the person or persons demanding such hear-
ing thereof, which hearing shall be held within ten days after
receipt of said demand. At such hearing the director shall hear
evidence and shall thereafter (1) refuse to issue a certificate of
approval, or (2) issue a certificate of approval which shall be
subject to such terms, conditions and limitations as the director
may deem necessary to protect life and property.

Actual placement, construction, enlargement, alteration, re-
pair or removal of a dam must be commenced within one year
after the certificate of approval for the project is issued by the
director, otherwise the certificate of approval becomes void:
Provided further, That the director may extend such one-year
period.

§20-5D-8. Content of certificates of approval for dams; revocation
or suspension of certificates.

Each certificate of approval issued by the director under
the provisions of this article and rules promulgated there-
under may contain such terms and conditions as the director
may prescribe.

The director may revoke or suspend any certificate of
approval whenever he determines that the dam for which
the certificate was issued constitutes a danger to life and
property. Whenever he deems such action necessary to
safeguard life and property, the director may also amend the
terms and conditions of any such certificate by issuing a new
certificate containing the revised terms and conditions.

Before any certificate of approval is amended or revoked
by the director, the director shall hold a hearing. Such hearing
and the administrative procedure prior to, during and follow-
ing 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.

§20-5D-9. Inspections during progress of work on dam.

During the placement, construction, enlargement, repair, alteration or removal of any dam the director shall make, either with the department's own engineers or by consulting engineers or engineering organizations, periodic inspections at state expense for the purpose of ascertaining compliance with the approved plans and specifications. The director shall require the owner at his expense to perform such work or tests as necessary, to provide adequate supervision during such placement, construction, enlargement, repair, alteration or removal.

If at any time during placement, construction, enlargement, repair, alteration or removal of any dam, the director finds that the work is not being done in accordance with the provisions of the original approved plans and specifications or in accordance with the approved revised plans and specifications, he shall give a written notice thereof by certified or registered mail, return receipt requested, to the owner involved.

The notice and order shall state the particulars in which the original approved plans and specifications or the approved revised plans and specifications are not being or have not been complied with and shall order the immediate compliance with the original approved plans and specifications or with the approved revised plans and specifications as the case may be. The director may order that no further work be done until such compliance has been effected and approved by him.
If, after any such inspections, investigations or examinations, or at any time as the work progresses, it is found by the director that amendments, modifications, or changes are necessary to ensure the safety of the dam, he may order the owner to revise his plans and specifications. If conditions are revealed which will not permit the placement, construction, enlargement, repair, alteration or removal of the dam in a safe manner the certificate of approval shall be revoked.

Immediately upon completion of a new dam or enlargement, repair or alteration of a dam the owner shall give notice of completion to the director.

§20-5D-10. Procedures for handling emergencies involving dams; remedial actions to alleviate emergency; payment of costs of remedial actions to be paid by dam owner.

The owner of a dam shall have primary responsibility for determining when an emergency involving his dam exists. When the owner of a dam determines such emergency does exist, he shall notify the director and shall notify any persons who may be endangered if the dam should fail. The owner shall also immediately take any remedial action necessary to protect life and property.

The director shall, if he determines that an emergency exists involving a dam, notify any persons who may be endangered if the dam should fail and who have not been so notified and immediately take any remedial action necessary to protect life and property if in his judgment (a) the condition of the dam so endangers life and property that time is not sufficient to permit the issuance and enforcement of an order for the owner to correct the condition or (b) passing or imminent floods or other conditions threaten the safety of the dam. Remedial actions the director may take include, but are not limited to:

1. Taking full charge and control of the dam.
2. Lowering the level of water impounded by the dam by releasing such impounded water.
3. Completely releasing all water impounded by the dam.
(4) Performing any necessary remedial or protective work at the site of the dam.

(5) Taking any other steps necessary in the opinion of the director to safeguard life and property.

Once the director has taken full charge of the dam, the director shall continue in full charge and control of such dam until, in the director's opinion, it has been rendered safe or the emergency occasioning the action has ceased and the owner is adjudged competent by the director to reassume control of such dam and its operation. The assumption by the director of the control of the dam will not relieve the owner of a dam of liability for any negligent acts the owner commits or which are committed by his agents.

In case of an emergency where the director declares that making repairs to the dam or breaching of the dam is immediately necessary to safeguard life and property, repairs or breaching shall be started immediately by the owner, or by the director at the owner's expense, if the owner fails to do so. The owner shall notify the director at once of any emergency repairs or breaching the owner proposes to undertake and of work he has under way to alleviate the emergency. The proposed repairs, breaching and work shall be made to conform to such orders as the director may issue.

The costs reasonably incurred in any remedial action taken by the director as provided in this article shall be paid for initially by funds appropriated to the department of natural resources for such purposes, and such sums so expended, if not promptly repaid by the owner upon request of the director, shall be recovered from the owner by appropriate civil action to be initiated by the attorney general upon request of the director.

§20-5D-11. Requirements for dams completed prior to effective date of this article.

The director shall give notice to file an application for a certificate of approval to every owner of a dam which was completed prior to the effective date of this article. Such notice shall be given by certified or registered mail, return receipt requested, to the owner at his last address of record in
the office of the county assessor of the county in which the
dam is located and such mailing shall constitute service. A
separate application for each dam a person owns shall be filed
with the director in writing upon forms supplied by him and
shall include or be accompanied by appropriate information
concerning the dam as the director requires.

The director shall make inspections of such dams or reser-
voirs at state expense. The director shall require owners of
such dams to perform at their expense such work or tests as
may reasonably be required to disclose information sufficient to
enable the director to determine whether to issue a certificate
of approval or to issue an order directing further work at the
owner's expense necessary to safeguard life and property. For
this purpose, the director may require an owner to lower the
water level of, or to empty, water impounded by the dam ad-
judged by the director to be unsafe. If, upon inspection or upon
completion to the satisfaction of the director of all work that
he ordered, the director finds that the dam is safe to impound
water, a certificate of approval shall be issued.

§20-5D-12. Requirements for dams under construction prior to ef-
fective date of article.

Any dam which the director finds was under construction
and based on his findings not fifty percent constructed on the
effective date of this article shall, except as provided in the
next succeeding paragraph, be subject to the same provisions of
this article as a dam commenced after that date. Every owner
of such a dam shall file an application with the director for the
director's written approval of the plans and specifications of
the dam.

Construction work on such a dam may proceed, provided an
application for approval of the plans and specifications there-
for is filed, until a certificate of approval is received by the
owner from the director approving the dam or an order is re-
ceived by the owner from the director specifying how the con-
struction must be performed to render the dam safe. After re-
ceipt of an order specifying how construction of the dam must
be performed, work thereafter must be in accordance with the
order.

Dams which are determined by the director to be fifty per-
cent or more constructed on the effective date of this article shall be subject to the same supervision as dams which were completed prior thereto.

§20-5D-13. Dam owner not relieved of legal responsibilities by any provision of article.

Nothing in this article shall be construed to relieve the owner of a dam of the legal duties, obligations or liabilities incident to the ownership or operation of a dam.

§20-5D-14. Offenses and penalties.

(a) Any person who violates any of the provisions of this article or of any certificate of approval, order, rule or requirement of the director or department shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

(b) Any person who willfully obstructs, hinders or prevents the director or department or its agents or employees from performing the duties imposed on them by the provisions of this article or who willfully resists the exercise of the control and supervision conferred by the provisions of this article upon the director or department or its agents or employees or any owner or any person acting as a director, officer, agent, or employee of an owner, or any contractor or agent or employee of a contractor who engages in the placement, construction, enlargement, repair, alteration, maintenance or removal of any dam who knowingly does work or permits work to be executed on the dam without a certificate of approval or in violation of or contrary to any approval as provided for by the provisions of this article, or any inspector, agent or employee of the department who has knowledge of such work being done and who fails to immediately notify the director thereof shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned.
CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-47. Dams or obstructions in watercourses; penalty.

1 No person shall fell any timber and permit the same to remain in any navigable or floatable stream of this state when to do so shall obstruct the passage of boats, rafts, staves, ties or timber of any kind.

2 Except as may be provided in chapter twenty of this code, no person shall construct or maintain any dam or other structure in any stream or watercourse, which shall in any way prevent or obstruct the free and easy passage of fish up or down such stream or watercourse, without first providing as a part of such dam or other structure a suitable fish ladder, way or flume, so constructed as to allow fish easily to ascend or descend the same; which ladder, way or flume shall be constructed only upon plans, in a manner, and at a place, satisfactory to the department of natural resources: Provided, That if the director of the department of natural resources determines that there is no substantial fish life in such stream or watercourse, or that the installation of a fish ladder, way or flume would not facilitate the free and easy passage of fish up or down a stream or watercourse, or that an industrial development project requires the construction of such dam or other structure and the installation of an operational fish ladder, way or flume is impracticable, he may, in writing, permit the construction or maintenance of a dam or other structure in a stream or watercourse without providing a suitable fish ladder, way or flume; and in all navigable and floatable streams provisions shall be made in such dam or structure for the passage of boats and other crafts, logs and other materials: Provided, however, That this section shall not relieve such person from liability for damage to any riparian owner on account of the construction or maintenance of such dam.

3 Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding one thousand dollars, or imprisoned in the county jail not exceeding one year, or both fined and imprisoned, and, whether conviction be had un-
CHAPTER 99

(House Bill No. 1033—By Mr. Seibert)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the filing of copies of the official bonds of certain officers with the state tax commissioner; penalty for failure to file.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. OFFICIAL AND OTHER BONDS.

§6-2-13. Copies to be sent to the state tax commissioner; penalty for failure to send.

1 A copy of the official bond of every sheriff, assessor, clerk of the circuit court, clerk of the county court or other tribunal established in lieu thereof, clerk of the supreme court of appeals, and notary public, shall be sent to the state tax commissioner by the officer in whose office the original is filed, within two months after the same is filed in his office. If the officer whose duty it is so to send any such copy fail to do so within the time specified, he shall forfeit fifty dollars.
AN ACT to amend and reenact section two-a, article five, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointments to state boards, agencies, commissions and committees by congressional districts.

Be it enacted by the Legislature of West Virginia:

That section two-a, article five, 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 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD OFFICE.

§6-5-2a. Appointments to state boards, agencies, commissions and committees affected by changes in congressional districts.

1 Any amendment of section three, article two, chapter one of this the code relating to congressional districts shall not affect the qualification or tenure of office of any person who was appointed a member of any state board, agency, commission or committee prior to the effective date of such amendment; however, all appointments made after the effective date of such amendment to any state board, agency, commission or committee on which membership is affected by congressional district requirements shall be made in accordance with the congressional district arrangement provided by said amendment.

12 If the total number of members prescribed by law on any board, agency, commission or committee, on which membership is affected by congressional district requirements, shall exceed the members from congressional districts, the excess members shall be appointed at large, unless otherwise provided for in this code.
AN ACT to amend and reenact section two-a, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment, tenure and compensation of the commissioner of highways, director of mental health, commissioner of commerce, tax commissioner, director of department of natural resources, commissioner of department of welfare, alcohol beverage control commissioner, commissioner of public institutions, commissioner of employment security, commissioner of labor, director of personnel civil service commission, superintendent of department of public safety, insurance commissioner, commissioner of motor vehicles, commissioner of banking, members of the board of probation and parole, nonintoxicating beer commissioner, state historian and archivist, adjutant general, director of civil and defense mobilization, director of veterans affairs, members of board of review of employment security, members of workmen’s compensation appeal board, state workmen’s compensation commissioner, director of the department of mines, and commissioner of the department of finance and administration; provisions relating to filing of certificate by state official as to compensation of employees, salary increase contingent on filing of certificate.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of such officers.

1. Notwithstanding any other provision of this code to the contrary, on and after the effective date of this section each of the following named appointive state officers shall be appointed by the governor, by and with the advice and consent of the Senate. Each of such appointive state officers
shall serve at the will and pleasure of the governor for the
term for which the governor was elected and until the respective
state officer’s successors have been appointed and qualified.
Each of such appointive state officers shall hereafter be subject
to the existing qualifications for holding each such respective of-

cice and each shall have and is hereby granted all of the powers
and authority and shall perform all of the functions and services

heretofore vested in and performed by virtue of existing law
respecting each such office. The annual salary of each such
named appointive state officer shall be as follows:
The commissioner of highways, thirty-two thousand dollars;
director of mental health, twenty-five thousand dollars; com-
missioner of commerce, twenty thousand dollars; tax com-
missioner, twenty-two thousand dollars; director of department
of natural resources, twenty thousand dollars; commissioner of
department of welfare, twenty-five thousand dollars; alcohol
beverage control commissioner, twenty thousand dollars; com-
missioner of public institutions, twenty thousand dollars; com-
missioner of employment security, twenty-two thousand five
hundred dollars; commissioner of labor, eighteen thousand dol-
ars; director of personnel civil service commission, eighteen
thousand dollars; superintendent of department of public safety,
nineteen thousand dollars; insurance commissioner, twenty
thousand dollars; commissioner of motor vehicles, eighteen
thousand dollars; commissioner of banking, nineteen thousand
dollars; members of the board of probation and parole, thirteen
thousand five hundred dollars; nonintoxicating beer commis-

sioner, fifteen thousand dollars; state historian and archivist,
fifteen thousand dollars; adjutant general, fourteen thousand
dollars; director of civil and defense mobilization, fourteen
thousand dollars; director of veterans affairs, fifteen thou-

sand dollars; members of board of review of employment
security, twelve thousand dollars; members of workmen’s
compensation appeal board, eight thousand five hundred
dollars; state workmen’s compensation commissioner, twenty
thousand dollars; finance and administration commissioner,
twenty-two thousand dollars; director of the department of

mines, twenty-five thousand dollars: Provided, That the
personal services account of the respective depart-
ments, boards, commissions or offices are adequately
funded to provide the hereinafter required minimum annual
No increase in the salary of any appointive state officer pursuant to this section shall be paid until and unless such appointive state officer files, on or after July first, one thousand nine hundred seventy-three, with the state auditor and the legislative auditor a certificate showing:

1. That every full-time employee employed in such appointive state officer's department, board, commission or office is on the date of the certificate paid compensation at an annual rate of four thousand two hundred dollars or more;

2. That every such full-time employee who has been in the continuous full-time employ of such department, board, commission or office at least since June thirtieth, one thousand nine hundred seventy-two, and receives compensation of less than ten thousand dollars annually, is on the date of such certificate paid compensation at a rate of one hundred five percent of the rate of compensation at which such employee was paid June thirtieth, one thousand nine hundred seventy-two. The effect of the foregoing proviso shall expire and terminate on June thirtieth, one thousand nine hundred seventy-four.

In the event that funds are not available to meet the provisions of (1) and (2) of the aforesaid paragraph, said appointed state official shall file a statement with the state auditor and the legislative auditor to that effect.

Nothing herein contained shall be construed to permit payment of any compensation in excess of the amount which can be paid state officers 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.

CHAPTER 102
(Com. Sub. for House Bill No. 1192—By Mr. Polen and Mr. Myles)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
by adding thereto two new sections, designated sections three-a and three-b, and to amend and reenact section ten of said article eight, all relating to the registration and practice of optometric corporations; prohibiting the practice of optometry in corporate capacity except as provided herein; and providing penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. OPTOMETRISTS.

§30-8-3a. Registration of optometric corporation.
§30-8-3b. Practice of optometry by optometric corporations; limitations; optometrist-patient relationship not affected; biennial registration; penalty; severability.
§30-8-10. Unlawful practice of optometry by or for corporation, etc.; practice in connection with commercial or mercantile establishment; penalties; injunctions.

§30-8-3a. Registration of optometric corporations.

When one or more optometrists duly registered to practice optometry in the state of West Virginia wish to form an optometric corporation, such optometrist or optometrists shall file a written application with the board of optometry, on a form prescribed by the board, and shall furnish proof satisfactory to the board that the signer is a duly registered optometrist, or if there be more than one that all the signers of such application are such duly registered optometrists. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

If the board finds that the signer is a duly registered optometrist, or if there be more than one that all of the signers of such application are such duly registered optometrists, the board shall notify the secretary of state that a certificate of authorization has been issued to the individual or individuals signing such application, to form an optometric corporation.

When the secretary of state receives notification from the
board of optometry that an individual or individuals have been
issued a certificate of authorization, he shall attach such au-
thorization to the agreement of incorporation and upon com-
pliance by the corporation with the applicable provisions of
chapter thirty-one of this code, shall notify the incorporators
that such corporation, through a duly registered optometrist or
optometrists, may engage in the practice of optometry.

§30-8-3b. Practice of optometry by optometric corporations; limita-
tions; optometrist-patient relationship not affected;
biennial registration; penalty; severability.

(a) An optometric corporation may practice optometry only
through an individual optometrist or optometrists duly regis-
tered to practice optometry in the state of West Virginia, but
such optometrist or optometrists may be employees rather than
shareholders of such corporation, and nothing herein con-
tained shall be construed to require a license or other legal
authorization of any individual employed by such corporation
to perform services for which no license or other legal autho-
rization is otherwise required. Nothing contained in sections
three-a and ten and this section of this article is meant or in-
tended to change in any way the rights, duties, privileges,
responsibilities and liabilities incident to the optometrist-patient
relationship nor is it meant or intended to change in any way
the personal character of the optometrist-patient relationship.
A corporation holding such certificate of authorization shall
register biennially, on or before the thirtieth day of June, on a
form prescribed by the board of optometry and shall pay an an-
nual registration fee of fifty dollars.

(b) An optometric corporation holding a certificate of autho-
rization shall cease to engage in the practice of optometry upon
being notified by the board of optometry that any of its share-
holders is no longer a duly registered optometrist, or when any
shares of such corporation have been sold or disposed of to a
person who is not a duly registered optometrist: Provided, That
the personal representative of a deceased shareholder shall have
a period, not to exceed twelve months from the date of such
shareholder's death, to dispose of such shares; but nothing con-
tained herein shall be construed as affecting the existence of
such corporation or its right to continue to operate for all law-
ful purposes other than the practice of optometry.
(c) No corporation shall practice optometry, or any of its branches, or hold itself out as being capable of doing so, without a certificate from the board, or after its certificate has been revoked, or if suspended, during the term of such suspension. A certificate signed by the secretary of the board of optometry to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such certificate to practice optometry or any of its branches in the state has been issued to any such corporation specified therein or that such certificate has been revoked or suspended shall be admissible in evidence in all courts of this state and shall be prima facie evidence of the facts stated therein.

(d) Any officer, shareholder or employee of such corporation who participates in a violation of any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

(e) If any provision of section three-a or this section of this article be held to be invalid, such invalidity shall not affect the other provisions of said sections, and to this end the provisions of said sections are severable.

§30-8-10. Unlawful practice of optometry by or for corporation, etc.; practice in connection with commercial or mercantile establishment; penalties; injunctions.

Except as provided in sections three-a and three-b of this article, no corporation or voluntary association shall practice, or assume to practice, or in any manner hold itself out to the public as being entitled to practice the profession of optometry, or advertise the title of optometrist in such manner as to convey the impression to the public that it is entitled to practice optometry, or furnish optometric advice and services, or advertise that, either alone or together with or by or through any person, whether a duly registered and licensed optometrist or not, it has, owns, conducts or maintains an office or place for practice of optometry. Except as provided in sections three-a and three-b of this article, no duly registered and licensed optometrist shall associate himself with any corporation or voluntary association for the practice of optometry, or in any manner practice such profession, on a salary or commission basis, for any such corporation or
voluntary association. Any corporation or voluntary associ-
ation violating any of the provisions of this section, or any
officer, trustee, director, agent, or employee of such corpora-
tion or voluntary association who, either 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 less than one hundred nor more
than one thousand dollars. The fact that any such officer,
trustee, director, agent or employee shall be a duly registered
and licensed optometrist 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 hereinbefore mentioned for a viola-
tion of this section. Any duly registered and licensed optome-
trist who shall violate the provisions of this section shall be
guilty of a misdemeanor, and, upon conviction thereof, shall be
fined not less than ten dollars nor more than twenty-five dollars,
and each and every day such violation continues shall constitute
a separate offense; and in addition to the foregoing penalties,
such offending optometrist shall have his license to practice
suspended for a period of one year by the court in which such
conviction is had: Provided, That this section shall not apply
to a partnership of two or more duly registered and licensed
optometrists who practice under their own names.

It shall be unlawful for any registered optometrist to prac-
tice his profession as an employee, lessee, or sublessee of any
commercial or mercantile establishment or to practice his
profession in connection therewith, or to advertise either in
person or through any commercial or mercantile establishment
that he is a duly registered practitioner, and is practicing or will
practice optometry as an employee, lessee, or sublessee of
any such commercial or mercantile establishment or in con-
nection therewith. But nothing herein shall be construed to
prohibit or prevent the rendering of professional services
to the officers and employees of any person, firm or corpora-
tion by an optometrist, whether or not the compensation for
such services is paid by the officers and employees, or by
the employer, or jointly by all or any of them. Any person
violating this provision shall be guilty of a misdemeanor, and,
upon conviction thereof, shall be fined not less than fifty
nor more than five hundred dollars, and each and every day
such violation continues shall constitute a separate offense. The circuit court of any county in which the violation occurred shall have jurisdiction to restrain by injunction the violation of any of the provisions of this article.

CHAPTER 103

(Senate Bill No. 408—By Mr. Deem)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four and seven, article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections eighteen and nineteen, all relating to veterinarians; by authorizing the creation of veterinary medicine corporations; penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. VETERINARIANS.

§30-10-4. Powers of board.

§30-10-7. Examinations; issuance or denial of license.

§30-10-18. Veterinary medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

§30-10-19. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.

§30-10-4. Powers of board.

1 The board shall have the power to:

2 (a) Examine and determine the qualifications and fitness of any applicant for a license to practice veterinary medicine in this state;

3 (b) Issue, renew, deny, suspend or revoke licenses and
temporary permits to practice veterinary medicine in this
state or otherwise discipline licensed veterinarians consistent
with the provisions of this article and reasonable rules and
regulations promulgated by the board as specified in sub-
division (i) of this section;
(c) Establish and publish annually a schedule of reason-
able fees for the licensing and registration of veterinarians,
such fee schedule to be based on the board’s anticipated
financial requirements for the year;
(d) Conduct investigations for the purpose of discovering
violations of this article or grounds for disciplining licensed
veterinarians;
(e) Hold hearings as specified in section twelve of this
article;
(f) Employ such full-time or part-time professional, cler-
cial or special personnel as may be necessary to effectuate
the provisions of this article, and purchase or rent necessary
office space, equipment and supplies;
(g) Appoint from its own membership one or more mem-
bers to act as an official representative or representatives of
the board at any meeting within or without this state where
such representation is deemed desirable;
(h) Institute appropriate proceedings for the enforce-
ment of the provisions of this article or any reasonable
rules and regulations of the board promulgated as specified
in subdivision (i) of this section;
(i) Promulgate, amend or repeal reasonable rules and regu-
lations, in accordance with the provisions of chapter twenty-
nine-a of this code, to implement the provisions of this
article, including rules and regulations establishing stan-
dards of professional conduct for the practice of veterinary
medicine; and
(j) The board shall also have the power to suspend or
revoke for cause any certificate of authorization issued by
it. It shall have the power to reinstate any certificate of autho-
rization suspended or revoked by it.

The powers enumerated above are granted for the pur-
pose of enabling the board to effectively supervise the prac-
practice of veterinary medicine, and are to be construed liberally to accomplish this objective.

§30-10-7. Examinations; issuance or denial of license.

The board shall hold at least one examination during each year and may hold such additional examinations as are necessary. The secretary-treasurer shall give public notice of the time and place of each examination at least one hundred twenty days in advance of the date set for such examination. A person desiring to take an examination shall make application for a license at least sixty days before the date of such examination.

Procedures concerning the preparation, administration and grading of examinations shall be prescribed by the board. Examinations shall be designed to test the examinee’s knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove himself a competent person to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners.

The secretary-treasurer shall notify each examinee of the result of his examination within forty-five days thereafter, and the board shall issue a license to each person who passes the examination. The application for a license by any person failing an examination shall be denied, but such person shall be admitted to any subsequent examination upon payment of another application fee.

The board shall also examine the application of any one or more veterinarians for the formation of a veterinary medical corporation, filed pursuant to the provisions of section eighteen of this article, and issue a certificate of authorization therefor to any applicant or applicants legally entitled to receive the same. The board shall also have authority to authorize veterinary medical corporations, in accordance with the provisions of sections eighteen and nineteen of this article,
to practice veterinary medicine and surgery through duly licensed veterinarians.

The board shall have the power to certify and establish standards for employment of assistants to veterinarians.

No license shall be issued under the provisions of this section until the person applying therefor shall have paid to the board a fee of five dollars.

§30-10-18. Veterinary medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

When one or more veterinarians duly licensed to practice veterinary medicine in the state of West Virginia wish to form a veterinary medical corporation, such veterinarians shall file a written application with the 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 veterinarian or veterinarians. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

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.

When the secretary of state receives notification from the board that a certain individual or individuals 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 veterinarian, may engage in the practice of veterinary medicine and surgery.

§30-10-19. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.

(a) A veterinary medical corporation may practice veterinary medicine and surgery only through individual veterinarians duly licensed to practice veterinary medicine or sur-
surgery in the state of West Virginia, but such veterinarians may
be employees rather than shareholders of such corporation,
and nothing herein contained shall be construed to require
a license for or other legal authorization of any individual
employed by such corporation to perform services for which
no license or other legal authorization is otherwise required.
A corporation holding such certificate of authorization shall
register biennially, on or before the thirtieth day of June, on
a form prescribed by the board, and shall pay an annual
registration fee of fifty dollars.

(b) A veterinary medical corporation holding a certificate
of authorization shall cease to engage in the practice of
veterinary medicine and surgery upon being notified by the
board that any of its shareholders is no longer a duly licensed
veterinarian, or when any shares of such corporation have
been sold or disposed of to a person who is not a duly
licensed veterinarian: Provided, That the personal repre-
sentative of a decreased shareholder shall have a period, not
to exceed twelve months from the date of such shareholder's
death, to dispose of such shares; but nothing contained here-
in shall be construed as affecting the existence of such
corporation or its right to continue to operate for all law-
ful purposes other than the practice of veterinary medicine and
surgery.

(c) No corporation shall practice veterinary medicine or
surgery, or any of its branches, or hold itself out as being
capable of doing so, without a certificate from the board;
nor shall any corporation practice veterinary medicine or
surgery or any of its branches, or hold itself out as being
capable of doing so, after its certificate has been revoked,
or if suspended, during the term of such suspension. A certi-
ficate signed by the secretary of the board to which is affixed
the official seal of the board to the effect that it appears
from the records of the board that no such certificate to
practice veterinary medicine or surgery or any of its branches
in the state has been issued to any such corporation specified
therein or that such certificate has been revoked of sus-
spended shall be admissible in evidence in all courts of
this state and shall be prima facie evidence of the facts stated
therein.
(d) Any officer, shareholder or employee of such corporation who participates in a violation of any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

CHAPTER 104

(Senate Bill No. 115—By Mr. Hamilton)

[Passed March 6, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections five and eleven, article fourteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto two new sections, designated sections nine-a and nine-b, relating to osteopathic medicine and surgery, the examination for a license to practice same, the issuance of license to successful applicants therefor, the application for the formation of an osteopathic medical corporation and the issuance of a certificate of authorization therefor; empowering the West Virginia board of osteopathy to authorize osteopathic medical corporations to practice osteopathic medicine and surgery through osteopathic physicians and surgeons; relating to assistants to osteopathic physicians and surgeons; relating to fee for license; establishing fee for an application for the formation of an osteopathic medical corporation; relating to the duties of the secretary of state concerning an osteopathic medical corporation; authorizing osteopathic physicians and surgeons to be employees rather than shareholders of an osteopathic medical corporation; relating to the osteopathic physician-patient relationship; providing for biennial registration and registration fee to be paid by osteopathic medical corporations; specifying conditions under which an osteopathic medical corporation is to cease to engage in the practice of osteopathic medicine and surgery; requiring a certificate of authorization which has been neither suspended nor revoked; providing for the admissibility and effect of a certificate signed by the secretary of the West Virginia board of osteopathy; providing criminal offenses and...
penalties; specifying the causes for which a license to practice osteopathic medicine or surgery may be refused, suspended or revoked; and authorizing the West Virginia board of osteopathy to suspend, revoke or reinstate any certificate of authorization for an osteopathic medical corporation.

Be it enacted by the Legislature of West Virginia:

That sections five and eleven, 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 article be further amended by adding thereto two new sections, designated sections nine-a and nine-b, all to read as follows:

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-5. Examination; certificate of license; certificate of authorization for osteopathic medical corporation; certification and establishment of standards for employment of assistants; fee.

§30-14-9a. Osteopathic medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

§30-14-9b. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.

§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

§30-14-5. Examination; certificate of license; certificate of authorization for osteopathic medical corporation; certification and establishment of standards for employment of assistants; fee.

1 The examination for a license to practice medicine and surgery as an osteopathic physician and surgeon shall be written and oral and shall cover all the essential branches of medicine and surgery including anatomy, physiology, chemistry, pharmacology, pathology, public health—preventive medicine, surgery, obstetrics and gynecology, osteopathic medicine, materia medica principles and practice of osteopathy; and this list of subjects may be expanded or regrouped at the discretion of the board.

10 The board shall issue certificates of license to all applicants who shall successfully pass the said examination and shall present evidence showing that they have served an
internship in a hospital approved for intern training. The board shall also examine the application of any one or more osteopathic physicians or surgeons for the formation of an osteopathic medical corporation, filed pursuant to the provisions of section nine-a of this article, and issue a certificate of authorization therefor to any applicant or applicants legally entitled to receive the same. The board shall also have authority to authorize osteopathic medical corporations, in accordance with the provisions of sections nine-a and nine-b of this article, to practice osteopathic medicine and surgery through duly licensed osteopathic physicians and surgeons.

The board shall have the power to certify and establish standards for employment of assistants to osteopathic physicians and surgeons.

No license shall be issued under the provisions of this section until the person applying therefor shall have paid to the board a fee of five dollars.

§30-14-9a. Osteopathic medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

When one or more osteopathic physicians or surgeons duly licensed to practice osteopathic medicine in the state of West Virginia wish to form an osteopathic medical corporation, such osteopathic physician or surgeon, or osteopathic physicians or surgeons, shall file a written application with the 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 osteopathic physician or surgeon or osteopathic physicians or surgeons. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

If the board finds that 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.

When the secretary of state receives notification from the board that a certain individual or individuals 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 osteopathic physician or surgeon or duly licensed osteopathic physicians and surgeons, may engage in the practice of osteopathic medicine and surgery.

§30-14-9b. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.

(a) An osteopathic medical corporation may practice osteopathic medicine and surgery only through individual osteopathic physicians and surgeons duly licensed to practice osteopathic medicine or surgery in the state of West Virginia, but such osteopathic physicians and surgeons may be employees rather than shareholders of such corporation, and nothing herein contained shall be construed to require a license for or other legal authorization of any individual employed by such corporation to perform services for which no license or other legal authorization is otherwise required. Nothing contained in sections five and nine-a and this section of this article is meant or intended to change in any way the rights, duties, privileges, responsibilities and liabilities incident to the osteopathic physician-patient relationship nor is it meant or intended to change in any way the personal character of the osteopathic physician-patient relationship. A corporation holding such certificate of authorization shall register biennially on or before the thirtieth day of June, on a form prescribed by the board, and shall pay an annual registration fee of fifty dollars.

(b) An osteopathic medical corporation holding a certificate of authorization shall cease to engage in the practice of osteopathic medicine and surgery upon being notified by the board that any of its shareholders is no longer a duly licensed osteopathic physician or surgeon, or when any shares of such corporation have been sold or disposed of to a person who is not duly licensed osteopathic physician or surgeon: Provided, That the personal representative of a deceased shareholder shall have a period, not to exceed twelve months from the date of such shareholder’s death, to dispose
of such shares; but nothing contained herein shall be con-
strued as affecting the existence of such corporation or
its right to continue to operate for all lawful purposes
other than the practice of osteopathic medicine and
surgery.

(c) No corporation shall practice osteopathic medicine
or surgery, or any of its branches, or hold itself out as
being capable of doing so, without a certificate from the
board; nor shall any corporation practice osteopathic medi-
cine or surgery or any of its branches, or hold itself out
as being capable of doing so, after its certificate has been
revoked, or if suspended, during the term of such suspen-
sion. A certificate signed by the secretary of the board to
which is affixed the official seal of the board to the effect
that it appears from the records of the board that no such
certificate to practice osteopathic medicine or surgery or
any of its branches in the state has been issued to any such
corporation specified therein or that such certificate has
been revoked or suspended shall be admissible in evidence
in all courts of this state and shall be prima facie evidence
of the facts stated therein.

(d) Any officer, shareholder or employee of such corpora-
tion who participates in a violation of any provision of this
section shall be guilty of a misdemeanor, and, upon
conviction, shall be fined not exceeding one thousand dollars.

§30-14-11. Refusal, suspension or revocation of license; suspension
or revocation of certificate of authorization.

(a) The board may either refuse to issue or may suspend or
revoke any license for any one or more of the following
causes:

(1) Conviction of a felony, as shown by a certified copy of
the record of the trial court;
(2) Conviction of a misdemeanor involving moral turpi-
tude;
(3) Violation of any provision of this article regulating
the practice of osteopathic physicians and surgeons;
(4) Fraud, misrepresentation or deceit in procuring or
attempting to procure admission to practice;
12 (5) Gross malpractice;
13 (6) Advertising by means of knowingly false or deceptive
14 statements;
15 (7) Advertising, practicing or attempting to practice under
16 a name other than one's own;
17 (8) Habitual drunkenness, or habitual addiction to the use
18 of morphine, cocaine or other habit-forming drugs.
19 (b) The board shall also have the power to suspend or
20 revoke for cause any certificate of authorization issued by it.
21 It shall have the power to reinstate any certificate of authori-
22 zation suspended or revoked by it.

CHAPTER 105
(Senate Bill No. 114—By Mr. Hamilton)

[Passed April 13, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section ten, article fourteen, chapter
thirty of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to osteopathic physicians and
surgeons; annual renewal of license fee increased; refresher
training a prerequisite; effect of failure to renew; reinstatement.

Be it enacted by the Legislature of West Virginia:

That section ten, article fourteen, 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 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-10. Annual renewal of license; fee; refresher training a pre-
requisite; effect of failure to renew; reinstatement.
1 All holders of certificates of license to practice as os-
teopathic physicians and surgeons in this state shall renew
2 them annually on or before July first, by the payment of a
3 renewal fee of ten dollars to the secretary of the board. The
4 secretary of the board shall notify each certificate holder by
6 mail of the necessity of renewing his certificate at least thirty
7 days prior to July first of each year.
8
9 As a prerequisite to renewal of a certificate of license
10 issued by the board, each holder of such a certificate shall
11 furnish annually to the secretary of the board satisfactory
12 evidence of having completed a two-day educational refresher
13 training course conducted by the West Virginia Osteopathic
14 Society, Incorporated, under the supervision and control of
15 the board or conducted by its equivalent as determined by
16 the board.
17
18 The failure to renew a certificate of license shall operate
19 as an automatic suspension of the rights and privileges granted
20 by its issuance.
21
22 A certificate of license suspended by a failure to make an
23 annual renewal thereof may be reinstated by the board
24 upon compliance of the certificate holder with the following
25 requirements: (a) Presentation to the board of satisfactory
26 evidence of educational refresher training of quantity and
27 standard approved by the board; (b) payment of all fees
28 that would have been paid had the certificate holder main-
29 tained his certificate in good standing; and (c) payment to
30 the board of a reinstatement fee of not to exceed twenty-
31 five dollars as determined by the board.
32
33

CHAPTER 106

(Com. Sub. for House Bill No. 718—By Mr. Queen)

[Passed April 4, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact article fifteen, chapter thirty of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, relating to the practice of midwifery; necessity of
license; qualifications of applicants; annual registration; limitations
on authority; hearing; fees; penalties.

Be it enacted by the Legislature of West Virginia:

That article fifteen, 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 15. MIDWIVES.


1 The following terms wherever used or referred to in this 
2 article shall have the following meaning:

3 "Midwife" means a person who assists in the management 
4 and care of a woman and her infant during the prenatal, deliv-
5 ery and postnatal periods.

6 "Midwifery" means the practice of performing the service 
7 of a midwife for a fee or compensation.

8 "Nurse-midwife" means a qualified professional nurse regis-
9 tered with the West Virginia board of examiners for registered 
10 professional nurses who by virtue of additional training is 
11 specifically qualified to practice midwifery according to the 
12 statement of functions, standards and qualifications for the 
13 practice of nurse-midwifery as set forth by the american col-
14 lege of nurse-midwives.

15 "Board" means the West Virginia board of examiners for 
16 registered professional nurses.

§30-15-2. Licenses required.

1 No person, other than a physician, shall engage or hold 
2 themselves out as practicing midwifery without a license to do 
3 so issued by the West Virginia board of examiners for register-
4 ed professional nurses, except those midwives who hold licen-
5 ses upon the first day of July, one thousand nine hundred sev-
6 enty-three, issued by the West Virginia board of health. Per-
7 sons holding licenses on said date issued by the said board of 
8 health, shall be permitted to practice midwifery as formerly
9 defined and according to the authority granted to them upon
10 the issuance of their licenses, until the expiration of such licen-
11 ses without the privilege of renewal.


1 Persons shall be granted licenses who shall provide evidence
2 upon their application that they: (a) Are a registered profes-
3 sional nurse registered by the board; (b) are a graduate of a
4 school of midwifery approved by the american college of nurse-
5 midwifery; and (c) are certified by the american college of
6 nurse-midwives.

§30-15-4. Applications; fee.

1 Persons may make applications for licensing as a nurse-
2 midwife by completion of an application upon forms to be pro-
3 vided by the board. Such forms shall require the applicant to
4 state their name, address, age, and their qualifications for
5 licensing. The board may require reasonable supporting docu-
6 mentation and information demonstrating that the applicant
7 meets the qualifications for licensure. Such completed appli-
8 cations shall be submitted to the board together with the sum
9 of twenty dollars.

§30-15-5. Form of licenses; annual registration fee.

1 Licenses issued by the board shall bear a serial number, the
2 full name of the applicant, the date of issuance of any such
3 license, the seal of the board and the signature of the execu-
4 tive secretary of the board.

5 Every licensed midwife shall procure from the secretary
6 of the board annually, on or before the first day of July, a
7 certificate of registration. The certificate shall be issued by
8 said secretary upon the payment of a fee to be fixed by the
9 board, not to exceed the sum of ten dollars. The secretary
10 shall mail annually, on or before the first day of June, to
11 each licensed midwife a printed blank form to be properly
12 filled in and returned by such licensed person on or before
13 the first day of July to the secretary of the board. Upon the
14 receipt of the form properly filled in, and such fee, the annual
15 certificate of registration shall be issued and transmitted.
§30-15-6. Suspension or revocation of licenses.

1 The board may suspend or revoke a license for any of the following reasons:

2 (1) Failure to remain current in annual registration;

3 (2) Gross negligence in performance of service as provided by the statement of functions, standards, and qualifications by the American College of Nurse-Midwives or failure to perform such duties as may be required by the West Virginia board of health;

4 (3) The commission of a crime in association with the practice of nurse-midwifery.

Before any license shall be revoked or suspended, the accused shall be furnished with a written statement of the reasons for such suspension or revocation and shall be given reasonable notice of, and be entitled to, a hearing before the board, in person, or by attorney, according to the provisions of chapter twenty-nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended.


1 The license to practice nurse-midwifery shall entitle the holder to practice such profession according to the functions, standards, and qualifications of the American College of Midwives, and such holder shall be required to practice under the supervision of or in association with a licensed physician engaged in family practice or the specialized field of gynecology or obstetrics, or as a member of the staff of any maternity, newborn or family planning service approved by the West Virginia Board of Health, who, as such, shall practice midwifery under the supervision of a board-certified obstetrician, gynecologist, or the primary-care physician normally directly responsible for the obstetric care in said area of practice.


1 Any person practicing midwifery in this state without complying with the provisions of this article 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.
AN ACT to amend and reenact section six, article twenty-two, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to professions and occupations; relating to the licensing and regulation of landscape architects; specifying the qualifications of applicants for licensing as landscape architects; relating to persons eligible for licensing as landscape architects without examination; extending the time within which persons may apply to be licensed as landscape architects without examination and without meeting the specified educational and experience qualifications; and relating to application for such license and forms and fees therefor.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-6. Qualifications of applicants; exceptions; applications; fee.

(a) To be eligible for a license as a landscape architect, the applicant must:

1. Be at least eighteen years of age;
2. Be of good moral character;
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, suspended or revoked in any state of the United States;
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 undergraduate degree, have had
at least two years' experience subsequent to receiving such
degree in the practice of landscape architecture 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, when the de-
gree held is a graduate degree, have had at least one year's
experience subsequent to receiving such graduate degree in
the practice of landscape architecture 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; 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 responsi-
bility for the work involved in the practice of landscape
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 practice of land-
scape 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 pro-
visions of this article, who temporarily abandoned the prac-
tice 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 architecture; and

(2) Any person who holds a license or certificate or is
registered to engage in the practice of landscape architecture
issued by or effected in any other state, the requirements 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 sub-
divisions (1), (2) and (3), subsection (a) of this section
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 landscape architecture
as a principal livelihood shall be entitled to be licensed un-
der the provisions of this article, without meeting the qualifi-
cations set forth in subdivisions (4) and (5), subsection (a) of
this section, if he files such application with the board within
three years 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 limi-
tation 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 108

(Senate Bill No. 11—By Mr. Galperin)

[Passed April 3, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter thirty of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, by adding there-
to a new article, designated article twenty-four, relating to pro-
fessions and occupations; relating to qualification of certain arm-
ed forces health technicians for certain civilian health occupa-
tions; setting forth certain legislative findings and a rule of con-
struction; relating to the qualification of certain veterans for
examination for license as registered professional nurses; relating
to the qualification of certain veterans for examination for li-
cense as licensed practical nurses; relating to the qualification of
certain veterans for examination for license as dental hygienists;
relating to the qualifications of certain veterans for examination
for license as licensed physical therapists; relating to the quali-
ification of certain veterans for examination for registration as
professional sanitarians; relating to the West Virginia board of
examiners for registered professional nurses; the West Virginia
state board of examiners for licensed practical nurses; the West
Virginia board of dental examiners; the West Virginia board of
examiners and registration of physical therapists and the West
Virginia board of sanitarians; and requiring each such board to keep certain records and make annual reports to the Legislature.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 24. QUALIFICATION OF ARMED FORCES HEALTH TECHNICIANS FOR CIVILIAN HEALTH OCCUPATIONS.

§30-24-1. Legislative findings; rule of construction.

§30-24-2. Qualification for examination for license as a registered professional nurse.

§30-24-3. Qualification for examination for license as a licensed practical nurse.

§30-24-4. Qualification for examination for license as a dental hygienist.

§30-24-5. Qualification for examination for registration as a sanitarian.

§30-24-6. Qualification for examination for license as a licensed physical therapist.

§30-24-7. Records required to be kept; reports to legislature.

§30-24-1. Legislative findings; rule of construction.

1 The Legislature hereby finds and declares that there are many veterans returning to civilian life from active duty in the armed forces who had extensive academic training and experience while in the armed forces in various health occupations; that in many instances, the level of academic training and experience is equal to or exceeds that received by a student studying and training for a similar health occupation in civilian life; that such veterans should not be required to undergo further educational training or obtain additional experience in civilian life before being eligible for examination for licensing or registration in a comparable civilian health occupation; that in the public interest, however, it is necessary that the competency of such veterans be determined and evaluated by examination before they are so licensed or registered; and that certain academic training and experience of such veterans in the armed forces should be sufficient to permit such examination or examinations as may be required for the licensing or registration as a registered nurse, licensed practical nurse, dental hygienist, professional sanitarian or physical therapist. This article is enacted in view of these findings and shall be liberally construed in the light thereof.
§30-24-2. Qualification for examination for license as a registered professional nurse.

Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical specialist advanced, medical service technician or advanced hospital corpsman technician, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces was under honorable conditions, may submit to the West Virginia board of examiners for registered professional nurses, a photostatic copy of the certificate issued to him certifying successful completion of such course of instruction, a photostatic copy of his discharge from the armed forces, an application for a license as a registered professional nurse and the prescribed license fee.

If the certificate and discharge, as evidenced by the photostatic copies thereof, the application and prescribed license fee are in order, and if the veteran meets all of the requirements of article seven of this chapter, except the requirement therein specified requiring an applicant to have completed an accredited program of registered professional nursing education and to hold a diploma from a school accredited by such board, the veteran shall be permitted, notwithstanding any provision of said article seven to the contrary, to take the same examination or examinations as are required under section six of said article seven for applicants who do not apply for a license under the provisions of this article twenty-four. If the veteran passes such examination or examinations, he shall be licensed as a registered professional nurse, and such veteran shall thereafter be subject to all of the provisions of said article seven. If the veteran does not pass such examination or examinations, the provisions of said article seven relating to reexaminations shall apply to such veteran the same as they apply to a person who does not apply for a license under the provisions of this article twenty-four.

§30-24-3. Qualification for examination for license as a licensed practical nurse.

Any person who has served on active duty in the medical
corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical specialist advanced, medical service technician, advanced hospital corpsman technician, medical corpsman, medical service specialist or class A hospital corpsman, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces was under honorable conditions, may submit to the West Virginia state board of examiners for licensed practical nurses, a photostatic copy of the certificate issued to him certifying successful completion of such course of instruction, a photostatic copy of his discharge from the armed forces, an application for license as a licensed practical nurse and the prescribed fee.

If the certificate and discharge, as evidenced by the photostatic copies thereof, the application and prescribed fee are in order, and if the veteran meets all of the requirements of article seven-a of this chapter, except the requirements therein specified requiring an applicant to have completed a course of study in an accredited school for practical nurses as defined by such board, to hold a diploma therefrom and to have completed such other general educational requirements as may be prescribed by such board, the veteran shall be permitted, notwithstanding any provision of said article seven-a to the contrary, to take the same examination or examinations as are required under section six of said article seven-a for applicants who do not apply for a license under the provisions of this article twenty-four. If the veteran passes such examination or examinations, he shall be licensed as a licensed practical nurse, and such veteran shall thereafter be subject to all of the provisions of said article seven-a. If the veteran does not pass such examination or examinations, the provisions of said article seven-a relating to reexaminations (by cross-reference to section six, article one of this chapter) shall apply to such veteran the same as they apply to a person who does not apply for a license under the provisions of this article twenty-four.

§30-24-4. Qualification for examination for license as a dental hygienist.

Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction...
required to qualify him for rating as a dental specialist, pre-
ventive dentistry technician or dental technician, class A dental
 technician school, or other equivalent rating in his particular
branch of the armed forces, and whose service in the armed
forces was under honorable conditions, may submit to the
West Virginia board of dental examiners, a photostatic copy
of the certificate issued to him certifying successful completion
of such course of instruction, a photostatic copy of his dis-
charge from the armed forces, an application for license as a
dental hygienist and the prescribed fee.

If the certificate and discharge, as evidenced by the photo-
static copies thereof, the application and prescribed fee are
in order, and if the veteran meets all of the requirements of
article four of this chapter, except the requirement therein
specified requiring an applicant to be a graduate of and
possess an acceptable diploma in dental hygiene from a
school having a course in dental hygiene approved by such
board, the veteran shall be permitted, notwithstanding any
provision of said article four to the contrary, to take the
same examination or examinations as are required under
section fourteen of said article four for applicants who do
not apply for a license under the provisions of this article
twenty-four. If the veteran passes such examination or ex-
aminations, he shall be licensed as a dental hygienist, and
such veteran shall thereafter be subject to all of the pro-
visions of said article four relating to dental hygienists. If
the veteran does not pass such examination or examinations,
the provisions of said article four relating to reexaminations
shall apply to such veteran the same as they apply to a
person who does not apply for a license under the provisions
of this article twenty-four.

§30-24-S. Qualification for examination for registration as a san-
tarian.

Any person who has served on active duty in the medical
corps of any of the armed forces of the United States and
who has successfully completed the course of instruction re-
quired to qualify him for rating as a food inspection special-
ist or a preventive medical specialist, or other equivalent
rating in his particular branch of the armed forces, and
whose service in the armed forces was under honorable con-
ditions, may submit to the West Virginia board of sanitari-
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9 ans, a photostatic copy of the certificate issued to him certifying successful completion of such course of instruction, 10 a photostatic copy of his discharge from the armed forces, 11 an application for registration as a professional sanitarian 12 and the prescribed registration fee.

14 If the certificate and discharge, as evidenced by the photo- 15 static copies thereof, the application and prescribed registra- 16 tion fee are in order, and if the veteran meets all of the 17 requirements of article seventeen of this chapter, except the 18 educational and probationary employment requirements 19 therein specified, the veteran shall be permitted, notwith- 20 standing any provisions of said article seventeen to the 21 contrary, to take the same examination as is required under 22 subdivision (1), section five of said article seventeen for 23 applicants who do not apply for registration under the 24 provisions of this article twenty-four. If the veteran passes 25 such examination, he shall be registered as a professional 26 sanitarian, and such veteran shall thereafter be subject to 27 all of the provisions of said article seventeen.

§30-24-6. Qualification for examination for license as a licensed physical therapist.

1 Any person who has served on active duty in the medical 2 corps of any of the armed forces of the United States and 3 who has successfully completed the course of instruction re- 4 quired to qualify him for rating as a physical therapist 5 specialist, physical and occupational therapy technician, physi- 6 cal therapy technician, or physical therapy specialist( semi- 7 skilled), or other equivalent rating in his particular branch 8 of the armed forces, and whose service in the armed forces 9 was under honorable conditions, may submit to the West Vir- 10 ginia board of examiners and registration of physical ther- 11 apist, a photostatic copy of the certificate issued to him 12 certifying successful completion of such course of instruction, 13 a photostatic copy of his discharge from the armed forces, 14 an application for a license as a licensed physical therapist 15 and the prescribed license fee.

16 If the certificate and discharge, as evidenced by the photo- 17 static copies thereof, the application and prescribed license 18 fee are in order, and if the veteran meets all of the 19 requirements of article twenty of this chapter, except the re-
quirement therein specified requiring an applicant to be a
graduate of a school of physical therapy approved by the
American Physical Therapy Association and the board, the
veteran shall be permitted, notwithstanding any provision of
said article twenty to the contrary, to take the same exam-
ination or examinations as are required under section five of
said article twenty for applicants who do not apply for a
license under the provisions of this article twenty-four. If
the veteran passes such examination or examinations, he
shall be licensed as a licensed physical therapist, and such
veteran shall thereafter be subject to all of the provisions
of said article twenty. If the veteran does not pass such
examination or examinations, any provisions of said article
twenty relating to reexaminations shall apply to such veteran
the same as they apply to a person who does not apply
for a license under the provisions of this article twenty-four.

§30-24-7. Records required to be kept; reports to Legislature.

Each board referred to in the preceding sections of this
article shall prepare and maintain records as to (1) the
number of veterans who apply to such boards for license or
registration under the provisions of this article and the per-
centage thereof who pass the required examination or ex-
aminations; and (2) the number of persons who apply to
such boards for license other than under the provisions of
this article and the percentage thereof who pass the re-
quired examination or examinations. Each such board shall
render a report to the Legislature each year, during the first
ten days of each regular session thereof, collating and sum-
marizing the information contained in such records.

CHAPTER 109

(House Bill No. 1025—By Mr. Shiflet and Mr. Morasco)

[Passed April 4, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article ten, chapter five of the code of West
Virginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new section, designated section thirty-one-a,
relating to permitting certain employers and employees to retro-
actively participate in the public employees retirement system upon said employers and employees making retroactive contributions to the public employees retirement system after the first day of July, one thousand nine hundred sixty-one; employers permitted to make retroactive contributions over a fifteen year period, requirements of employee and employer contributions based on actuarial study, actuarial fees to be paid by employer, period within which employer may elect to provide retroactive benefits.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-31a. Retroactive contributions to the retirement system.

Those public employers who are participating in the West Virginia public employees retirement system and elected to participate after the first day of July, one thousand nine hundred sixty-one, and those employers who are eligible but who have not elected to participate, may elect to cover their employees retroactively for the period of their prior employment by such employer to the first day of July, one thousand nine hundred sixty-one, under the following terms and rules and regulations to be promulgated by the board of trustees of the retirement system:

(a) The participating employer, in order to provide the benefits set forth herein, shall pay an additional contribution to the retirement system as shall be the actuarial equivalent of the amount which would have been contributed, together with earnings thereon, by the employer had the employee to receive retroactive credit been covered during the period of the retroactive service credit; such contribution may be made by the employer either in one lump sum or at the election of the employer by level term payments over a period not in excess of fifteen years or by both such lump sum payments and level term payments all of which shall be as determined
by the employer and such board of trustees under rules and
regulations promulgated by such board;

(b) The additional service credit shall be applicable to
employees working for the participating employer on the
effective date of the change of date of participation;

(c) There shall be no increase in benefits and annuities
paid to former members of the system who were retired prior
to the effective date of this section;

(d) Such employees before becoming entitled to such retro-
active service credit under the provisions of this section shall
make such additional contribution to the retirement system
as shall be the actuarial equivalent of the amount which
would have been contributed, together with earnings thereon,
by the employee had the employee been covered during the
period of the retroactive service credit;

(e) Each employer and employee shall be required to pay
into the retirement system in the manner hereinafter provided
the amount necessary for the additional service credit provided
by this section, based upon an actuarial study of each em-
ployer that elects to participate in the retirement system
under this section and as determined by the board of trustees;

(f) The actuarial basis for determining the additional con-
tributions shall be that currently in effect for the valuation of
the retirement system on the effective date of the employer's
election;

(g) Any new participating employer and any participating
employer which is currently a participant and who began
participating after the first day of July, one thousand nine
hundred sixty-one, who desires additional service credit must
elect to provide such service credit within one year following
the effective date of this section;

(h) Any participating employer requesting additional ser-
vice credit as provided by this section shall provide such
employee data as may be requested from the board of trustees
of the retirement system for the determination of the
employer's contributions; and

(i) The consulting actuary's fees for computing the addi-
tional contribution rates under this section shall be paid
directly by the participating employer to the consulting actuary
selected by the board of trustees of the retirement system.
AN ACT to amend and reenact section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the department of public safety; establishment of companies or platoons; composition of companies and platoons; training of members of the department; salaries and bond.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-3. Companies and platoons; how constituted; training of members and other peace officers; salaries and bonds of members.

1 The superintendent shall create, appoint and equip a department of public safety, which shall, in addition to the personnel provided for in section two of this article, consist of four companies or platoons. They shall be designated as companies “A,” “B,” “C” and “D.” Each company or platoon shall be composed of one captain, one lieutenant, one first sergeant, seven sergeants, not more than seventeen corporals and such number of troopers and troopers first class as the superintendent may decide best, but such number of troopers and troopers first class in any company or platoon shall not at any time be less than twenty-five.

12 The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in-service training from time to time for all members of the department. The superintendent shall hold training classes for other peace officers
in the state without cost to such officers, except actual expenses for food, lodging and school supplies.

Members of the department shall receive salaries, as follows:

The inspector shall receive an annual salary of thirteen thousand four hundred sixty-four dollars; the major shall receive an annual salary of twelve thousand ninety-one dollars; captains shall each receive an annual salary of ten thousand eight hundred twenty-four dollars; lieutenants shall each receive an annual salary of ten thousand two hundred seventeen dollars; the master sergeants and first sergeants shall each receive an annual salary of nine thousand five hundred forty-four dollars; sergeants shall each receive an annual salary of nine thousand two hundred forty dollars; corporals shall each receive an annual salary of eight thousand eight hundred thirty-one dollars; troopers first class shall receive an annual salary of eight thousand five hundred forty dollars; and each newly enlisted trooper shall receive a salary of five hundred eighty-seven dollars during the period of his basic training, and upon the satisfactory completion of such training and assignment to active duty each trooper shall receive, during the remainder of his first year's service a salary of six hundred fifty-eight dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of eight thousand sixty-five dollars; during the third year of his service each trooper shall receive an annual salary of eight thousand two hundred thirty-seven dollars; and during the fourth and fifth years of his service and for each year thereafter each trooper shall receive an annual salary of eight thousand three hundred ninety-five dollars. Each member of the department entitled thereto by the provisions hereof shall receive an increase in salary over that hereinbefore set forth in this section, for grade and rank, based on length of service, including that heretofore and hereafter served, with the department, as follows: At the end of five years of service with the department, such member of the department shall receive a salary increase of three hundred dollars per year to be effective during his next three years of service and like increases at three-year intervals thereafter,
until a total of six such increases shall be received and such
increases shall be cumulative.

In applying the foregoing salary schedule where salary in-
creases are provided for length of service, members of the
department in service at the time this article becomes ef-
fective shall be given credit for prior service and shall be
paid such salaries as the same length of service will entitle
them to receive under the provisions hereof.

Each member of the department of public safety, except
the superintendent and civilian employees, shall, before en-
tering upon the discharge of his duties, execute a bond with
security in the sum of three thousand five hundred dollars
payable to the state of West Virginia, conditioned for the
faithful performance of his duties as such, and such bond
shall be approved as to form by the attorney general, and
as to sufficiency by the governor, and the same shall be
filed with the secretary of state and preserved in his office.

CHAPTER 111

(House Bill No. 612—By Mr. Shaffer)

[Passed April 10, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article two, chapter
fifteen of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to employment of legal counsel
by the department of public safety.

Be it enacted by the Legislature of West Virginia:

That section thirty, 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.


1 Notwithstanding the provisions of section one, article three,
2 chapter five, the superintendent may authorize any member of
3 this department to employ an attorney of such member's
choice to act in proceedings wherein criminal charges are brought against such member of the department because of action in line of duty. For such attorney services an amount determined by the judge in whose court the action is pending, not to exceed two thousand dollars, may be expended in any one case.

CHAPTER 112
(Senate Bill No. 247—By Mr. Oates)

[Passed April 14, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven-a; and to amend article two, chapter fifty-four of said code by adding thereto a new section, designated section two-a, all relating to requiring certificate of public convenience and necessity from public service commission prior to constructing high voltage power transmission line; procedures before commission; publication of notice of petition; providing hearing on request; approval, alteration or denial of certificate; exempting certain projects; rules and regulations of commission; and requiring copy of certificate to be appended to petition for eminent domain.

Be it enacted by the Legislature of West Virginia:

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

Chapter


54. Eminent Domain.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.
§24-2-11a. Requirement for certificate of public convenience and necessity before beginning construction of high voltage transmission line; contents of application; notice; hearing; criteria for granting or denying certificate; regulations.

(a) No public utility, person or corporation shall begin construction of a high voltage transmission line of two hundred thousand volts or over, which line is not an ordinary extension of an existing system in the usual course of business as defined by the public service commission, unless and until it or he shall have obtained from the public service commission a certificate of public convenience and necessity approving the construction and proposed location of such transmission line.

(b) The application for such certificate shall be in such form as the commission may prescribe and shall contain:

(1) A description, in such detail as the commission may prescribe, of the location and type of line facilities which the applicant proposes to construct;

(2) A statement justifying the need for such facilities;

(3) A statement of the environmental impact of such line facilities; and

(4) Such other information as the applicant may deem relevant or the commission may require.

(c) Upon the filing of such application, the applicant shall publish, in such form as the commission shall direct, 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 each county in which any portion of the proposed transmission line is to be constructed, a notice of the filing of such application and that the commission may approve the same unless within fifteen days after completion of publication a written request for a hearing thereon has been received by the commission from a person or persons alleging that the proposed transmission line or its location is against the public interest. If such request be timely received, the commission shall set the matter for hearing on a date within sixty days from completion of said
publication, and shall require the applicant to publish notice of
the time and place of hearing in the same manner as is herein
required for the publication of notice of the filing of the
application.

(d) Within sixty days after the filing of said application,
or if hearing shall be held thereon, within ninety days after
final submission on oral argument or brief, the commission
may approve the application if it shall find and determine
that the proposed transmission line:

(1) Will economically, adequately and reliably contribute to
meeting the present and anticipated requirements for electric
power of the customers served by the applicant or is necessary
and desirable for present and anticipated reliability of service
for electric power for its service area or region; and

(2) Will result in an acceptable balance between reasonable
power needs and reasonable environmental factors.

(e) The commission may impose conditions upon its ap-
approval of the application, or modify the applicant's proposal,
to achieve an acceptable balance between reasonable power
needs and reasonable environmental factors.

(f) The provisions of this section shall not apply to the
construction of line facilities which will be part of a trans-
mission line for which any right-of-way has been acquired
prior to the first day of January, one thousand nine hundred
seventy-three.

(g) The commission shall prescribe such rules and regula-
tions as it may deem proper for the administration and en-
forcement of the provisions of this section, which rules and
regulations shall be promulgated in accordance with the appli-
cable provisions of chapter twenty-nine-a of this code as if
the same were set forth herein in extenso.

CHAPTER 54. EMINENT DOMAIN.

ARTICLE 2. PROCEDURE.

§54-2-2a. Additional requirement for condemnation proceeding for
right-of-way for certain high voltage transmission line.

In addition to the requirements set forth in section two of
this article, a public utility, person or corporation required
under section eleven-a, article two, chapter twenty-four of this code to obtain a certificate of public convenience and necessity for the construction and location of a high voltage transmission line, shall file a certified or attested copy of such certificate with its petition to condemn real or personal property for the construction of such high voltage transmission line. Failure to file such certified or attested copy of such certificate shall result in dismissal of the petition.

CHAPTER 113

(Senate Bill No. 72—By Mr. Brotherton, Mr. President, and Mr. Hubbard)


An Act to amend and reenact section nine, article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the original fee and annual renewal fee for real estate broker's and real estate salesmen's licenses; standardization of fee; removal of population requirement.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND SALESMEN.

§47-12-9. License fees; annual registration; fees for additional offices, charge for change of location and for duplicate or transfer of licenses.

1 The original fee and annual renewal fee for each real estate broker's license shall be fifty dollars.

2 The original fee and annual renewal fee for each real estate salesman's license shall be twenty-five dollars.

3 If any applicant for a real estate broker's or salesman's license shall fail to pass the required examination, he may
be eligible to take the next or succeeding examination without payment of an additional fee.

(1) It shall be the duty of all persons licensed who practice as a real estate broker or salesman to register annually with the commission and to pay for each such annual registration the fees set forth above. Said application for renewal of real estate broker’s license shall be made to the commission annually no later than June thirtieth of each succeeding year.

(2) For each additional office or place of business an additional annual fee of five dollars shall be collected.

(3) For each change of office or place of business, an additional fee of one dollar shall be collected.

(4) For each duplicate or transfer of salesman’s license, an additional fee of one dollar shall be collected.

(5) For each duplicate license where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars shall be collected.

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**CHAPTER 114**

(Senate Bill No. 2026—By Mr. Brotherton, Mr. President)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refunding bonds for the purpose of effecting the release, termination or modification of liens, restrictions, conditions or limitations imposed in connection with the notes, bonds or other obligations refinanced thereby; providing for the maximum stated rate of interest thereon and the maximum net interest cost upon the sale or exchange thereof.

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

That section five, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 2A. REVENUE BOND REFINANCING.

§13-2A-5. Form of bonds; interest rates; negotiability.

The refunding bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, not in any event exceeding forty years from their respective dates; may bear interest at such rate or rates not exceeding the maximum rate of interest borne by the notes, bonds or other obligations refinanced thereby; may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared or become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions; and may contain such other terms and covenants, as may be provided by resolution or resolutions of the governing body of the public body: Provided, That if the refinancing is for the sole purpose of discharging at less than their face or par value all of the outstanding notes, bonds or other obligations of a Class I or Class II city, as defined in chapter eight of this code, and such notes, bonds or other obligations are to be refinanced, then such refunding bonds may bear interest at any rate or rates, not exceeding eight percent per annum, which results in a total interest cost of not more than the total amount of interest, including interest then in arrears, that would have been payable from the date of such refinancing to maturity of the notes, bonds or other obligations so refinanced: Provided, however, That if the governing body determines that one of the purposes of issuing such refunding bonds is to effect the release, termination or modification of liens, restrictions, conditions or limitations imposed in connection with the notes, bonds or other obligations refinanced thereby, then such refunding bonds may be issued bearing interest at such rate or rates as the governing body may determine, but such rate
39 or rates shall not exceed the maximum stated rate of interest which the notes, bonds or other obligations refinanced thereby could bear if they were being issued as of the date of issuance of such refunding bonds, and notwithstanding any other limitations contained in this article, such refunding bonds may not be sold or exchanged at a price which would result in a net interest cost, herein defined to mean the total amount of interest to accrue on the refunding bonds from the date thereof to their respective maturities without regard to any retained options of redemption plus the amount of any discount below par or less the amount of any premium above par at which the bonds may be sold or exchanged, in excess of the maximum net interest cost which the outstanding notes, bonds or other obligations to be refinanced thereby could be sold or exchanged for if they were being issued as of the date of issuance of such refunding bonds.

55 Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

CHAPTER 115
(Senate Bill No. 2067—By Mr. Brotherton, Mr. President)

[Passed April 14, 1973; to effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two-e, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refunding bonds for the purpose of effecting the release, termination or modification of liens, restrictions, conditions or limitations imposed in connection with the bonds to be refunded; providing for the maximum stated rate of interest thereon and the maximum net interest cost upon the sale or exchange thereof.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2E. REVENUE BOND REFUNDING ACT.

§13-2E-5. Issuance of refunding bonds; application of proceeds.

Refunding bonds issued under this article may be exchanged for not less than a like principal amount of the revenue bonds to be refunded, or may be sold at public or private sale, or may be exchanged in part and sold in part, in such manner and upon such terms as may be determined by the governing body to be for the best interests of the public body: Provided, That such refunding bonds shall not be sold or exchanged at a price lower than a price which will show a net saving to the issuer after deducting all expenses of the refunding: Provided, however, That if the governing body determines that one of the purposes of issuing such refunding bonds is to effect the release, termination or modification of liens, restrictions, conditions or limitations imposed in connection with the bonds which are to be refunded, then such refunding bonds may be issued without the necessity of showing a net saving to the issuer, in which event such refunding bonds shall bear interest at such rate or rates as the governing body may determine, but such rate or rates shall not exceed the maximum stated rate of interest which the revenue bonds to be refunded thereby could bear if they were being issued as of the date of issuance of such refunding bonds, and such refunding bonds may not be sold or exchanged at a price which would result in a net interest cost in excess of the maximum net interest cost which the revenue bonds to be refunded could be sold or exchanged for if they were being issued as of the date of issuance of such refunding bonds.

If any such refunding bonds are to be sold, they may be issued in such principal amount as may be determined advisable by the governing body including, without limitation, the aggregate principal amount of the revenue bonds to be refunded, interest accrued and to accrue to the date or dates on which the revenue bonds being refunded are scheduled to mature or to be redeemed prior to maturity, any redemption premiums which must be paid in order to refund such out-
standing revenue bonds and any costs and expenses of issuing
the refunding bonds and providing for retirement of revenue
bonds to be refunded. If sold, the net proceeds shall either be
immediately applied to the payment or redemption and retire-
ment of the revenue bonds to be refunded, or the net proceeds
of the refunding bonds may be invested at the discretion and
under the supervision of the escrow agent in whole, or in part,
(a) in direct obligations issued by the United States of America
or one of its agencies, (b) in obligations unconditionally guar-
anteed by the United States of America as to principal and in-
terest, or (c) in certificates of deposit of a banking corporation
or association which is a member of the federal deposit insur-
ance corporation, or successor; but any such certificates of de-
posit must be fully secured as to both principal and interest by
pledged collateral consisting of direct obligations of or obliga-
tions guaranteed by the United States of America having a
market value, excluding accrued interest, at all times at least
equal to the amount of the principal of an accrued interest on
such certificates of deposit. Any such investments must mature,
or be payable in advance of maturity at the option of the hold-
er, and must bear interest in such manner as to provide funds
which, together with uninvested money placed in the herein-
after mentioned escrow, will be sufficient to pay when due or
called for redemption the revenue bonds refunded, together
with interest accrued and to accrue thereon and redemption
premiums, if any, and such refunding bond proceeds or obli-
gations so purchased therewith shall, and with other funds
legally available to the public body for such purpose may, be
deposited in escrow with the state sinking fund commission to
be held in trust for the payment and redemption of the revenue
bonds refunded, and such money and obligations and any re-
investment thereof shall be held in trust by such escrow agent
for the payment of interest on the refunded bonds when due,
and principal thereof and applicable redemption premiums,
if any, when due, or upon the date or dates for which they
shall have been called for redemption, or upon an earlier
voluntary surrender at the option of the escrow agent; pro-
vided if interest earned by any investment in such escrow is
shown to be in excess of the amounts required from time to
time for the payment of interest on and principal of the
refunded revenue bonds, including applicable redemption premium, then such excess may be withdrawn from escrow and disbursed by the public body as are other revenues of the enterprise. Any moneys in the sinking or reserve funds or other funds maintained for the outstanding revenue bonds to be refunded may be applied in the same manner and for the same purpose as are the net proceeds of refunding bonds or may be deposited in the special fund or any reserve funds established for account of the refunding bonds. The term "net proceeds" as used above shall mean the gross proceeds of the refunding bonds after the deduction therefrom of all accrued interest, costs and expenses incurred in connection with the authorization and issuance of the refunding bonds and the retirement of the outstanding revenue bonds, and including all costs and expenses resulting from price variations to par or otherwise incurred in the purchase of obligations for escrow and in the disposition of the refunding bonds.

CHAPTER 116

(Senate Bill No. 411—By Mr. Hubbard)

[Passed March 30, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to selection, organization, classification, etc., of personnel; business manager and chief engineer assistants; employees’ bonds.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-4. Selection, organization, classification, etc., of personnel; business manager and chief engineer assistants; employees’ bonds.

The commissioner shall be in charge of and responsible for
the selection, employment and effective organization of all commission personnel for the entire state road and highway program. He may establish such divisions, sections and other functional and organizational units within the commission as may be necessary and practical in the full and effective discharge of the duties and responsibilities of his office. Except as otherwise provided by law, all commission personnel shall be classified pursuant to the job classification system and shall be paid pursuant to the salary scale established by the commissioner.

The commissioner shall select and employ a business manager assistant and one or more chief engineer assistants who shall be registered professional engineers, and shall establish such other offices, activities, divisions, sections and organizational units as may be necessary and practical. The business manager assistant shall be in charge of and responsible for matters of finance and such other functions as may be assigned to him from time to time by the commissioner. The chief engineer assistant or, if the commissioner has selected and employed more than one chief engineer assistant, the chief engineer assistants shall be in charge of and responsible for planning, equipment, materials, construction, maintenance, and such other functions as may be designated by the commissioner as well as such other functions as may from time to time be assigned to such chief engineer assistant or assistants by the commissioner.

The commissioner shall require every employee who collects fees or handles funds or who has custody or control of equipment or supplies belonging to the state to give bond, with such sureties and in such penal sum as may be approved by the commissioner, for the faithful discharge of each such employee's duties and his accounting for all such fees, funds, equipment and supplies coming into his hands or under his custody or control. All such bonds, when approved by the commissioner, shall be filed in the office of the secretary of state. Premiums on all such bonds shall be paid from commission funds.
CHAPTER 117

(Senate Bill No. 349—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers, duties and responsibilities of the commissioner of highways.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.


1 In addition to all other duties, powers and responsibilities given and assigned to the commissioner in this chapter, the commissioner may:

2 (1) Exercise general supervision over the state road program and the construction, reconstruction, repair and maintenance of state roads and highways;

3 (2) Determine the various methods of road construction best adapted to the various sections and areas of the state and establish standards for the construction and maintenance of roads and highways therein;

4 (3) Conduct investigations and experiments, hold hearings and public meetings and attend and participate in meetings and conferences within and without the state for purposes of acquiring information, making findings and determining courses of action and procedure relative to advancement and improvement of the state road and highway system;

5 (4) Enter private lands to make inspections and surveys for road and highway purposes;

6 (5) Acquire, in name of the department, by lease, grant, right of eminent domain or other lawful means, all lands
and interests and rights in lands necessary and required for roads, rights-of-way, cuts, fills, drains, storage for equipment and materials, and road construction and maintenance in general;

(6) Procure photostatic copies of any or all public records on file at the state capital of Virginia which may be deemed necessary or proper in ascertaining the location and legal status of public road rights-of-way located or established in what is now the state of West Virginia, which photostatic copies, when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of the courts of this state;

(7) Plan for and hold annually a school of good roads, of not less than three or more than six days' duration, for instruction of his employees, which school shall be held in conjunction with West Virginia University and may be held at the university or at any other suitable place in the state;

(8) Negotiate and enter in reciprocal contracts and agreements with proper authorities of other states and of the United States relating to and regulating the use of roads and highways with reference to weights and types of vehicles, registration of vehicles and licensing of operators, military and emergency movements of personnel and supplies and all other matters of interstate or national interest;

(9) Classify and reclassify, locate and relocate, expressway, trunkline, feeder and state local service roads, and designate by number the routes within the state road system;

(10) Create, extend or establish, upon petition of any interested party or parties or on the commissioner's own initiative, any new road or highway as may be found necessary and proper;

(11) Exercise jurisdiction, control, supervision and authority over local roads, outside the state road system, to the extent determined by him to be expedient and practicable;

(12) Discontinue, vacate and close any road or highway, or any part thereof, the continuance and maintenance of which are found unnecessary and improper, upon petition
and hearing, or upon investigation initiated by the commis-
sioner;

(13) Close any state road while under construction or re-
pair and provide a temporary road during the time of such
construction or repair;

(14) Adjust damages occasioned by construction, recon-
struction or repair of any state road or the establishment of
any temporary road;

(15) Establish and maintain a uniform system of road signs
and markers;

(16) Fix standard widths for road rights-of-way, bridges
and approaches thereto and fix and determine grades and
elevations therefor;

(17) Test and standardize materials used in road con-
struction and maintenance, either by governmental testing and
standardization activities or through contract by private agen-
cies;

(18) Allocate the cost of retaining walls and drainage
projects, for the protection of a state road or its right-of-
way, to the cost of construction, reconstruction, improvements
or maintenance;

(19) Acquire, establish, construct, maintain and operate
in the name of the department, roadside recreational areas
along and adjacent to state roads and highways;

(20) Exercise general supervision over the construction
and maintenance of airports and landing fields under the
jurisdiction of the West Virginia state aeronautics commission,
of which the commissioner is a member, and make a study
and general plan of a state-wide system of airports and land-
ing fields;

(21) Provide traffic engineering services to municipalities
of the state upon request of the governing body of any such
municipality and upon such terms as may be agreeably
arranged;

(22) Institute complaints before the public service com-
mission or any other appropriate governmental agency re-
lying to freight rates, car service and movement of road
materials and equipment;
(23) Invoke any appropriate legal or equitable remedies to enforce his orders, to compel compliance with requirements of law and to protect and preserve the state road and highway system or any part thereof;

(24) Make and promulgate rules and regulations for the government and conduct of personnel, for the orderly and efficient administration and supervision of the state road program and for the effective and expeditious performance and discharge of the duties and responsibilities placed upon him by law;

(25) Delegate powers and duties to his appointees and employees who shall act by and under his direction and be responsible to him for their acts;

(26) Designate and define such construction and maintenance districts within the state road system as may be found expedient and practicable;

(27) Contract for the construction, improvement and maintenance of the roads;

(28) Have authority to comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with and cooperation in programs of the United States government and any proper department, bureau or agency thereof relating to plans, surveys, construction, reconstruction, improvement and maintenance of state roads and highways;

(29) Prepare budget estimates and requests;

(30) Establish a system of accounting covering and including all fiscal and financial matters of the department;

(31) Have authority to establish and advance a right-of-way acquisition revolving fund, a materials revolving fund and an equipment revolving fund;

(32) Enter into contracts and agreements with and cooperate in programs of counties, municipalities and other governmental agencies and subdivisions of the state relating to plans, surveys, construction, reconstruction, improvement, maintenance and supervision of highways, roads, streets, and other travel ways when and to the extent determined by the department to be expedient and practical;
(33) Report, as provided by law, to the governor and the Legislature;

(34) Purchase materials, supplies and equipment required for the state road program and system;

(35) Dispose of all obsolete and unusable and surplus supplies and materials, which cannot be used advantageously and beneficially by the department in the state road program, by transfer thereof to other governmental agencies and institutions by exchange, trade or sale thereof;

(36) Investigate road conditions, official conduct of department personnel and fiscal and financial affairs of the department and hold hearings and make findings thereon or on any other matters within the jurisdiction of the department;

(37) Establish road policies and administrative practices; and

(38) Take actions necessary to alleviate such conditions as the governor may declare to constitute an emergency, whether or not the emergency condition affects areas normally under the jurisdiction of the department of highways.

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CHAPTER 118

(Senate Bill No. 222—By Mr. Dillon)

[Passed April 2, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen-c, relating to authorizing the commissioner of highways to include the cost of utility relocation within the cost of highway construction on all federal aid emergency relief projects, pursuant to the Federal Aid Highway Act of 1956, as amended, and all acts amendatory and supplementary thereto and defining "cost of relocation."
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-17c. Relocation of public utility lines deemed a cost of construction on federal aid emergency relief projects.

The commissioner of highways is hereby authorized to include within the cost of highway construction the cost of relocation necessarily incurred by any public utility in relocating any public utility line or facility as a result of a federal aid emergency relief project pursuant to the “Federal Aid Highway Act of 1956,” as amended, and all acts amendatory and supplementary thereto.

For the purposes of this bill, the term, “cost of relocation,” shall have the same meaning as in section seventeen-b of this article.

CHAPTER 119

(House Bill No. 1226—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 4, 1973; In effect from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the Better Roads Amendment of 1964, in an amount not exceeding twenty million dollars during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-four, 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 the thirtieth day of June, one thousand nine hundred seventy-four, 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 semiannually, 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, however, 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.

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)

**OF THE**

**STATE OF WEST VIRGINIA**

$_________________  NO._________________

The state of West Virginia, under and by virtue of authority of an amendment to the constitution, which was proposed by House Joint Resolution No. 10, adopted the seventh day of March, one thousand nine hundred sixty-three, and was ratified by a vote of the people at the general election on the third day of November, one thousand nine hundred sixty-four, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to and hereby promises to pay to the bearer hereof (in case of a coupon bond) or to ______________________ or assigns (the
owner of record, in case of registered bonds) on the ______ 

25 day of ____________________, 19____, in lawful money of 
the United States of America at the office of the treasurer of 

26 the state of West Virginia at the capitol of said state, or, at 
________________________ bank in the city of New York, or, at 

28 ________________________ bank, at the option of the holder, the 

29 sum of ________ dollars, with interest thereon at 

30 ______ percent a year from the date, payable semiannually in 
like lawful money of the United States of America at the 

31 treasurer's office or banks aforesaid, on the first day of 

32 __________________________ and the first day of ____________ 

35 of each year (and in the case of coupon bonds) according to 

36 the tenor of the annexed coupons bearing the facsimile signa-

37 ture of the treasurer of the state of West Virginia, upon 
surrender of such coupons. This bond (in case of a coupon 

39 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)

41 To secure the payment of the principal and interest of this 

42 bond, the state of West Virginia covenants and agrees with the 

43 holder as follows: (1) That this bond shall constitute a direct 
and general obligation of the state of West Virginia; (2) that 

46 the full faith and credit of the state is pledged to secure the 

47 payment of the principal and interest of this bond; (3) that 

48 an annual state tax shall be collected in an amount sufficient to 

49 pay as it may accrue the interest on this bond and the principal 

50 thereof; and (4) that such tax shall be levied in any year only 
to the extent that the moneys in the state road fund irre-

52 vocably set aside and appropriated for and applied to the pay-

53 ment of the interest on and principal of this bond becoming 
due and payable in such year are insufficient therefor.

55 This bond is hereby made exempt from any taxation by the 

56 state of West Virginia, or by any county, district or municipal 
corporation thereof.

56 In testimony whereof, witness the manual or facsimile 
signature of the treasurer of the state of West Virginia, and the 

59 manual or facsimile countersignature of the auditor of the state, 

61 hereto affixed according to law, dated the ______ day of 

62 _______________________, 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.

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.

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
§9. **Sale by governor; minimum price.**

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 delivery of the bonds so sold.

§9. **Proceeds paid into separate account in state road fund; expenditures.**

The proceeds of all sales of bonds herein authorized shall be paid into a separate and distinct account in the state road fund and shall be used and appropriated solely for the building and construction of state roads and highways provided for by the state constitution and the laws enacted thereunder. Except for such sums necessary for current operating balances, such accounts shall be invested and reinvested in short-term obligations of the United States treasury: Provided, That no such investment or reinvestment shall adversely affect the current operating balances of such account.

§10. **Plates, etc., property of state.**

The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

§11. **Auditor to be custodian of unsold bonds.**

The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.
§12. Interim certificates.
1 The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

§13. State treasurer to be financial advisor.
1 The state treasurer shall serve as financial advisor to the governor for the issuance and sale of such bonds.

§14. Attorney general or his duly appointed legal representative to serve as bond counsel.
1 The attorney general, or his duly appointed legal representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds.

§15. Approval and payment of all necessary expenses.
1 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.

CHAPTER 120

(House Bill No. 1227—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 4, 1973; In effect from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the Roads Development Amendment of 1968, in the amount not exceeding twenty million dollars during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-four, for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder; specifying the powers
of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such 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.

Bonds of the state of West Virginia, under authority of the Roads Development Amendment of 1968, of the par value not to exceed twenty million dollars during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-four, 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, That such bonds shall mature within and not exceeding twenty-five years from their date: Provided, however, 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.

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” bond 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 semi-
annually, to bearer, at the office of the treasurer of the state
of West Virginia, at the capitol of the state, or at the 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 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 bond 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)
OF THE
STATE OF WEST VIRGINIA

$_______________
No._______________

The state of West Virginia, under and by virtue of authority
of an amendment to the constitution, which was proposed by
Senate Joint Resolution No. 2, adopted the eighth day of
February, one thousand nine hundred sixty-eight, and was
ratified by a vote of the people at the general election on the
fifth day of November, one thousand nine hundred sixty-eight,
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 ________________ percent a
year 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 ann-
exed coupons bearing the facsimile signature of the treasurer of the state of West Virginia, upon surrender of such coupons.
This bond (in case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the
treasurer of the state of West Virginia.

To secure the payment of the principal and interest of this bond, the state of West Virginia covenants and agrees with the
holder as follows: (1) That this bond shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is pledged to secure the payment of the principal and interest of this bond; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on this bond and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of this bond becoming due and payable in such year are insufficient therefor.

This bond is hereby made exempt from any taxation by the state of West Virginia, or by any county, district, or municipal corporation thereof.

In testimony whereof, witness the 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 ____________
§ 4. Form of coupon.

The form of coupon shall be substantially as follows, to wit:

STATE OF WEST VIRGINIA

Bond No. ___________  Coupon No. ___________

On the first day of ________________, 19_____, the state of West Virginia will pay to the bearer, in lawful money of the United States of America, at the office of the treasurer of the state, or, at ________________ 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
§6. State road sinking fund sources used to pay bonds and interest; investment of remainder.

1 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.

2 All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all moneys belonging to the fund shall be deposited in the state treasury to the credit thereof.

3 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 the 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 moneys 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
6 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 free 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 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 shall be paid into a separate and distinct account in the state road fund and shall be used and appropriated solely for the building and construction of free state roads and highways provided for by the state constitution and the laws enacted thereunder. Except for such sums necessary for current operating balances, such account shall be invested and reinvested in short-term obligations of the United States treasury: Provided, That no such investment or reinvestment shall adversely affect the current operating balances, of such account.

§10. Plates, etc., property of state.
1 The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

§11. Auditor to be custodian of unsold bonds.
1 The state auditor shall be the custodian of all unsold bonds
issued pursuant to the provisions of this act.

§12. Interim certificates.

The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

§13. State treasurer to be financial advisor.

The state treasurer shall serve as financial advisor to the governor for the issuance and sale of such bonds.

§14. Attorney general or his duly appointed legal representative to serve as bond counsel.

The attorney general, or his duly appointed legal representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds.

§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.

CHAPTER 121

(House Bill No. 1130—By Mr. Lohr and Mr. Ours)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section six, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections five, seven, eight, nine and ten, article eight, chapter six of said code; to amend and reenact sections one and ten, article five, chapter seven
of said code; to amend and reenact section four, article six of
said chapter seven; to amend and reenact sections thirteen and
fifteen, article one, chapter eleven-a of said code; to amend
and reenact sections two-c, three and four, article nine, chap­
ter eighteen of said code; to further amend said article nine
by adding thereto a new section, designated section six; and to
amend and reenact section nine, article four, chapter eighteen-a
of said code; all relating to the fiscal and financial affairs of
county boards of education; transferring funds and duties in
relation to school funds from the sheriffs of the various coun­
ties to the treasurers of the county boards of education; con­
cerning the collection and disbursement of, and settlement for,
the various tax revenues and other funds intended for expendi­
ture for public school purposes; defining the powers and duties
of the position of treasurer of the county board of education;
procedures concerning the appointment of such treasurers;
bonds of treasurers; and their authority to receive, invest and
expend funds; criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That section six, article four, chapter eighteen of the code of
West Virginia, one thousand nine hundred thirty-one, as amended,
be repealed; that sections five, seven, eight, nine and ten, article
eight, chapter six of said code be amended and reenacted; that
sections one and ten, article five, chapter seven of said code be
amended and reenacted; that section four, article six, chapter seven
of said code be amended and reenacted; that sections thirteen and
fifteen, article one, chapter eleven-a of said code be amended and
reenacted; that sections two-c, three and four, article nine, chapter
eighteen of said code be amended and reenacted; that said article
nine be further amended by adding thereto a new section, design­
ated section six; and that section nine, article four, chapter eight­
een-a of said code be amended and reenacted, all to read as follows:

Chapter

7. County Courts and Officers.
11A. Collection and Enforcement of Property Taxes.
18. Education.
18A. School Personnel.
CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 8. SETTLEMENTS BY OFFICERS.

§6-8-5. Sheriff as county treasurer; settlements; turning over money to successor.

§6-8-7. Settlements by sheriff for school funds.

§6-8-8. Same—With what sheriff to be charged.

§6-8-9. Same—With what sheriff to be credited.

§6-8-10. Same—Method of settlement.

§6-8-5. Sheriff as county treasurer; settlements; turning over money to successor.

1 The sheriff shall be ex officio treasurer of his county and of the several districts thereof, and the word or designation “sheriff” whenever used in this code shall, unless the context otherwise requires, be held to include the sheriff as ex officio treasurer of the county and of the several districts thereof.

2 Between the fifteenth and thirty-first days of December of the year in which a sheriff’s term of office expires, such sheriff shall make up a list of all uncollected taxes and shall make a complete settlement with the county court, or tribunal in lieu thereof, and the board of education in such county, in the manner provided by law for settlements required at the end of the fiscal year. The sheriff shall receive credit in such settlement for the amount of taxes, remaining unpaid, and such list of taxes remaining unpaid shall be turned over to his successor in office January first. It shall be the duty of such successor to collect such taxes and to make up a delinquent list as provided and required by law; also to make settlement at the end of the fiscal year with the county court, or tribunal in lieu thereof, and the county board of education, in the manner provided by law. Every sheriff shall, on the first of January immediately following the expiration of his term of office, turn over to his successor all public moneys. Every sheriff who is appointed to fill a vacancy shall make such settlement with the county court, or tribunal in lieu thereof, and the county board of education, immediately upon the qualification of his successor, and at such time turn over to such successor all public moneys.

§6-8-7. Settlements by sheriff for school funds.

1 The county court of each county shall appoint a time im-
mediately following the first day of July in each year, and in
any event within thirty days thereafter, and within thirty days
following the expiration of the term of office of any sheriff, for
the settlement of the school funds of the county. At the time
so fixed, the school board of that county and the treasurer of
the county board of education, unless the sheriff has been
designated treasurer of the county board pursuant to section
six, article nine, chapter eighteen of this code, shall meet with
the county court. The sheriff of the county shall attend such
meeting and lay before the county court and such board of
education his account of school funds for the county, which
account shall be then and there settled. The county court
shall give at least five days’ notice of the time fixed for the
settlement of the county school funds to the county board of
education, the treasurer of the county board of education and
the sheriff.

§6-8-8. Same—With what sheriff to be charged.

In his settlement of school funds the sheriff shall be charged
with the amount of taxes and of general school fund appor-
tioned to each county and the amount of taxes levied by the
board of education upon the property of the county and for all
school funds, and for any other money received by him during
the current year on account of the free schools of the county.

§6-8-9. Same—With what sheriff to be credited.

The sheriff shall be credited in such settlements with the
amount of delinquent school tax in the county that has been
duly certified by the clerk of the county court to the county
board of education; and with all orders paid and produced by
him, if found to be correct by the board of education. He shall
receive no other credits.

§6-8-10. Same—Method of settlement.

In making such settlement it shall be the duty of the sheriff
to prepare and present to the county board of education, in
duplicate, separate lists of all the credits claimed by him
against each of the several school funds collected by him,
showing the amount, date and number of each voucher or
order, and to whom payable, together with statements of the
proper debits to the several funds to which he is chargeable;
which lists and statements, together with the vouchers claimed as credits by the sheriff, shall, if found correct by such board, be endorsed by the treasurer of the board on the back of each with the words, "Settled by the board of education," under which the treasurer shall sign his name and enter the date of the settlement, and such statements and lists, after being corrected, if corrections are necessary, shall be signed by the sheriff and by the president and treasurer of the board of education in duplicate, one copy to be retained by such board, and the other, together with the vouchers and orders, to be turned over to the county court. Exceptions may be taken to such settlement as provided in section two of this article, which exceptions shall be heard and decided by the county court. If the county court finds the settlement to be correct, or after it has corrected the same, it shall be confirmed and made a matter of record by the clerk of the county court in a book kept for that purpose.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

Article
5. Fiscal Affairs.
6. County Depositories.

ARTICLE 5. FISCAL AFFAIRS.
§7-5-1. Sheriff ex officio county treasurer.
§7-5-10. County orders receivable for taxes and fees.

§7-5-1. Sheriff ex officio county treasurer.

The sheriff shall be ex officio county treasurer and as such treasurer shall receive, collect and disburse all moneys due such county or any district thereof, and shall also receive, collect and disburse to the treasurer of the county board of education all school money for the county, unless the sheriff is designated by the board as its treasurer, as provided in section six, article nine, chapter eighteen of this code. The sheriff shall keep his office at the courthouse for the county, in a suitable room or rooms provided for that purpose by the county court, in which all money and property in his possession shall be kept, unless deposited by him in a county depository, in which case an accurate daily deposit account thereof shall be kept at his office. He shall keep in his office
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a fair and accurate account of all receipts and disbursements by him, showing the time when, from whom, to whom and on what account received and paid, and he shall so arrange his books that the amount received and paid on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate and distinct accounts, and he shall also keep separate and distinct accounts for the funds of each fiscal year.

When any money is paid to the sheriff, except for taxes, the sheriff shall give to the person paying the same duplicate receipts therefor, stating briefly the fund or account for which paid; one of which receipts such person shall forthwith deposit with the clerk of the county court, who shall, in a well-bound book to be kept by him in his office for the purpose, charge the sheriff therewith and preserve such receipt in his office.

The sheriff and his sureties on his official bond shall be held liable for all public moneys coming into his hands as ex officio treasurer from every source whether or not the same shall be deposited in a bank.

§7-5-10. County orders receivable for taxes and fees.

Every officer charged with the collection of taxes for any fiscal year and officers' fees shall receive in payment thereof, at par, any county order or draft issued in payment of any claim arising during said fiscal year for which were levied the taxes for the payment of which such draft is offered drawn on such officer pursuant to law, to the amount that such taxes are levied for the same fund against which such draft or order is drawn, if such draft be then due and payable, and if the person offering the same in payment be the person entitled thereto at the time it is so offered.

And if the amount due on such order or draft be more than the amount to be collected for the fund against which the draft is drawn from the person so offering the same in payment, the officer shall pay the balance due thereon if he have in his hands any money applicable to such payment; and if not he shall endorse thereon the amount of taxes or fees held by him against such person for which the draft is acceptable and that he has no
money in his hands applicable to the payment of the balance thereof, and thereupon the holder of such order shall have the right to have issued to him new orders; one for the amount of the taxes endorsed on the original order, and the other for the remainder of such original order, and such original order shall be canceled. No such officer shall be required to accept in payment in whole or in part of any taxes for any fund, any order or draft drawn in any year preceding the fiscal year for which said taxes were levied and are being collected.

ARTICLE 6. COUNTY DEPOSITORIES.

§7-6-4. Deposit and disbursement of moneys by sheriff.

The sheriff, upon receipt of a certified copy of the order of the county court, showing that a depository has been designated and bond accepted in compliance with the provisions of this article, and naming the depository or depositories, shall deposit therein to the credit of the county treasurer all public money in his possession, except such as may be necessary to meet current demands; and, thereafter, he shall make daily deposits in the public depositories of all public money received by him, except as hereinafter provided, the deposit of such money to be made as early as practicable after the receipt or collection thereof, and such money shall be payable by the depository only on an order issued by the county court, after such order has been endorsed by the county treasurer directing payment by the depository. If at any time the cash in the hands of the sheriff is not sufficient to meet current demands, he is authorized to withdraw sufficient cash from the depository to meet such current demands, such withdrawals to be made by check drawn by the sheriff and countersigned by the county clerk. Such current demands shall not be anticipated more than a week in advance. All moneys due the sheriff are to be drawn from the depository on an order issued by the sheriff. At the end of each month the president and clerk of the county court shall sign proper orders on the sheriff, in his favor, to pay him the moneys due him. All moneys belonging to the state, or any municipality, or board of education, shall be disbursed from the depository on a check drawn by the sheriff, payable to the auditor of the state of West Virginia, or to the treasurer of the municipality or to the treasurer of the county board of edu-
CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

§11A-1-13. Accounts to be kept by sheriff.

The sheriff shall keep separate accounts in a permanent book, in form prescribed by the tax commissioner, of all the taxes received and disbursed by him, for the different purposes for which the taxes were levied. Each of such accounts shall be kept so as to show the total receipts and disbursements up to the close of business on each day; and in a separate column opposite such totals the sheriff shall ascertain and note in figures, at the close of each day's transactions, the balance due from or to him, as the case may be, on account of such funds. The account book shall be subject to inspection at any time by the tax commissioner, members of the county court, the clerk thereof, the prosecuting attorney, the mayor or treasurer of any municipality, or the treasurer of the county board of education.

§11A-1-15. Payment by sheriff to municipal and county board of education treasuries.

Each month the sheriff shall pay all moneys collected for any municipal corporation and the county board of education into the respective treasuries of such municipal corporation and county board of education, payment to be made on or before the tenth day of each month of all moneys collected during the preceding month for such municipal corporation and the county board of education: Provided, That the sheriff shall not be required to make such monthly payments to the county board of education, if the county board has designated the sheriff as its treasurer pursuant to section six, article nine, chapter eighteen of this code. For the faithful performance of this duty, he shall execute a bond, to be approved by the muni-
13 the council or board, not to exceed the amount of munici-
14 pal or school taxes which it is estimated he will collect within
15 any period of two months. The premium on such bond shall
16 be paid by the municipality or board of education. Every
17 sheriff who fails to make any payment when due shall be
18 charged with interest at the rate of twelve percent a year.

CHAPTER 18. EDUCATION.

ARTICLE 9. SCHOOL FINANCES.

§18-9-2c. Transfer of funds remaining after retirement of school bonds; use of funds.

§18-9-3. Collection and disbursement of school money by sheriff; signing of orders for payment of money; forgery of signatures; penalties.

§18-9-4. Nonpayment of order; liability of treasurer of county board.

§18-9-6. Transfer of moneys; appointment of treasurer; bonding of treasurer; approval of bank accounts; authority to invest.

§18-9-2c. Transfer of funds remaining after retirement of school bonds; use of funds.

1 The treasurers of the county boards of education are here-
2 by authorized and directed to transfer to the credit of the
3 school current fund of the boards of education of their re-
4 spective counties, all remaining funds collected for the retire­
5 ment of school bonds after such bonds shall have been retired,
6 if the fact of such retirement has been certified by the state
7 sinking fund commission.
8
9 When such bonds have been retired the state sinking fund
10 commission shall certify the fact of the retirement of such
11 bonds to the treasurer of the board of education of the county.
12 Such funds shall be used in the same manner as other funds
13 now to the credit of, or which may hereafter be placed to
14 the credit of, the school current fund by the respective county
15 boards of education.

§18-9-3. Collection and disbursement of school money by sheriff; signing of orders for payment of money; forgery of signatures; penalties.

1 The sheriff shall receive, collect and disburse all levies,
2 and any other school moneys he may receive to the treasurer
3 of the county board of education unless the sheriff has been
designated treasurer of the county board pursuant to section six, article nine, chapter eighteen of this code. He shall keep accounts of the money belonging to the several funds and shall credit and charge every amount to the fund to which it belongs. The treasurer of the board of education shall pay money only upon the order of the board. The order shall specify the amount to be paid, the purpose for which it is paid, and the fund to which it shall be charged. The order shall be signed by the president and shall be countersigned by the secretary: Provided, That such signatures authorizing the payment of such orders may be made by means of such mechanical or electrical device as the board may select. Such mechanical or electrical device for the making of the signatures of the president and secretary shall be safely kept so that no one shall have access thereto except the president and the secretary of the board and such of their respective employees as may be authorized to have access thereto. If any person shall sign the names of the president or secretary of the board of education, without having authority so to do, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them on any order, he shall be guilty of forgery; and if any person shall utter or attempt to employ as true such forged order, knowing the same to be forged, he shall, in either event, be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.

§18-9-4. Nonpayment of order; liability of treasurer of county board.

If, when an order of any county board of education is presented to the treasurer of the board, there are no funds to pay the same, the person entitled to receive the sum of money specified in such order may require the treasurer to endorse thereon, or write across the face thereof, the words "presented for payment," with the proper date, and sign the same; and the order, if it was due at the time of presentment, shall in such case be payable with legal interest from such date.

Any such order not paid when presented as aforesaid shall again be presented to the treasurer of the county board for payment by the person entitled to receive the money thereon not later than the first day of December after such endorse-
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13 ment, and if not so presented, no further interest shall be al-
14 lowed or paid on such order thereafter, until such order shall
15 be so presented and endorsed as aforesaid a second time by
16 the treasurer, and in no case shall interest be allowed or paid
17 on such order for the period of time elapsed from the first day
18 of December following the first endorsement of such order by
19 the treasurer and the date when such order is presented for
20 payment or endorsement by the treasurer a second time.
21 In no event shall any such order bear interest for a longer
22 period than one year and six months from date of its issue. But
23 if the treasurer of the county board, having funds to pay the
24 same, fails to pay any proper order of any board of education
25 of his county, properly endorsed, when presented to him dur-
26 ing business hours by a person entitled to receive the money
27 therein specified, if the same be then due and payable, he and
28 his sureties, and the personal representatives of such of them
29 as are dead, shall be liable to the person entitled to receive
30 the money due on said order for the whole amount due there-
31 on at the time of such presentation, with legal interest on such
32 amount from that time until payment, and ten percent on the
33 same amount as damages.

§18-9-6. Transfer of moneys; appointment of treasurer; bonding of
treasurer; approval of bank accounts; authority to invest.

1 The sheriff of each county shall remit to the board of edu-
2 cation all moneys in his possession held on behalf of the coun-
3 ty board of education, whether or not deposited in a bank or
4 depository unless the sheriff has been designated treasurer of
5 the board of education as provided in this section. Such trans-
6 fer of funds shall be made as of the balances on hand on the
7 thirtieth day of June of the year in which the board of educa-
8 tion appoints a treasurer other than the sheriff, and shall be
9 completed no later than the first day of August of that year.
10 Such transfer shall be adjudged complete and final upon the
11 approval of the sheriff's official settlement for the fiscal year
12 ending on the thirtieth day of June, of the year in which the
13 board of education appoints a treasurer other than the sheriff,
14 and, any minor adjustment made necessary by the actually
15 known figures shall also be made at that time. All balances in
16 all county school funds at the end of each month after the
thirtieth day of June, of the year in which the board of education appoints a treasurer other than the sheriff, shall be transferred by the sheriff to the county board of education not later than the tenth day of the following month.

On or before the first Monday in May each county board of education shall upon recommendation of the county superintendent appoint a treasurer for the board. Such treasurer shall be the fiscal officer of the board, or an employee commonly designated as the person in charge of the financial affairs of the county board, or the county sheriff: Provided, That once a board of education has appointed a treasurer other than the sheriff, the sheriff shall not be named treasurer of the board in a subsequent year. Upon appointment this person shall be titled and referred to as treasurer of the board of education.

For the faithful performance of this duty, he shall execute a bond, to be approved by the board of education, in the penalty to be fixed by the board of education, not to exceed the amount of school funds which it is estimated he will handle within any period of two months. The premium on such bond shall be paid by the board of education.

The board of education may open a bank account, or accounts, as required to adequately and properly transact the business of the district in a depository, or banks, within the county. Such depositories, or banks, shall provide bond to cover the maximum amount to be deposited at any one time. On and after the first day of July, one thousand nine hundred seventy-three, all levies and any other school moneys received by the sheriff and paid to the treasurer of the county board of education shall be deposited in these accounts and all proper payments from such funds shall be made by the designated depository or bank upon order or draft presented for payment and signed by the duly authorized signatories of the board of education: Provided, however, That in determining the depository for board of education funds a board member who has a pecuniary interest in a bank within the county shall not participate in the determination of the depository for such funds.

If it be deemed that sufficient funds are on hand in any account at any one time which may be more than are normally required for the payment of incurred expenses, such
funds in the amount so deemed available may be invested by
the treasurer of the county board with the state sinking fund
commission, or in guaranteed certificates of deposit issued by
the depository or bank, or other guaranteed investments such
as treasury bills, treasury notes or certificates of deposit issued
by either the United States government or a banking institu-
tion in which federal or state guarantees are applicable. Interest
earned in such investments is to be credited to the fund from
which the moneys were originally available.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-9. Payment of teachers and other employees; withholdings.

Teachers and all other employees whose salaries or wages
are payable out of the school current fund shall be paid for
their services by orders duly signed by the president and sec-
retary of the board in accordance with the following provis-
ions: Notwithstanding any other provisions of this chapter and
chapter eighteen, the number of pays to be made during the
school year to the various classes of employees shall be deter-
mined by the board: Provided, That the sum of such pays for
any employee does not exceed the equivalent of an annual
salary based upon twelve calendar months. In the event a
teacher or other employee is not paid the full salary or wage
earned in the fiscal year in which the work is performed, the
unpaid amount may be paid during July and August of the
following fiscal year. Adjustments for time loss due to absence
may be made in the next pay check following such time loss.
The county board may withhold the pay of any teacher or
employee until he has made the reports required by the board
or the state superintendent.
dred thirty-one, as amended, relating to the transfer of title to real property to the West Virginia board of regents for use by Marshall University.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-13e. Transfer of property for the use of Marshall University.

1 On and after the first day of July, one thousand nine hundred sixty-one, supervision and control of all of the real property, heretofore administered by the commissioner of public institutions containing one hundred eighty-four and one-half acres, more or less, located in Guyandotte district, Cabell County, and known as the “West Virginia Home for Aged and Infirmed Colored Men and Women” shall be transferred to the supervision and control of the West Virginia board of regents. The West Virginia board of regents shall be authorized to use the property for any purpose it may deem advisable in connection with the educational program of Marshall University. The title to all such property is hereby vested in the West Virginia board of regents, which board may at any time sell or otherwise dispose of all or any part of such property, however, the proceeds of any such sale or sales, less costs of sale, shall be utilized for capital improvements or expansion of the Marshall University campus or facilities.

CHAPTER 123

(House Bill No. 1253—By Mrs. Merritt and Mr. Lohr)

[Passed April 11, 1973; in effect ninety days from passage. Approved by the Governor.]
county boards of education generally and their specific authority to provide professional liability insurance.

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:

   (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;

   (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 instruction, subject to approval of the state board of education;

   (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 school 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, trans-
portation 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 driv-
ers 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, including professional liability insurance for
board employees;
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 124
(House Bill No. 946—By Mr. Dinsmore and Mr. Stone)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article twenty-four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to education; fees to be paid by students; and authorizing the employment of attorneys at state colleges and universities to perform legal services for students.
Be it enacted by the Legislature of West Virginia:

That section one, article twenty-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 24. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION.

§18-24-1. Enrollment, tuition and other fees at educational institutions; refund of fees.

1 The governing boards of state educational institutions shall fix enrollment, tuition and other fees for each semester or school term for the different classes or categories of students enrolling at the state educational institutions, and may include among such fees any one or more of the following:

2 (1) Health service fees; (2) infirmary fees; (3) student activities, recreational, athletic and extracurricular fees, which said fees may be used to finance a students' attorney to perform legal services for students in civil matters at the state universities and state colleges: Provided, That such legal services shall be limited to only those types of cases, programs or services approved by the administrative head of the state educational institution where such legal services are to be performed; and (4) graduate center fees, and branch college fees, or either, if the establishment and operation of graduate centers or branch colleges are otherwise authorized by law. All fees collected under (1), (2) and (3) shall be paid into special funds and shall be used only for the purposes for which the fees are collected; and all fees collected at any graduate center or at any branch college shall be paid into special funds and shall be used solely for the maintenance and operation of the graduate center or branch college at which they were collected: Provided, That except in the case of graduate center fees or branch college fees, the minimum tuition fee for full-time resident students shall be twenty-five dollars per semester and the minimum tuition fee for full-time nonresident students shall be one hundred seventy-five dollars per semester at all state institutions of higher education except West Virginia University: Provided, however, That the minimum tuition fee for full-time resident
31 students at West Virginia University shall be forty dol-
32 lars per semester and the minimum tuition fee for full-
33 time nonresident students at West Virginia University shall
34 be two hundred five dollars per semester: Provided further,
35 That except for graduate center fees, branch college fees
36 and the student union fees hereinafter authorized, the maxi-
37 mum fees to be collected under this section for resident students
38 shall not exceed two hundred dollars per semester; and for
39 nonresident students, five hundred dollars per semester. The
40 schedule of all fees, and any changes therein, shall be
41 entered in the minutes of the meeting of the governing board,
42 and the governing board shall file with the state auditor and
43 director of the budget division a certified copy of such
44 schedule and changes.

45 In addition to the fees mentioned in the preceding para-
46 graph, the governing board of any state educational in-
47 stitution may impose and collect a student union building
48 fee. All such building fees collected at the institution shall
49 be paid into a special student union building fund for
50 such institution, which is hereby created in the state treasury,
51 and shall be used only for the construction, operation
52 and maintenance of a student union building or a com-
53 bination student union and dining hall building or for the
54 renovation of an existing structure for use as a student
55 union building or a combination student union and dining hall
56 building or for the payment of the principal of and interest on
57 any bond issued to finance part or all of the construction of a
58 student union building or a combination student union and
59 dining hall building or the renovation of an existing structure
60 for use as a student union building or a combination student
61 union and dining hall building, all as more fully provided in
62 section six of this article. Any moneys in such funds not
63 immediately needed for such purposes may be invested in any
64 such bonds or other securities as are now or hereafter be
65 authorized as proper investments for state funds.

66 Refund, as an erroneous payment, may be made of any
67 such fees, upon the voluntary or involuntary withdrawal from
68 classes of any student, until eight weeks of the school semester
69 or term have expired, but no refund may be made thereafter.
AN ACT to repeal section twenty-four, article two, and section ten-b, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article twenty-six of said chapter by adding thereto a new section, designated section eight-a, all relating to security officers at state institutions of higher education, their qualifications, authority, compensation and removal.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article two, and section ten-b, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that article twenty-six of said chapter be amended by adding thereto a new section, designated section eight-a, all to read as follows:

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-8a. Security officers; appointment; qualifications; authority; compensation and removal.

1 The West Virginia board of regents is hereby authorized to appoint bona fide residents of this state to act as security officers upon any premises owned or leased by the state of West Virginia and under the jurisdiction of the board of regents, subject to the conditions and restrictions hereinafter imposed.

2 Before entering upon the performance of his duties as such security officer in any county, each person so appointed shall qualify therefor in the same manner as is required of constables by the taking and filing of an oath of office as required by article one, chapter six of this code and by the posting of an official bond as required by article two, chapter six of this code. No such person shall have authority to carry a gun or any other dangerous weapon until he shall have obtained a license therefor in the manner prescribed by section two, article seven, chapter sixty-one of this code.

3 It shall be the duty of any person so appointed and qualified to preserve law and order on any premises under the jur-
isdiction of the board of regents to which he may be assigned by the president of the college or university. For this purpose he shall as to offenses committed on such premises have and may exercise all the powers and authority and shall be subject to all the responsibilities of regularly elected constables of the county. The assignment of security officers to any premises under the jurisdiction of the board shall not be deemed to supersede in any way the authority or duty of other peace officers to preserve law and order on such premises. In addition, the security officers appointed under provisions of this section shall have authority to assist local peace officers on public highways in the control of traffic in and around premises owned by the state of West Virginia whenever such traffic is generated as a result of athletic or other activities conducted or sponsored by a state college or university.

The salary of all such security officers shall be paid by the board of regents. Each institution may furnish each such security officer with an official uniform to be worn while on duty and shall furnish and require each such officer while on duty to wear a shield with an appropriate inscription and to carry credentials certifying to his identity and to his authority as a security officer.

The board of regents may at its pleasure revoke the authority of any such officer and the president of the college or university shall report the termination of employment of any such security officer by filing a notice to that effect in the office of the clerk of each county in which his oath of office was filed, and in the case of officers licensed to carry a gun or other dangerous weapon by notifying the clerk of the circuit court of the county in which the license therefor was granted.

CHAPTER 126
(Senate Bill No. 167—By Mr. Harman)

[Passed April 11, 1973; 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 fifteen-a, relating to education; the West Virginia board of regents; and authorizing the board of regents to provide monetary aid to residents of this state who are enrolled in and attend colleges of optometry outside this state.

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 fifteen-a, to read as follows:

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-15a. State aid for students of optometry.

1 The board of regents is hereby authorized to enter into a contract with an educational institution or institutions outside the state that offer training in optometry, by the terms of which the board of regents may obligate itself to pay such institution within the limits of any appropriation made for the purpose, a stated amount per year for each West Virginia student the institution will agree to accept for training in optometry.

2 The board of regents shall each year send to any institution with which such contract is made a certified list of all persons, applying to the board for training in optometry, who are bona fide citizens and residents of this state prior to the filing of their applications, and who have completed either within or without the state the course of study required by such institution as a prerequisite to the study of optometry.

3 Any person who receives state aid under this section shall, upon graduation from an educational institution for study of optometry, be required to practice optometry for a period of two years in this state, or in lieu thereof shall, within sixty days from the date of graduation, reimburse the board of regents for any tuition advanced by it in his behalf.
AN ACT to amend and reenact section six, article two, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuing contracts for school auxiliary and service personnel.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-6. Termination of employment of auxiliary and service personnel.

1 After three years of acceptable employment, each auxiliary and service personnel who enters into a new contract of employment with the board shall be granted continuing contract status. The continuing contract of any such employee shall remain in full force and effect except as modified by mutual consent of the school board and the employee, unless and until terminated with written notice, stating cause or causes, to the employee, by a majority vote of the full membership of the board before the first day of April of the then current year, or by written resignation of the employee before that date.

2 The affected employee shall have the right of a hearing before the board, if requested, before final action is taken by the board upon the termination of such employment.

3 Those employees who have completed three years of acceptable employment as of the effective date of this legislation shall be granted continuing contract status.
CHAPTER 128

(Senate Bill No. 120—By Mr. Brotherton, Mr. President, and Mr. Nelson)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to closing of schools because of holidays, disease, weather or calamitous cause; compensation to school personnel for time lost because of such; special Saturday classes; provisions for meetings and workshops.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.

 Schools shall not be kept open on any Saturday nor on the following days which are designated as legal school holidays, namely: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, Memorial Day and any day on which a primary election, general election or special election is held throughout the state or school district and any day appointed and set apart by the president or the governor as a holiday of special observance by the people of the state. When any such holidays falls within the employment term, it shall be considered as a day of the employment term and the full-time school personnel shall receive his pay for same. When any of the above designated holidays, except a special election, falls on Saturday, the schools shall be closed on the preceding Friday; when any such falls on Sunday, the schools shall be closed on the following Monday.

Special classes may be conducted on Saturdays, provided they are conducted on a voluntary basis, for pupils and by teachers and service personnel, and that such teachers and
service personnel shall be remunerated in ratio to the regularly contracted pay.

Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control. Under any or all of the above provisions, the time lost by the closing of schools shall be counted as days of employment and as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. On such day or days, county boards of education may provide appropriate alternate work schedules for professional, auxiliary and service personnel affected by the closing of any school or schools under any or all of the above provisions. Professional, auxiliary and service personnel shall receive pay the same as if school were in session. Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

In addition to any other provisions of this chapter, the board is further authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

CHAPTER 129

(Com. Sub. for House Bill No. 1172—By Mr. Ours and Mr. Shiflet)

[Passed April 7, 1973; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the exemption of certain securities from registration with the commissioner of securities and exempting securities issued by agriculture cooperative associations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. SECURITIES; DEFINITIONS; REGISTRATION; UNLAWFUL ACTS; PENALTIES; LIABILITIES.

§32-1-3. Securities not included.

1. Except as hereinafter expressly provided, the provisions of this chapter shall not apply to any of the following classes of securities:

(a) Any security issued or guaranteed by the United States or any territory or insular possession thereof, or by the District of Columbia, or by any state or political subdivision or agency thereof;

(b) Any security issued by a national bank or by any federal land bank or by a corporation created or acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States, or any security issued by provisions of the federal laws: Provided, That such corporation is subject to supervision or regulation by the government of the United States;

(c) Any security issued or guaranteed either as to principal, interest or dividends by a corporation owning or operating a railroad engaged in interstate commerce and under supervision of the interstate commerce commission; any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating any public service utility other than a railroad, provided the issuance of such security is supervised or regulated by a public commission, board or officer of the government of the United States or of any state, territory or insular possession of the United States, or of the District of Columbia or of the Dominion of Canada or any province thereof; and any equipment security based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock or equipment mortgaged, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state, or of the Dominion of Canada, to secure the payment of such equipment securities;
(d) Any security issued by a person organized and operated exclusively for educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder or individual;

(e) Any security which, at the time of the sale, is listed on the New York Stock Exchange, the American Stock Exchange or the Midwest Stock Exchange, pursuant to authorization by any such exchange, and additional amounts of any such securities when regularly approved for listing upon the issuance thereof and securities senior to the securities so listed: Provided, That the commissioner shall have power and authority at any time to withdraw such exemption for any security or group of securities so listed, pending an investigation and hearing on securities included in such order. A date for hearing shall be set by the commissioner not more than twenty days after such withdrawal order. The commissioner, by ruling, may grant this same exemption to securities listed on any other exchange following an application from such exchange and after an investigation and examination has been made by him. The expense of all hearings, investigations and examinations shall be paid by the exchange making application or receiving a hearing;

(f) Any security issued by a state bank, trust company, building and loan association or savings institution, incorporated under the laws of and subject to the examinations, supervision and control of any state or territory of the United States or any insular possession thereof;

(g) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a person licensed and supervised by the insurance commissioner of this state;

(h) Any security other than common stock outstanding and in the hands of the public for a period of not less than three years upon which no default in payment of principal, interest or dividend exists and upon which no such default has occurred for a continuous immediately preceding period of three years: Provided, That the issuer of such securities has continued such payments of principal, interest or dividends as provided at the time of original issue: Provided further, That no plan or proposal of recapitalization, reorganization,
rearrangement of capitalization, or other form of readjust-
ment of issuer’s finances, has been made or a petition of
voluntary or involuntary bankruptcy has been filed in any court
by or for such issuer within the preceding period of three
years;

(i) Any securities bought or sold upon customers’ orders:
Provided, That such securities are bought or sold on an ex-
change which, at the time of such transaction, is registered as a
national exchange by the securities and exchange commission:
Provided further, That no solicitation is made of the orders so
executed;

(j) Any note, draft, bill of exchange or bankers accept-
ance which arises out of a current transaction or the proceeds
of which have been or are to be used for a current trans-
action, is not the subject of a public offering, has at the
time of issuance a definite maturity (after all days of grace,
if any) of not exceeding one year, is payable in cash only,
and is not convertible into and does not carry an option or
right to receive payment or any bonus in any other security;
and

(k) Any security issued by an agricultural cooperative
association operating in this state that is organized under
article four, chapter nineteen of this code, or as a foreign
cooperative association organized under the laws of another
state that has been duly qualified to transact business in this
state.

CHAPTER 130
(Senate Bill No. 186—By Mr. Jones)

[Passed April 13, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one, chapter
twenty-six of the code of West Virginia, one thousand nine hun-

Clerk’s note.—S. B. 190, Chapter 131, of these Acts, enacted a different
version of Sections one and two, article three, chapter 26, of the Code. Since
S. B. 186, also amending these sections was passed subsequent to S. B. 190,
it is believed the last enactment should take precedence.
dred thirty-one, as amended; to amend and reenact sections one and two, article three of said chapter twenty-six; and to amend and reenact sections one, two and three, article three, chapter twenty-eight of said code, all relating to deleting racial references in sections of said code relating to the West Virginia children's home, the West Virginia home for aged and infirm men and women and the West Virginia industrial home for girls, all of which institutions are under the control of the state commissioner of public institutions.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 26. STATE BENEVOLENT INSTITUTIONS.

Chapter

Article
1. Children's Home.
3. Home for Aged and Infirm Men and Women.

ARTICLE 1. CHILDREN'S HOME.

§26-1-2. Admission of inmates.
1 The state commissioner of public institutions shall admit
2 to the care and custody of said home, children surrendered
3 or committed to the home on any manner authorized by
4 law, and such children shall be kept, maintained and edu-
5 cated therein until they can be placed by legal authority in
6 suitable homes elsewhere.

ARTICLE 3. HOME FOR AGED AND INfirm MEN AND WOMEN.

§26-3-1. Establishment; name; management; superintendent.
§26-3-2. Admission of inmates.

§26-3-1. Establishment; name; management; superintendent.

1 The West Virginia home for aged and infirm men and
women is hereby established at Sweet Springs, Monroe County, West Virginia, to be known as Andrew S. Rowan Memorial Home, and shall be managed, directed and controlled as provided in article one, chapter twenty-five of this code. The chief executive officer thereof shall be a superintendent who must be a citizen of the state and a person of good executive ability and who shall be appointed by the governor by and with the advice and consent of the Senate.

§26-3-2. Admission of inmates.

Any man or woman shall be eligible for admission to said home who:

1. Has attained the age of sixty years;
2. Has resided in the state for at least one year immediately preceding the application;
3. Has not made an assignment or transfer of property for the purpose of qualifying for public assistance;
4. Is in need of continuing institutional care because of his physical or mental condition;
5. Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health; and
6. Has no children, father, brothers, sisters or mother of sufficient financial ability to support such person in the manner required by the department of welfare.

No person shall be admitted to said home except upon the recommendation of the department of welfare, or unless such person be qualified to admission to said home under the provisions of sections three and four of this article.

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 3. INDUSTRIAL HOME FOR GIRLS.

§28-3-1. Continuation; management; certain officers and employees to be women.

§28-3-2. Commitment to industrial home.

§28-3-3. Commitment of certain girls convicted in state or federal court of crime punishable by imprisonment.
§28-3-1. Continuation; management; certain officers and employees to be women.

1 The West Virginia industrial home for girls, heretofore established and located at Industrial, in Harrison County, shall be continued, and shall be exclusively charged with the care, training and reformation of girls committed to its custody. It shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. All officers, agents and servants for the internal management of said home shall be women.

§28-3-2. Commitment to industrial home.

1 Any girl, a legal resident of the state between the ages of twelve and eighteen years, may be committed to the West Virginia industrial home for girls:

(a) By any juvenile or domestic relations court of competent jurisdiction for any of the causes and in the manner prescribed in article two, chapter forty-nine of this code for dealing with delinquent children;

(b) By any court of record of competent jurisdiction of this state or of the United States for the districts of West Virginia, in the manner provided in section three of this article.

12 But no girl shall be committed to such home as an inmate thereof who is of unsound mind, or imbecilic, or idiotic, or epileptic: Provided, That any girl who has been adjudged delinquent and placed on probation by a court of competent jurisdiction prior to her eighteenth birthday may be committed to the West Virginia industrial home for girls for any act or omission amounting to a violation of any condition of her probation which said act or omission occurred prior to the expiration of the period of her probation and prior to the attainment of her twenty-first birthday.

§28-3-3. Commitment of certain girls convicted in state or federal court of crime punishable by imprisonment.

1 Whenever any girl, who is a resident of this state and under the age of eighteen years, shall have been convicted in any court of record of this state of a felony, or of a misdemeanor
punishable by imprisonment, the judge of such court, in his
discretion, instead of sentencing such girl to be confined in the
penitentiary or the county jail, may order her to be removed
to and confined in the West Virginia industrial home for girls,
there to remain until she shall have attained the age of twenty-
one years, unless sooner discharged or paroled by the state
commissioner of public institutions. Any girl, who is a resident
of this state and under the age of eighteen years, convicted in
any of the courts of the United States for the districts of West
Virginia of any offense punishable by imprisonment, may also
be received into such home upon such regulations and terms
as to her maintenance and support as may be agreed upon by
the state commissioner of public institutions and the proper
authorities of the United States.

CHAPTER 131

(Senate Bill No. 190—By Mr. Sharpe and Mr. Moreland)

[Passed April 2, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one and two, article three,
chapter twenty-six of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the home for
aged and infirm men and women; removing the restriction of
"white" only in relation to admission of inmates; lowering the
age for admission to the home from sixty-five to sixty-two; re-
moving the requirement that the applicant has no children, fath-
er, brothers, sisters or mother of sufficient financial ability to
support such person; and removing the requirement that an ap-
plicant be recommended by the council of the department of
public assistance of the county in which the individual seeking
the admission resided at the date of application.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article three, chapter twenty-six of the

Clerk's note.—The provisions of this chapter were apparently superceded
by the passage of S. B. 186, Chapter 130, of these Acts. See note to Chapter
130.
code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. HOME FOR AGED AND INFIRM MEN AND WOMEN.

§26-3-1. Continuation; name; management; superintendent.

§26-3-2. Admission of inmates.

§26-3-1. Continuation; name; management; superintendent.

1 The West Virginia home for aged and infirm men and women, heretofore established, shall be continued at Sweet Springs, Monroe County, West Virginia, to be known as Andrew S. Rowan Memorial Home, and shall be managed, directed and controlled as provided in article one, chapter twenty-five of this code. The chief executive officer thereof shall be a superintendent who must be a citizen of the state and a person of good executive ability, and who shall be appointed by the governor by and with the advice and consent of the Senate.

§26-3-2. Admission of inmates.

1 Any man or woman shall be eligible for admission to said home who:
2 (1) Has attained the age of sixty-two years;
3 (2) Has resided in the state for at least one year immediately preceding the application;
4 (3) Has not made an assignment or transfer of property for the purpose of qualifying for public assistance;
5 (4) Is in need of continuing institutional care because of his physical or mental condition;
6 (5) Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.

CHAPTER 132

(Com. Sub. for Senate Bill No. 48—By Mr. Moreland and Mr. Deem)

[Passed March 30, 1973; in effect from passage. Approved by the Governor.]
thirty-one, as amended, providing rules to be observed in the construction and interpretation of statutes.

Be it enacted by the Legislature of West Virginia:

That section ten, 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.

§2-2-10. 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:

2. (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;

3. (b) 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;

4. (c) 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;

5. (d) 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;

6. (e) 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;

7. (f) The words "the governor" are equivalent to "the executive of the state" or "the person having the executive power";
(g) "Justice" or "justices" as used in article one, chapter fifty-one of this code and in other references to a member or members of the supreme court of appeals shall mean and apply to a judge or the judges of said court as provided for in the constitution of the state. The word "justice" in any other context is equivalent to the words "justice of the peace," and the word "notary" is equivalent to "notary public";

(h) 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;

(i) The word "person" or "whoever" shall include corporations, societies, associations and partnerships, if not restricted by the context;

(j) 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 property" 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 authorized 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 commissioner" 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 stallion, a mare and a gelding;

(y) The words "railroad" and "railway" shall be construed by the courts of this state to mean the same thing in law; and, in any proceeding wherein a railroad company 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 motion, pleading or indictment in consequence of such misdescription;
106 (z) The sectional headings or headlines of the several sec-
107 tions of this code printed in black-faced type are intended as
108 mere catchwords to indicate the contents of the section and
109 shall not be deemed or taken to be titles of such sections, or as
110 any part of the statute, and, unless expressly so provided, they
111 shall not be so deemed when any of such sections, including the
112 headlines are amended or reenacted;
113 (aa) The words “infant” and “minor” mean persons under
114 the age of eighteen years as such words are used in this code or
115 in rules and regulations promulgated by the supreme court of
116 appeals;
117 (bb) A statute is presumed to be prospective in its operation
118 unless expressly made retrospective;
119 (cc) Unless there is a provision in a section, article or chap-
120 ter of this code specifying that the provisions thereof shall not
121 be severable, the provisions of every section, article or chapter
122 of this code, whether enacted before or subsequent to the effec-
123 tive date of this subdivision, shall be severable so that if any
124 provision of any such section, article or chapter is held to be
125 unconstitutional or void, the remaining provisions of such sec-
126 tion, article or chapter shall remain valid, unless the court finds
127 the valid provisions are so essentially and inseparably connected
128 with, and so dependent upon, the unconstitutional or void pro-
129 vision that the court cannot presume the Legislature would have
130 enacted the remaining valid provisions without the unconstitu-
131 tional or void one, or unless the court finds the remaining valid
132 provisions, standing alone, are incomplete and are incapable of
133 being executed in accordance with the legislative intent: Pro-
134 vided, That if any such section, article or chapter of this code
135 has its own severability clause, then such severability clause
136 shall govern and control with respect to such section, article or
137 chapter in lieu of the provisions of this subdivision. The provi-
138 sions of this subdivision shall be fully applicable to all future
139 amendments or additions to this code, with like effect as if the
140 provisions of this subdivision were set forth in extenso in every
141 such amendment or addition and were reenacted as a part
142 thereof, unless such amendment or addition contains its own
143 severability clause;
144 (dd) A reference to any section, article or chapter of this
code applies to all reenactments, revisions or amendments thereof;

(ee) If a statute refers to a series of numbers or letters, the first and the last numbers or letters in the series are deemed to be included.

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CHAPTER 133

(Senate Bill No. 184—By Mr. Moreland and Mr. Harman)

[Passed April 10, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend article two, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven; and to amend and reenact section one-a, article three, chapter eleven of said code, all relating to the official boundary lines of tax districts within the state of West Virginia; and removing the power of a county court to arrange its land books and personal property books so that the boundaries of districts for taxing purposes coincide with the boundaries of magisterial districts for voting purposes at any given time.

Be it enacted by the Legislature of West Virginia:

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

Chapter

7. County Courts and Officers.

11. Taxation.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 2. COUNTY AND DISTRICT BOUNDARIES; CHANGE OF COUNTY SEAT AND NAMES OF UNINCORPORATED TOWNS AND OF DISTRICTS.

§7-2-7. Establishment of tax district boundary lines.

On and after the first day of July, one thousand nine
The Legislature recognizes that several counties have redistricted their magisterial districts in order to achieve as nearly as practicable equal numbers of population within each such district; that if the land books and personal property books of any such county must be changed following each such redistricting so as to reflect the newly established districts, very substantial costs to the counties would be occasioned thereby; that if the land books must be changed following each such redistricting so as to reflect the newly established districts, problems would arise in searching and abstracting titles to real property; and that there is no reason to require the land books and personal property books of a county for tax purposes to be on a magisterial district basis as such districts are established for voting purposes. Consequently, the terms "tax district" or "district," or the plural thereof, as used in this chapter, shall mean the
magisterial district or districts and the subdivisions thereof as the same existed in any county on the first day of January, one thousand nine hundred sixty-nine: Provided, That in a county in which the county court has exercised the power formerly granted it under chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred seventy-two, by designating that county's magisterial districts as tax districts, the term “tax districts” shall mean the magisterial districts of that county as they existed on the first day of July, one thousand nine hundred seventy-three.

CHAPTER 134
(House Bill No. 806—By Mr. Shiflet and Mr. Terry)

[Passed April 10, 1973; in effect from passage. Approved by the Governor.]

AN ACT to amend article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-b, relating to the assessor not using recorded plats and proposed land use designations as the basis for reassessments before the actual change of land use occurs.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-1b. Rec ordation of plat or designation of land use not to be basis for assessment.

The recordation of a plan or plat, or the designation of proposed land use by a county or municipal planning authority shall not be used by the assessor as a basis in the valuation or assessment of real property for the purposes of taxation until such time as the actual use of such real property or any part thereof, has changed to correspond to the plan, plat or proposed use.
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 six-a, relating to the tax treatment of pollution control facilities; a certain declaration of policy; defining a pollution control facility; declaring the value of such facility for the purpose of ad valorem property taxation; and giving the state tax commissioner authority to promulgate certain regulations with regard thereto.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6A. POLLUTION CONTROL FACILITIES TAX TREATMENT.

§11-6A-1. Declaration of policy.

§11-6A-2. Definition.

§11-6A-3. Tax treatment of pollution control facilities.

§11-6A-4. Regulations.

§11-6A-1. Declaration of policy.

1 It is declared to be the public policy of the state of West Virginia to maintain reasonable standards of purity and quality of the water of the state and a reasonable degree of purity of the air resources of the state. In the exercise of the police power of the state to protect the environment and promote the public health, safety and general welfare, the Legislature has heretofore enacted the Water Pollution Control Act as article five-a, chapter twenty of this code and the Air Pollution Control Act as article twenty, chapter sixteen thereof. It is recognized and declared by the Legislature that pollution control facilities, as hereinafter defined, are required for the protection and benefit of the environment and the general welfare of the people, are nonproductive, do
not add to the economic value of a business enterprise and
do not have a market value after installation in excess of
salvage value.

§11-6A-2. Definition.

As used in this article, "pollution control facility" means
any personal property designed, constructed or installed pri-
marily for the purpose of abating or reducing water or air
pollution or contamination by removing, altering, disposing,
treating, storing or dispersing the concentration of pollutants,
contaminants, wastes or heat in compliance with air or water
quality or effluent standards prescribed by or promulgated un-
der the laws of this state or the United States, the design, con-
struction and installation of which personal property was ap-
proved as a pollution control facility by the water resources
division of the department of natural resources or the air pollu-
tion control commission, as the case may be.

§11-6A-3. Tax treatment of pollution control facilities.

The value of a pollution control facility first placed in
operation subsequent to July one, one thousand nine hundred
seventy-three, shall, for the purpose of ad valorem property
taxation under this chapter, be deemed to be its salvage value,
that is to say, the price for which such facility would sell in
place if voluntarily offered for sale by the owner thereof.

§11-6A-4. Regulations.

The state tax commissioner shall have the power and auth-
ority to promulgate regulations for the administration of this
article. Such regulations may provide, among other things, for
the identification and certification of pollution control facil-
ities, the determination of the date upon which such facilities
were first placed in operation, the determination of whether
such facilities are real or personal property, a method for the
allocation or separation of values where the pollution control
facility produces a profitable by-product or where a part of
such facility is required for the operation of the business with-
out regard to the requirements of state or federal air or water
quality standards and such other matters as may be related to
the administration of this article.
AN ACT to amend and reenact section four, article fourteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to motor carrier road tax; computation thereof.

Be it enacted by the Legislature of West Virginia:

That section four, 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.


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 miles traveled within this state bears to the total number of highway miles traveled within and without this state.
of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.


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-three, 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-three, 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-three, shall be given effect.

CHAPTER 138

(Com. Sub. for House Bill No. 658—By Miss Herndon)

[Passed April 14, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia adjusted gross income of resident individual; relating to definition of federal adjusted gross income; providing for modifications increasing federal adjusted gross income; providing for modifications reducing federal adjusted gross income; providing a new modification reducing federal adjusted gross income for persons above the age of sixty-five; providing a new modification reducing federal adjusted gross income for persons serving in the armed forces of the United States; providing for modi-
fication for West Virginia fiduciary adjustment; providing for modifications for partners and for husband and wife filing separately.

Be it enacted by the Legislature of West Virginia:

That section twelve, 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.

§11-21-12. West Virginia adjusted gross income of resident individual.

(a) General.—The West Virginia adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year with the modifications specified in this section.

(b) Modifications increasing federal adjusted gross income.—There shall be added to federal adjusted gross income:

1. Interest income on obligations of any state other than this state, or of a political subdivision of any such other state unless created 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 adjusted gross income and not credited against federal income tax; 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 adjusted gross income.

(c) Modifications reducing federal adjusted gross income.—There shall be subtracted from federal adjusted gross income:
(1) Interest income on obligations of the United States and its possessions to the extent includible 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 includible 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 January, one thousand nine hundred sixty-one, 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: Provided, however, That if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain;

(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) Retirement benefits received from any source payable to persons above the age of sixty-five: Provided, That such deduction for retirement benefits received from such source shall be limited to an amount not to exceed four thousand dollars; and

(6) Any pay or allowances received after the thirty-first day of December, one thousand nine hundred seventy-three, by West Virginia residents as compensation for active service in the armed forces of the United States: Provided, That such deduction shall be limited to an amount not to exceed four thousand dollars.

(d) Modification for West Virginia fiduciary adjustment. — There shall be added to or subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under section nineteen.
(e) Partners.—The amounts of modifications required to be made under this section by a partner, which relate to items of income, gain, loss or deduction of a partnership, shall be determined under section seventeen.

(f) Husband and wife.—If husband and wife determine their federal income tax on a joint return but determine their West Virginia income taxes separately, they shall determine their West Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been determined separately.

CHAPTER 139

(House Bill No. 1318—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 14, 1973; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twenty-four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to meaning of terms for corporation net income tax purposes.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-four, 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 24. CORPORATION NET INCOME TAX.

PART I. DEFINITIONS,

IMPOSITION OF TAX AND RATE, AND EXEMPTIONS.


(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 tax law shall mean the 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-three, shall be given effect in determining the taxes imposed by this article for the tax period beginning the first day of July, one thousand nine hundred seventy-three, and thereafter, but no amendment to laws of the United States made on or after the first day of January, one thousand nine hundred seventy-three, shall be given effect.

(b) Certain terms defined.—For purposes of this article:

(1) The term “tax commissioner” means the tax commissioner of the state of West Virginia or his delegate.

(2) The term “corporation” means and includes a joint-stock company or any association which is taxable as a corporation under the federal income tax law.

(3) The term “domestic corporation” means any corporation organized under the laws of West Virginia.

(4) The term “foreign corporation” means any corporation other than a domestic corporation.

(5) The term “state” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(6) The term “taxable year” means the taxable year for which the taxable income of the taxpayer is computed under the federal income tax law.

(7) The term “taxpayer” means a corporation subject to the tax imposed by this article.

(8) The term “tax” includes, within its meaning, interest and penalties unless the intention to give it a more limited meaning is disclosed by the context.

(9) The term “commercial domicile” means the principal place from which the trade or business of the 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.

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**CHAPTER 140**

(Passed March 12, 1973; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section seventeen, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the redemption of delinquent land from purchaser; receipt; list of redemptions; lien; preparation of list of persons to be served and increasing title search fee.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. SALE OF LAND FOR TAXES.

§11A-3-17. Redemption from purchase by individual; receipt; list of redemptions; lien.

1 After the sale, the former owner of, or any other person who was entitled to pay the taxes on, any real estate purchased by an individual, may redeem at any time before April first of the second year following the sale. In order to redeem, he must pay to the purchaser, his heirs or assigns, the following amounts: (1) The amount of purchase money paid to the sheriff, with interest at the rate of twelve percent per annum from the date of sale. (2) All other taxes thereon, which have since been paid by the purchaser, his heirs or assigns, with interest at the rate of twelve percent per annum from the date of payment. (3) Such additional expenses as may have been incurred in procuring the survey or report provided for in sections twenty-one and twenty-two of this article; and for the examination of the title in order to prepare the list of those to be served with notice and giving the notice required by sections twenty-three and twenty-four of this article, but the amount he shall be required to pay for the expenses incurred in preparing the list of those to be served with notice to redeem, required by sections twenty-three and twenty-four of this article, shall not exceed fifty dollars.

The person redeeming shall be given duplicate receipts for the payment. If the purchaser, his heirs or assigns, shall refuse or fail to sign and give such receipts when lawfully required to do so, he or they shall pay to the person redeeming twice the amount of such payment, which may be recovered by action on the case in any court of competent jurisdiction. One of such receipts shall be filed with the clerk of the county court on or before the day on which the right to redeem expires. The clerk shall endorse on both receipts the fact and time of such filing, and shall note the fact of redemption on his record of delinquent lands. If the receipt
is not filed on or before such date, the redemption shall be void as to creditors and subsequent bona fide purchasers from the purchaser, his heirs or assigns. If, however, the receipt is filed after the date required, it shall operate as notice from and after the date of filing. In April of each year the clerk of the county court shall prepare and certify to the auditor a list of all redemptions from sales to individual purchasers, which have not been included in any former list.

Any person who, by reason of the fact that no provision is made for partial redemption of real estate purchased by an individual, is compelled in order to protect himself to redeem all of such real estate when it belongs in whole or in part to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county court his claim in writing against the owner of such interest, together with the receipt provided for in this or the following section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

CHAPTER 141

(Com. Sub. for House Bill No. 1221—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 14, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact sections six, fourteen, fifteen and eighteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article four by adding thereto three new sections, designated sections one-a, one-b and one-c; to amend and reenact sections one, two and three, article four-a of said chapter; and to amend and reenact sections one and five, article five of said chapter, all relating to workmen's compensation generally; relating to report of injuries by employees; relating to report of injuries by employers; relating to waiver by em-
payers; authorizing payment of total temporary disability benefits directly to claimants; relating to circumstances under which employer's account is not charged and a claimant is not required to refund payments of total temporary disability benefits; relating to the classification of disability benefits and defining terms in connection therewith; establishing minimum and maximum benefits; relating to determining the degree of disability and standards in connection therewith; relating to the computation of benefits and defining terms in connection therewith; relating to the application for workmen's compensation benefits and prescribing time limits in connection therewith; relating to the mode of paying workmen's compensation benefits generally; exempting workmen's compensation benefits from the claims of creditors and from legal process; relating to the disabled workmen's relief fund and providing for the payment of benefits from such fund; relating to the computation of benefits to be paid from such disabled workmen's relief fund; relating to the mode of payment of benefits from such fund; providing for the payment of benefits from such fund to employees of self-insurers; providing that the purpose of such disabled workmen's relief fund is to increase the benefits being paid under life awards or in fatal claims to the minimum amount payable in such claims under the law in effect on July one, one thousand nine hundred seventy-one; relating to notice by commissioner of decision; relating to objections and hearings; establishing time standards for the setting of hearings and for decisions after final hearings; relating to appeals; relating to expenses in connection with hearings; limiting the fee of an attorney for a claimant; providing that any contract in excess of such limitation is unlawful and unenforceable; and specifying unlawful practices.

Be it enacted by the Legislature of West Virginia:

That sections six, fourteen, fifteen and eighteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article four be further amended by adding thereto three new sections, designated sections one-a, one-b and one-c; that sections one, two and three, article four-a of said chapter be amended and reenacted; and that sections one and five, article five of said chapter be amended and reenacted, all to read as follows:
Article

4. Disability and Death Benefits.
4A. Disabled Workmen's Relief Fund.
5. Review.

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-1b. Report of injuries by employers.
§23-4-1c. Payment of temporary total disability benefits directly to claimant.
§23-4-1d. Classification of disability benefits.
§23-4-1e. Computation of benefits.
§23-4-1f. Application of benefits.
§23-4-1g. Mode of paying benefits generally; exemptions of compensation from legal process.


Every employee who sustains an injury subject to this chapter, or his representative, shall immediately on the occurrence of such injury or as soon thereafter as practicable give or cause to be given to the employer or any of his agents a written notice of the occurrence of such injury, with like notice or a copy thereof to the commissioner, stating in ordinary language the name and address of the employer, the name and address of the employee, the time, place, nature and cause of the injury, and whether temporary total disability has resulted therefrom. Such notice shall be given personally to the employer or any of his agents, or may be sent by registered mail addressed to the employer at his last known residence or place of business. Such notice may be given to the commissioner personally or by mail.

§23-4-1b. Report of injuries by employers.

It shall be the duty of every employer to report to the commissioner every injury sustained by any person in his employ. Such report shall be on forms prescribed by the commissioner; and shall be made within ten days of the employer's receipt of the employee's notice of injury, required by section one-a of this article, or within ten days after the employer has been notified by the commissioner that a claim for benefits has been filed on account of such injury, whichever is sooner. The employer's report of injury shall include a statement as to whether or not, on the basis of the information then available, the employer disputes the compensability of the injury or
objects to the payment of temporary total disability benefits in connection therewith. Such statements by the employer shall not prejudice the employer's right thereafter to contest the compensability of the injury, or to object to any subsequent finding or award, in accordance with article five of this chapter; but an employer's failure to make timely report of an injury as required herein, or statements in such report to the effect that the employer does not dispute the compensability of the injury or object to the payment of temporary total disability benefits for such injury, shall be deemed to be a waiver of the employer's right to object to any interim payment of temporary total disability benefits paid by the commissioner with respect to any period from the date of injury to the date of the commissioner's receipt of any objection made thereto by the employer.

§23-4-1c. Payment of temporary total disability benefits directly to claimant.

In any case of injury in which the employer has failed to make report of an injury as required in section one-b of this article, or has made such report of an injury but has not stated therein that he disputes the compensability of the injury or objects to the payment of temporary total disability benefits in connection therewith, the commissioner, upon a finding that a claimant has sustained a compensable injury within the meaning of section one of this article, and upon proof by proper physician's report, or otherwise, that disability will last longer than three days as provided in section five of this article, shall immediately commence payment of temporary total disability benefits to the claimant in the amounts provided for in sections six and fourteen, of this article, without waiting for the expiration of the thirty-day period during which objections may be filed to such findings as provided in section one, article five of this chapter. The commissioner shall give immediate notice to the employer of his findings and of the commencement of such payments.

Where the employer is a subscriber to the workmen's compensation fund under the provisions of article three of this chapter, and upon the findings aforesaid, the commissioner shall mail all workmen's compensation checks paying such
interim temporary total disability benefits directly to the claimant and not to the employer for delivery to the claimant.

Where the employer has elected to carry his own risk under section nine, article two of this chapter, and upon the findings aforesaid, the commissioner shall immediately issue a pay order directing the employer to pay such amounts as are due the claimant for temporary total disability benefits.

Upon the filing of timely objection to any finding or order of the commissioner, as provided in section one, article five of this chapter, with respect to the payment or continued payment of temporary total disability benefits as provided herein, the commissioner shall immediately cease said payments until such objection has been finally determined as provided in article five of this chapter. If the claim is later determined not to be compensable, the employer's account is not to be charged for temporary total disability payments made, and the claimant will not be required to refund to the commissioner temporary total disability payments he has received, unless fraud has been employed in securing such benefits.

§23-4-6. Classification of disability benefits.

Where compensation is due an employee under the provisions of this chapter for personal injury, such compensation shall be as provided in the following schedule:

(a) The expressions "average weekly wage earnings, wherever earned, of the injured employee, at the date of injury" and "average weekly wage in West Virginia," as used in this chapter, shall have the meaning and shall be computed as set forth in section fourteen of this article.

(b) If the injury causes temporary total disability, the employee shall receive during the continuance thereof weekly benefits as follows: A maximum weekly benefit to be computed on the basis of sixty-six and two-thirds percent of the average weekly earnings, wherever earned, of the injured employee, at the date of injury, not to exceed the percentage of the average weekly wage in West Virginia, as follows: On or after July one, one thousand nine hundred sixty-nine, forty-five percent; on or after July one, one thousand nine hundred seventy, fifty percent; on or after July one, one...
thousand nine hundred seventy-one, fifty-five percent; on or after July one, one thousand nine hundred seventy-three, sixty percent.

The minimum weekly benefits paid hereunder shall not be less than twenty-six dollars per week for injuries occurring on or after July one, one thousand nine hundred sixty-nine; not less than thirty-five dollars per week for injuries occurring on or after July one, one thousand nine hundred seventy-one and not less than forty dollars per week for injuries occurring on or after July one, one thousand nine hundred seventy-three.

(c) Subdivision (b) shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding two hundred eight weeks.

(d) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the award computed on the basis of four weeks compensation for each percent of disability determined and the maximum or minimum weekly benefits as provided in subdivision (b) of this section for temporary total disability benefits shall be payable.

For a disability of eighty-five percent or more, benefits shall be payable during the remainder of life at the maximum or minimum weekly benefits as provided in subdivision (b) of this section for temporary total disability.

(e) If the injury results in the total loss by severance of any of the members named in this subdivision, the percentage of disability shall be determined in accordance with the following table, and award made as provided in subdivision (d) of this section:

The loss of a great toe shall be considered a ten percent disability.

The loss of a great toe (one phalanx) shall be considered a five percent disability.

The loss of other toes shall be considered a four percent disability.

The loss of other toes (one phalanx) shall be considered a two percent disability.

The loss of all toes shall be considered a twenty-five percent disability.
The loss of forepart of foot shall be considered a thirty percent disability.
The loss of foot shall be considered a thirty-five percent disability.
The loss of a leg shall be considered a forty-five percent disability.
The loss of thigh shall be considered a fifty percent disability.
The loss of thigh at hip joint shall be considered a sixty percent disability.
The loss of a little or fourth finger (one phalanx) shall be considered a three percent disability.
The loss of little or fourth finger shall be considered a five percent disability.
The loss of ring or third finger (one phalanx) shall be considered a three percent disability.
The loss of ring or third finger shall be considered a five percent disability.
... The loss of middle or second finger (one phalanx) shall be considered a three percent disability.
The loss of middle or second finger shall be considered a seven percent disability.
The loss of index or first finger (one phalanx) shall be considered a six percent disability.
The loss of index or first finger shall be considered a ten percent disability.
The loss of thumb (one phalanx) shall be considered a twelve percent disability.
The loss of thumb shall be considered a twenty percent disability.
The loss of thumb and index finger shall be considered a thirty-two percent disability.
The loss of index and middle finger shall be considered a twenty percent disability.
The loss of middle and ring finger shall be considered a fifteen percent disability.
The loss of ring and little finger shall be considered a ten percent disability.
The loss of thumb, index and middle finger shall be considered a forty percent disability.

The loss of index, middle and ring finger shall be considered a thirty percent disability.

The loss of middle, ring and little finger shall be considered a twenty percent disability.

The loss of four fingers shall be considered a thirty-two percent disability.

The loss of hand shall be considered a fifty percent disability.

The loss of forearm shall be considered a fifty-five percent disability.

The loss of arm shall be considered a sixty percent disability.

The total and irrecoverable loss of the sight of one eye shall be considered a thirty-three percent disability. For the partial loss of vision in one, or both eyes, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of one eye.

The total and irrecoverable loss of the hearing of one ear shall be considered a fifteen percent disability, and the injured employee shall be entitled to compensation for a period of sixty weeks. The total and irrecoverable loss of hearing of both ears shall be considered a forty-five percent disability, and the injured employee shall be entitled to compensation for a period of one hundred eighty weeks.

For the partial loss of hearing in one, or both ears, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of hearing in both ears.

Should a claimant sustain a compensable injury which results in the total loss by severance of any of the bodily members named in this subdivision, die from sickness or noncompensable injury before the commissioner makes the proper award for such injury, the commissioner shall make such award to claimant's dependents as defined in this chapter, if any; such payment to be made in the same installments that would have been paid to claimant if living:

Provided, That no payment shall be made to any widow of
such claimant after her remarriage, and that this liability
shall not accrue to the estate of such claimant and shall
not be subject to any debts of, or charges against, such
estate.

(f) Should a claimant to whom has been made a per-
manent partial award of from one percent to eighty-four
percent, both inclusive, die from sickness or noncompensable
injury, the unpaid balance of such award shall be paid to
claimant's dependents as defined in this chapter, if any;
such payment to be made in the same installments that
would have been paid to claimant if living: Provided,
however, That no payment shall be made to any widow
of such claimant after her remarriage, and that this liability
shall not accrue to the estate of such claimant and shall
not be subject to any debts of, or charges against, such
estate.

(g) The award for permanent disabilities intermediate
to those fixed by the foregoing schedule and permanent
disability of from one percent to eighty-four percent shall
be in the same proportion and shall be computed and allowed
by the commissioner.

(h) The percentage of all permanent disabilities other
than those enumerated in subdivision (e) of this section
shall be determined by the commissioner, and awards made
in accordance with the provisions of subdivision (d) of
this section. Where there has been an injury to a member
as distinguished from total loss by severance of that member,
the commissioner in determining the percentage of dis-
ability may be guided by but shall not be limited to the
disabilities enumerated in subdivision (e) of this section.

(i) Compensation payable under any subdivision of this
section shall be limited as follows: Not to exceed the
maximum nor to be less than the minimum weekly benefits
specified in subdivision (b) of this section.

(j) Temporary total disability benefits payable under
subdivision (b) of this section shall not be deductible from
permanent partial disability awards payable under sub-
divisions (d) and (e) of this section. Compensation, either
total temporary or permanent partial, under this section
shall be payable only to the injured employee and the
right thereto shall not vest in his or her estate, except that any unpaid compensation which would have been paid or payable to the employee up to the time of his death, if he had lived, shall be paid to the dependents of such injured employee if there be such dependents at the time of death.

(k) The following permanent disabilities shall be conclusively presumed to be total in character:

- Loss of both eyes or the sight thereof.
- Loss of both hands or the use thereof.
- Loss of both feet or the use thereof.
- Loss of one hand and one foot or the use thereof.

In all other cases permanent disability shall be determined by the commissioner in accordance with the facts in the case, and award made in accordance with the provisions of subdivision (d).

(I) A disability which renders the injured employee unable to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time shall be considered in determining the issue of total disability.


1. The average weekly wage earnings, wherever earned, of the injured person at the date of injury, and the average weekly wage in West Virginia as determined by the commissioner of employment security, in effect at the date of injury, shall be taken as the basis upon which to compute the benefits.

2. In cases involving occupational pneumoconiosis or other occupational diseases, the "date of injury" shall be the date of the last exposure to the hazards of occupational pneumoconiosis or other occupational diseases.

3. In computing benefits payable on account of occupational pneumoconiosis, the commissioner shall deduct the amount of all prior workmen's compensation benefits paid to the same claimant on account of silicosis, but a prior silicosis award shall not, in any event, preclude an award for occupational pneumoconiosis otherwise payable under this article.

4. The expression "average weekly wage earnings, wherever
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17 earned, of the injured person, at the date of injury," within
18 the meaning of this chapter, shall be two months, six or twelve
19 months immediately preceding the date of the injury, whichever
20 is most favorable to the injured employee.

21 The expression "average weekly wage in West Virginia," within
22 the meaning of this chapter, shall be the average weekly wage in West Virginia as determined by the commissioner of employment security in accordance with the provisions of sections ten and eleven, article six, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and other applicable provisions of said chapter twenty-one-a.

29 In any claim for injuries, including occupational pneumo-
30 coniosis and other occupational diseases, occurring on or after July one, one thousand nine hundred seventy-one, any award for temporary total, permanent partial or permanent total disability benefits or for dependent benefits, shall be paid at the weekly rates or in the monthly amount in the case of dependent benefits applicable to the claimant therein in effect on the date of such injury. If during the life of such award for temporary total, permanent partial or permanent total disability benefits or for dependent benefits, the weekly rates or the monthly amount in the case of dependent benefits are increased or decreased, the claimant shall receive such increased or decreased benefits beginning as of the effective date of said increase or decrease.


1 To entitle any employee or dependent of a deceased em-
2 ployee to compensation under this chapter, other than for oc-
3 cupational pneumoconiosis or other occupational disease, the application therefor must be made on the form or forms pre-
4 scribed by the commissioner and filed in the office of the com-
5 missioner within two years from and after the injury or death, as the case may be, and all proofs of dependency in fatal cases must likewise be filed with the commissioner within two years from and after the death. In case the employee is mentally or physically incapable of filing such application, it may be filed by his attorney or by a member of his family.
To entitle any employee to compensation for occupational pneumoconiosis under the provisions hereof, the application therefor must be made on the form or forms prescribed by the commissioner and filed in the office of the commissioner within three years from and after the last day of the last continuous period of sixty days or more during which the employee was exposed to the hazards of occupational pneumoconiosis or within three years from and after the employee's occupational pneumoconiosis was made known to him by a physician or which he should reasonably have known, whichever shall last occur, or, in the case of death, the application shall be filed as aforesaid by the dependent of such employee within two years from and after such employee's death.

To entitle any employee to compensation for occupational disease other than occupational pneumoconiosis under the provisions hereof, the application therefor must be made on the form or forms prescribed by the commissioner and filed in the office of the commissioner within three years from and after the day on which the employee was last exposed to the particular occupational hazard involved or within three years from and after the employee's occupational disease was made known to him by a physician or which he should reasonably have known, whichever shall last occur, or, in case of death, the application shall be filed as aforesaid by the dependent of such employee within two years from and after such employee's death.

§23-4-18. Mode of paying benefits generally; exemptions of compensation from legal process.

Except by this section provided compensation shall be paid only to such employees or their dependents, and shall be exempt from all claims of creditors and from any attachment, execution or assignment other than compensation to counsel for legal services, under the provisions of, and subject to the limitations contained in section five, article five of this chapter. Payments may be made in such periodical installments as may seem best to the commissioner in each case, not exceeding two weeks apart. In all cases where compensation is awarded or increased, the amount thereof shall be calculated and paid from the date of disability.
ARTICLE 4A. DISABLED WORKMEN'S RELIEF FUND.

§23-4A-1. Disabled workmen's relief fund created.
For the relief of persons who are receiving workmen's compensation benefits by virtue of and under the laws of this state in amounts less than the minimum amount payable under the laws in effect on July one, one thousand nine hundred sixty-seven, there is hereby created a separate fund to be known as the "Disabled Workmen's Relief Fund," which fund shall consist of such sums as are from time to time made available to carry out the objects and purposes of this article. Said fund shall be in the custody of the state treasurer and disbursements therefrom shall be made upon requisition signed by the commissioner to those persons entitled to participate therein and in such amounts to each participant as is provided in section three of this article.

§23-4A-2. To whom benefits paid.
In order to participate in the disabled workmen's relief fund, an individual must be receiving workmen's compensation benefits by virtue of and under the laws of this state in amounts less than the minimum amount payable under the laws in effect on July one, one thousand nine hundred sixty-seven, and be receiving such benefits under a permanent total disability award or be receiving such benefits because of the death of an employee.

Each individual entitled to participate in the disabled workmen's relief fund shall be entitled to receive payments without application (except that an application shall be required under section five of this article) from said fund of an amount equal to the difference between the minimum amount payable under the rates in effect as of July one, one thousand nine hundred sixty-seven, and the amount said individual is in fact receiving by virtue of and under the laws of this state. The first such payment shall be made concurrently with the payment to him of workmen's compensation for the period next
following the expiration of the twelfth calendar week after this
section, as amended, becomes effective and subsequent pay-
ments shall be made during the period thereafter in which such
participant shall be entitled to workmen's compensation benefits
by virtue of and under the laws of this state.

ARTICLE 5. REVIEW.

§23-5-1. Notice by commissioner of decision; objections and hearing; appeal.

§23-5-5. Fees of attorney for claimant; unlawful charging or receiving of
attorney fees.

§23-5-1. Notice by commissioner of decision; objections and hearing; appeal.

The commissioner shall have full power and authority to
hear and determine all questions within his jurisdiction, but
upon the making or refusing to make any award, or upon the
making of any modification or change with respect to former
findings or orders, as provided by section sixteen, article four
of this chapter, the commissioner shall give notice, in writing,
to the employer, employee, claimant or dependent, as the case
may be, of his action, which notice shall state the time allow-
ed for filing an objection to such finding, and such action of
the commissioner shall be final unless the employer, employee,
claimant or dependent shall, within thirty days after the re-
ceipt of such notice, object, in writing, to such finding. Upon
receipt of such objection the commissioner shall, within fif-
ten days from receipt thereof, set a time and place for the
hearing of evidence. Any such hearing may be conducted by
the commissioner or his duly authorized representative at the
county seat of the county wherein the injury occurred, or at
any other place which may be agreed upon by the interested
parties, and in the event the interested parties cannot agree,
and it appears in the opinion of the commissioner that the
ends of justice require the taking of evidence elsewhere, then
at such place as the commissioner may direct, having due re-
gard for the convenience of witnesses. Both the employer and
claimant shall be notified of such hearing at least ten days in
advance, and the hearing shall be held within thirty days after
the filing of objection to the commissioner's findings as herein-
above provided, unless such hearing be postponed by agree-
ment of the parties or by the commissioner for good cause.
The evidence taken at such hearing shall be transcribed and become part of the record of the proceedings, together with the other records thereof in the commissioner's office. At any time within thirty days after hearing, if the commissioner is of the opinion that the facts have not been adequately developed at such hearing, he may order supplemental hearing upon due notice to the parties. After final hearing the commissioner shall, within thirty days, render his decision affirming, reversing or modifying, his former action, which shall be final: Provided, That the claimant or the employer may apply to the appeal board herein created for a review of such decision; but no appeal or review shall lie unless application therefor be made within thirty days of receipt of notice of the commissioner's final action, or in any event within sixty days of the date of such final action, regardless of notice.

After protest by the employer only to any finding or determination of the commissioner made on or after July one, one thousand nine hundred seventy-one, and the employer does not prevail in its protest and, in the event the claimant is required to attend a hearing by subpoena or agreement of counsel or at the express direction of the commissioner, then such claimant in addition to reasonable traveling and other expenses shall be reimbursed for loss of wages incurred by him in attending such hearing.

§23-5-5. Fees of attorney for claimant; unlawful charging or receiving of attorney fees.

On or after the first day of July, one thousand nine hundred seventy-one, no attorney's fee in excess of twenty-five percent of any award granted shall be charged or received by an attorney for a claimant or dependent. In no case shall the fee received by the attorney of such claimant or dependent be in excess of twenty-five percent of the benefits to be paid during a period of two hundred eight weeks. This paragraph shall not apply to awards made prior to the first day of July, one thousand nine hundred seventy-one: Provided, That the interest on disability or dependent benefits as provided for in this chapter shall not be considered as part of the award in determining any such attorney's fee. However, any contract entered into in excess of twenty-five percent of the
AN ACT to amend chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-b, relating to the coal-workers' pneumoconiosis fund; its purpose and establishment; to whom benefits are paid; who may subscribe; payment of benefits; how funded; administration; and separability from the workmen's compensation fund; reserving to the Legislature the power to merge, consolidate, alter or liquidate the fund.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4B. COAL-WORKERS' PNEUMOCONIOSIS FUND.

§23-4B-1. Purpose.
§23-4B-3. To whom benefits paid.
§23-4B-4. Who may subscribe.
§23-4B-5. Payment of benefits.
§23-4B-6. Coal-workers' pneumoconiosis fund; how funded.
§23-4B-7. Administration.

§23-4B-1. Purpose.

The purpose of this article is to establish a fund to provide benefits to coal miners who are totally disabled by pneumoconiosis and to eligible dependents of coal miners whose deaths were due to pneumoconiosis or who were totally disabled from...
pneumoconiosis at the time of their deaths. The further purpose of this article is to provide a readily available insurer of liability created by Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.


For the relief of persons who are entitled to receive benefits by virtue of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, there is hereby established a fund to be known as the coal-workers' pneumoconiosis fund, which fund shall be separate from the workmen's compensation fund. The coal-workers' pneumoconiosis fund shall consist of premiums and other funds paid thereto by employers, subject to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, who shall elect to subscribe to such fund to insure the payment of benefits required by such Act.

The state treasurer shall be the custodian of the coal-workers' pneumoconiosis fund, and all premiums, deposits or other moneys paid thereto shall be deposited in the state treasury to the credit of the coal-workers' pneumoconiosis fund. Disbursements from such fund shall be made upon requisition signed by the commissioner to those persons entitled to participate therein. The West Virginia state board of investments shall have authority to invest any surplus, reserve or other moneys belonging to the coal-workers' pneumoconiosis fund in accordance with article six, chapter twelve of this code.

§23-4B-3. To whom benefits paid.

Only those classes of persons who are entitled to benefits under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, are eligible to participate in the coal-workers' pneumoconiosis fund.

§23-4B-4. Who may subscribe.

Only those employers who are subject to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, may elect to subscribe to the coal-workers' pneumoconiosis fund to insure such liability as may be imposed upon such employers under the provisions of Title IV of said Act.
§23-4B-5. Payment of benefits.

1 Upon receipt of an order of compensation issued pursuant to a claim for benefits filed under the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, the commissioner shall disburse the coal-workers' pneumoconiosis fund in such amounts and to such persons as said order shall direct.

§23-4B-6. Coal-workers' pneumoconiosis fund; how funded.

1 For the purpose of creating the coal-workers' pneumoconiosis fund, each employer, who shall elect to subscribe to such fund, shall pay premiums based upon and being such a percentage of the payroll of such employer as the commissioner may determine. It shall be the duty of the commissioner to fix and maintain the lowest possible rates of premiums consistent with the maintenance of a solvent fund and the creation and maintenance of a reasonable surplus after providing for payment to maturity of all liability insured pursuant to Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. Such premium rates shall be adjusted annually, or more often as may in the opinion of the commissioner be necessary.

14 The commissioner may by rule and regulation classify subscribers into groups or classes according to the nature of the hazards incident to the business thereof, and assign premium rates thereto. In addition, the commissioner may by rule and regulation prescribe procedures for subscription, payroll reporting, premium payment, termination of subscription, reinstatement and other matters pertinent to such subscribers' continuing participation in the coal-workers' pneumoconiosis fund.

§23-4B-7. Administration.

1 The coal-workers' pneumoconiosis fund shall be administered by the state workmen's compensation commissioner, who shall employ such employees as may be necessary to discharge his duties and responsibilities under this article. All payments of salaries and expenses of such employees and all expenses peculiar to the administration of this article shall be made by the state treasurer from the coal-workers' pneumoconiosis fund upon requisitions signed by the commissioner.

1 No disbursements shall be made from the workmen's compensation fund on account of any provision of this article:
2 Provided, however, That the Legislature may at any time merge, consolidate, alter or liquidate this fund as it may determine and in no instance shall the operation of this article be construed as creating any contract which would deprive any injured employee of future benefits or increases awarded by an act of Congress, nor shall this section operate to create any liability upon the state of West Virginia.

CHAPTER 143
(House Bill No. 551—By Mr. Brenda and Mr. Carey)

[Passed March 21, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four and five, chapter one hundred eighty-five, acts of the Legislature, regular session, one thousand nine hundred fifty-three, as last amended and reenacted by chapter one hundred fifty-five, acts of the Legislature, regular session, one thousand nine hundred sixty-nine, relating to appointment of members to the board of trustees of the children's shelter in Hancock County and said board's powers and duties; rules and regulations; budget.

Be it enacted by the Legislature of West Virginia:

That sections four and five, chapter one hundred eighty-five, act of the Legislature, regular session, one thousand nine hundred fifty-three, as last amended and reenacted by chapter one hundred fifty-five, acts of the Legislature, regular session, one thousand nine hundred sixty-nine, be amended and reenacted to read as follows.

HANCOCK COUNTY CHILDREN'S HOME.

§4. Board of trustees—Appointment; terms; vacancies.
§5. Same—Power and duties; rules and regulations; budget.

§4. Board of trustees—Appointment; terms; vacancies.

1 There is hereby created a board of trustees of the children's shelter in Hancock county, hereinafter referred to as the board
of trustees which shall be composed of nine members. Three
members of the board of trustees shall be the commissioners of
the county court of Hancock county and six remaining mem-
bers shall be two residents from the Weirton area, two residents
from the New Cumberland-New Manchester area, and two
residents from the Chester-Newell area, to be appointed by
the county court of Hancock county. The terms of office
for each of the six members shall be six years; and shall
continue to be in rotation as they have been in the past; also
all present members shall serve out their respective terms.
Should any appointed member remove his residence from the
area from which he is appointed, his office shall be deemed
vacated. The county court shall fill all vacancies that may
arise from time to time for the unexpired terms. All ap-
pointments of trustees shall be made upon recommenda-
tion of the board of trustees. No more than three of the
noncounty court members of the board shall belong to the
same political party.

§5. **Same—Powers and duties; rules and regulations; budget.**

The board of trustees shall be responsible to the county court
of Hancock county for the performance of its duties. The
members of the board of trustees shall serve without com-
ensation except such as may be fixed by the board from time
to time for the secretary and treasurer and approved by the
county court; the board of trustees shall formulate policy
and adopt administrative procedures; it shall provide for the
employment and shall have the power to remove and fix the
compensation of such persons as in its opinion may be
necessary for the operation, maintenance, administration and
management of the property under its control, subject how-
ever, to the appropriation of funds for such purposes. The
power and authority to manage and control shall include the
power to make rules and regulations and to enforce such
rules and regulations as may be necessary for the management
of said home. The board shall prepare and submit to the
county court an annual budget for the operation of the home.
No expenditure in excess of said budget shall be made by the
board of trustees without prior approval by the county court.
AN ACT authorizing and empowering the county court of Harrison County to use any unexpended sums and surpluses for the purpose of creating a special fund to be used for acquiring a new fire fighters' school building and fire equipment in Harrison County.

Be it enacted by the Legislature of West Virginia:

HARRISON COUNTY FIRE FIGHTING FUND.

§1. Harrison County unexpended sums and surpluses; use and disposition for fire fighting school.

1 In addition to any and all authority and power heretofore granted to the county court of Harrison County with respect to the expenditure of unexpended sums and surpluses, such county court is hereby authorized and empowered to use any unexpended sums and surpluses, presently or hereafter existing, in the general fund or in any special fund of said county, for the purpose of creating a special fund to be used for acquiring a new fire fighters' school building, equipping the building, and purchasing additional fire fighting equipment.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 6

(By Mrs. Withrow)

[Adopted March 23, 1973]

Designating an official state animal and an official state fish.

WHEREAS, The State of West Virginia has never adopted an official state animal nor an official state fish; and

WHEREAS, In a poll of students, teachers and sportsmen conducted by the Department of Natural Resources in 1954-1955, the black bear was chosen by an overwhelming vote as the choice for the official state animal; and

WHEREAS, In a poll of sportsmen taken recently by the Department of Natural Resources, the brook trout was favored by a large margin as the official state fish; and

WHEREAS, The black bear is the only species of bear found in the State of West Virginia; and has, since the formation of the State of West Virginia, provided food for the settlers of this State, and has provided for clothing and shelter with its fur; and has provided great sport for huntsmen; and

WHEREAS, The brook trout ranks as one of the favorite North American gamefish; is a native West Virginia species; and its brilliant coloration, combined with its wariness and ferociousness when hooked make it a fisherman’s dream; and

WHEREAS, The black bear and the brook trout typify the spirit of all West Virginians in their ability to survive in spite of the adversity of people and industry encroaching upon their natural habitat; and

WHEREAS, It is deemed desirable to have an official state animal and an official state fish; therefore, be it

Resolved by the Legislature of West Virginia:

That the black bear is designated the official state animal, and the brook trout is designated the official state fish of the State of West Virginia.
Directing the Commissioner of the Department of Motor Vehicles to conduct a study relating to the need and feasibility of issuing special registration plates, or other effective insignia, to deaf persons who own and drive a motor vehicle on the public highways.

WHEREAS, Deaf persons do own and operate motor vehicles on the public highways of the State of West Virginia; and

WHEREAS, The operation of motor vehicles by such deaf persons on the public highways creates a possible source of serious injury to such deaf persons, their passengers and others using such public highways; and

WHEREAS, Special license plates or other effective insignia of a design which would indicate the type of disability of the operator would alert other users of the public highway to the handicap of such operator and would greatly reduce the risk of accidents and injuries on public highways; therefore, be it

Resolved by the Legislature of West Virginia:

That the Commissioner of the Department of Motor Vehicles be directed to conduct a study relating to the need and feasibility of issuing special registration plates, or other effective insignia, to deaf persons who own and operate motor vehicles; and, be it

Further Resolved, That the Commissioner of the Department of Motor Vehicles report its findings and recommendations to the Legislature prior to the convening of its regular session, 1974; and, be it

Further Resolved, That the Clerk of the West Virginia House of Delegates is hereby instructed to forward copies of this resolution to the Commissioner of the Department of Motor Vehicles and to the Secretary of the Department of Transportation in Washington, D. C.
SENATE CONCURRENT RESOLUTION NO. 3
(By Mr. Hamilton)
[Adopted March 15, 1973]

Memorializing the Congress of the United States to recognize the natural beauty, scenic splendor and historical significance of the New River and the New River Gorge and expressing the sentiments of the West Virginia Legislature that Congress should, by appropriate legislation, preserve the area in its natural state for posterity and provide the necessary funds to develop it as a national park.

WHEREAS, The New River and the New River Gorge abound in natural beauty, scenic splendor and historical significance; and

WHEREAS, This is an area which should be preserved in its natural state for all posterity and made available for recreational use for people from throughout the country; and

WHEREAS, The Federal Government is possessed with the resources to develop this area as a national park, thereby preserving its natural beauty, scenic splendor and historical significance for posterity and enable people from throughout the country to enjoy recreational uses of this area with the people of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That it memorialize the Congress of the United States to recognize the natural beauty, scenic splendor and historical significance of the New River and New River Gorge and expresses its sentiments that the Congress, by appropriate legislation, preserve the area in its natural state for posterity and provide the necessary funds to develop it as a national park; and, be it

Further Resolved, That certified copies of this resolution be sent to the Clerk of the United States Senate and Clerk of the House of Representatives and to members of the West Virginia congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 4
(By Mr. Hamilton)
[Adopted March 15, 1973]

Directing the Department of Natural Resources to study the New River Gorge for purposes of dedicating it to public recreational use.
WHEREAS, The New River, historical in its own right as one of the world's oldest rivers, flows through the majestic New River Gorge; and

WHEREAS, The New River Gorge is surrounded by many historical places; and

WHEREAS, This whole area should be preserved for the enjoyment of all West Virginians, including generations yet unborn; and

WHEREAS, A thorough evaluation should be made of its potential for recreational use, including such aspects as land acquisition, preservation of historical places, acquisition of old railroads, roads and other rights-of-way and kinds of improvements that may be made; therefore, be it

Resolved by the Legislature of West Virginia:

That the Department of Natural Resources is hereby directed to thoroughly review, examine and study the New River Gorge with a view toward recreational development and include therein evaluations of land acquisition, preservation of historical places, acquisition of old railroads, roads and other rights-of-way and kinds of improvements that may be made; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Ira S. Latimer, Jr., Director, Department of Natural Resources.

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 in the Journals of the session.)

House Concurrent

18. Effect of Operation of Sutton Dam, Road Construction, Surface Mining and Timbering Activities on the Elk River.

39. Admission Practices of College of Law and School of Medicine of WVU.

40. Shortage of Doctors Engaged in Family Practice.


55. Workmen's Compensation.

60. Education of Exceptional Children.

Senate Concurrent


12. Coal Mining Methods; Coal Reserves; Health, Safety and Environmental Regulations Governing Coal Mining; Coal Mine Employment and Productions.


22. Direct Payment from Purchasers of Natural Gas for Resale to Owners of Well.

48. Workmen's Compensation.

COMMITTEE SUBSTITUTE

FOR

HOUSE JOINT RESOLUTION NO. 5

(By Mr. Queen and Mr. Potter)

[Adopted April 14, 1973]

Proposing an amendment to the Constitution of the State of West Virginia, authorizing appropriations and/or the issuance and sale of additional state bonds in an amount not exceeding forty million dollars for the purpose of paying bonuses to certain veterans or to relatives of certain veterans; 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-four, or at any special
election held prior thereto, for the purpose of presenting to the voters
of the State the question of ratification or rejection of one or more
constitutional amendments, which proposed amendment is as follows:

VIETNAM VETERANS BONUS AMENDMENT

The Legislature shall provide by law, either for the appropriation
from the general revenues of the State, or for the issuance and
sale of state bonds, which shall be in addition to all other state
bonds heretofore issued, or a combination of both as the Legislature
may determine, for the purpose of paying a cash bonus to veterans
of the armed forces of the United States who were in active service
during the periods hereinafter described. Such bonus shall be paid
to all persons who rendered active service in the armed forces of
the United States between the first day of August, one thousand
nine hundred sixty-four, and the date determined by the President
or Congress of the United States as the end of involvement of
United States armed forces in the Vietnam conflict, both dates
inclusive, who were bona fide residents of the State of West
Virginia at the time of their entry into such active service and for
a period of at least six months immediately prior thereto, who have
not been separated from such service under conditions other than
honorable, and who, within the period specified above, actively
served in such armed forces for a period of at least ninety days.
Such bonus shall also be paid to any person, otherwise eligible
under the preceding sentence, who rendered active service in the
armed forces of the United States prior to the first day of August,
on thousand nine hundred sixty-four, and who received the Vietnam
armed forces expeditionary medal. Such bonus shall also be paid to
any veteran, otherwise qualified under either of the two sentences
next preceding, who was discharged within ninety days after
entering the armed forces because of a service-connected disability.
The amount of such bonus shall be calculated on the basis of twenty
dollars per month for each month of active service, or major fraction
thereof, for veterans who received the Vietnam armed forces
expeditionary medal or the Vietnam service medal, up to four
hundred dollars, and ten dollars per month for each month of
active service, or major fraction thereof, for veterans who have not
received the Vietnam armed forces expeditionary medal or the Vietnam service medal, up to three hundred dollars. Not more than one bonus shall be paid to or on behalf of the service of any one veteran.

The bonus to which any deceased veteran would have been entitled, if living, shall be paid to the following surviving relatives of such veterans, if such relatives are residents of the State when such application is made and if such relatives are living at the time payment is made: Any unmarried widow or widower, or, if none, all children, stepchildren and adopted children under the age of eighteen, or, if none, any parent, stepparent, adoptive parent or person standing in loco parentis. The categories of persons listed shall be treated as separate categories listed in order of entitlement and where there be more than one member of a class, the bonus shall be paid to each member according to his proportional share. Where a deceased veteran's death was connected with such service and resulted from such service during the time period specified, however, the surviving relatives shall be paid, in accordance with the same order of entitlement, the sum of five hundred dollars in lieu of any bonus to which the deceased might have been entitled if living.

The principal amount of any bonds issued for the purpose of paying the bonuses provided for in this amendment shall not exceed the principal amount of forty million dollars, but may be funded or refunded either on the maturity dates of said bonds or on any date on which said bonds are callable prior to maturity, and if any of said bonds have not matured or are not then callable prior to maturity, the Legislature may nevertheless provide at any time for the issuance of refunding bonds to fund or refund such bonds on the dates when said bonds mature or on any date on which said bonds are callable prior to maturity and for the investment or reinvestment of the proceeds of such refunding bonds in direct obligations of the United States of America until the date or dates upon which such bonds mature or are callable prior to maturity. The principal amount of any refunding bonds issued under the provisions of this paragraph shall not exceed the principal amount of the bonds to be funded or refunded thereby.

The bonds may be issued from time to time for the purposes authorized by this amendment as separate issues or as combined issues.
Whenever the Legislature shall provide for the issuance of any bonds under the authority of this amendment, it shall at the same time provide for the levy and collection of an additional cigarette tax, or a tax on any other tobacco products, or an additional tax on nonintoxicating beer, or an additional charge on the sale of each bottle of wine or liquor, or an additional general consumers sales tax, or a graduated income tax, or any combination of one or more thereof, or such other dedicated tax as the Legislature may determine, in such amount as may be required to pay annually the interest on such bonds and the principal thereof within and not exceeding thirty years, and all such taxes or charges so levied shall be irrevocably dedicated for the payment of the principal of and interest on such bonds until such principal of and interest on such bonds are finally paid and discharged and any of the covenants, agreements or provisions in the acts of the Legislature levying such taxes or charges shall be enforceable in any court of competent jurisdiction by any of the holders of said bonds.

The Legislature shall have the power to enact legislation necessary and proper to implement the provisions of this amendment.

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. 1” and designated as the “Vietnam Veterans Bonus Amendment,” and the purpose of the proposed amendment is summarized as follows: “To permit the appropriation of general revenues or the sale of state bonds for the payment of bonuses and death benefits to veterans of the Vietnam conflict or their relatives.”

SENATE JOINT RESOLUTION NO. 17
(Originating in the Senate Committee on Finance)
[Adopted April 13, 1973]

Proposing an amendment to the Constitution of the State of West Virginia, authorizing the issuing and selling of state road bonds not exceeding in the aggregate five hundred million dollars for bridge replacement and improvement program, completion of the Appalachian Highway System, upgrading sections of trunk-
JOINT RESOLUTIONS

line and feeder systems, upgrading West Virginia State Route 2, upgrading state and local service roads and for construction, reconstruction, improving and materially upgrading of U. S. Route 52 from Huntington to Bluefield, West Virginia; 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-four, or at any special election held prior thereto for the purpose of presenting to the voters of the State the question of ratification or rejection of one or more constitutional amendments, which proposed amendment is as follows:

BETTER HIGHWAYS AMENDMENT

The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate five hundred million dollars. The proceeds of said bonds hereby authorized to be issued and sold shall be used and appropriated solely for the following purposes and in the following amounts:

(1) One hundred twenty million dollars for bridge replacement and improvement program;
(2) One hundred thirty million dollars for completion of the Appalachian Highway System;
(3) Fifty million dollars for upgrading sections of trunkline and feeder systems;
(4) Fifty million dollars for upgrading West Virginia State Route 2;
(5) One hundred million dollars for upgrading state and local service roads;
(6) Fifty million dollars for construction, reconstruction, improving and upgrading of U. S. Route 52 between Huntington and Bluefield, West Virginia.

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 twenty-five years. 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 the principal of said bonds becoming due and payable in such year are insufficient therefor.

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 "Better Highways Amendment," and the purpose of the proposed amendment is summarized as follows: "To empower the Legislature to authorize the issuing and selling of state bonds not exceeding in the aggregate five hundred million dollars to be used for bridge replacement and improvement program, completion of the Appalachian Highway System, upgrading sections of trunkline and feeder systems, upgrading West Virginia State Route 2, upgrading state and local service roads and for construction, reconstruction, improving and materially upgrading of U. S. Route 52 between Huntington and Bluefield, West Virginia."

COMMITTEE SUBSTITUTE
FOR
HOUSE JOINT RESOLUTION NO. 7
(By Mr. Underwood)
[Adopted April 14, 1973]

Proposing an amendment to the Constitution of the State of West Virginia, amending section forty-eight, article six thereof; and amending article ten thereof, by adding thereto a new section, designated section one-a, relating to increasing the homestead exemption to which designated persons are entitled; and relating to exempting from ad valorem property taxation the first five thousand dollars of assessed valuation of certain residential property; 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 general election to be held in the year one thousand nine hundred seventy-four, or at any special election held prior thereto for the purpose of presenting to the voters of the State the question of ratification or rejection of one or more constitutional amendments, which proposed amendment is that section forty-eight, article six thereof be amended; and that article ten thereof be amended by adding thereto a new section, designated section one-b, all to read as follows:

ARTICLE VI.  THE LEGISLATURE.

§48.  Homestead exemption.

Any husband or parent, residing in this State, or the infant children of deceased parents, may hold a homestead of the value of five thousand dollars, and personal property to the value of one thousand dollars, exempt from forced sale, subject to such regulations as shall be prescribed by law: Provided, That such homestead exemption shall in no wise affect debts or liabilities existing at the time of the adoption of this Constitution and the increases in such homestead exemption provided by this amendment shall in no wise affect debts or liabilities existing at the time of the ratification of such amendment: Provided, however, That no property shall be exempt from sale for taxes due thereon, or for the payment of purchase money due upon said property, or for debts contracted for the erection of improvements thereon.

ARTICLE X.  TAXATION AND FINANCE.

§1b.  Exemption from ad valorem property taxation of real property occupied as a residence by the owner thereof who is sixty-five years of age or older.

Notwithstanding any other provision of this Constitution to the contrary, the first five thousand dollars of assessed valuation of any real property used exclusively for residential purposes and occupied by the owner or one of the owners thereof as his residence who is a citizen of this State and who is sixty-five years of age or older shall be exempt from ad valorem property taxation, subject to such
requirements, limitations and conditions as shall be prescribed by general 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. 3" and designated as the "Homestead and Taxation Exemption Amendment," and the purpose of the proposed amendment is summarized as follows: "To increase the allowable homestead exemption on real and personal property and to exempt from ad valorem property taxation the first five thousand dollars of assessed valuation of a residence occupied by the owner thereof who is sixty-five years of age or older."
AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Agriculture—Agricultural Awards, Acct. No. 515, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and
WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 515, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following line item appropriations:

AGRICULTURE

97—Department of Agriculture—Agricultural Awards

Acct. No. 515

1 Clay County Golden Delicious Festival $ 1,500
2 West Virginia Sports Festival 800

CHAPTER 2

(Senate Bill No. 71—By Mr. Brotherton, Mr. President)

[Passed July 13, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Agriculture, Acct. No. 510, an act, Enrolled
Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 510, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the
Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

**AGRICULTURE**

93—*Department of Agriculture*

Acct. No. 510

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**CHAPTER 3**

*(Senate Bill No. 77—Originating in the Senate Committee on Finance)*

[Passed June 8, 1973; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, to the Department of Commerce, Account No. 465, an act, Enrolled Committee Substitute for Senate Bill No. 44, enacted by the Legislature, regular session, one thousand nine hundred seventy-two (now Chapter Seven, Acts of the Legislature of 1972), known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $425,870,556; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for
the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

Whereas, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now Chapter Seven, Acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

Whereas, There now remains unappropriated a balance in the total general revenue available for further appropriation of $5,018,838 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 465, Chapter Seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

77—Department of Commerce

Acct. No. 465

1 West Virginia’s Participation
2 National Bicentennial $100,000

3 Out of the above appropriation there shall be expended a total not to exceed $34,500 for the Battle of Point Pleasant Bicentennial Commission. Any unexpended balance remaining in this account at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.
CHAPTER 4
(Senate Bill No. 66—By Mr. Brotherton, Mr. President)

[Passed July 11, 1973; In effect July 1, 1973. Approved by the Governor after deleting the sum of $100,000.00 in line 10 and reducing the total correspondingly.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Education, Acct. No. 286, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the
amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 286, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

**EDUCATIONAL**

30—Department of Education

Acct. No. 286

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<tr>
<td>9 Administration of $200,000,000.00</td>
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<tr>
<td>10 Better School Buildings Amendment</td>
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CHAPTER 5

(House Bill No. 277—By Mr. Speaker, Mr. McManus)

[Passed July 12, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the State Department of Education-State Aid to Schools, Acct. No. 295, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general reve-
nue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 295, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line item:

EDUCATIONAL

36—State Department of Education—State Aid to Schools

Acct. No. 295

1 State Aid to Schools $11,401,222
AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Mental Health, Acct. No. 410, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and
WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 410, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

HEALTH AND WELFARE

61—Department of Mental Health

Acct. No. 410

1 Community Mental Retardation Program .......... $100,000

2 To continue Day Care Program now federally funded and now operated under the sponsorship of the Southern West Virginia Regional Health Council, Inc., in the following counties: Fayette, Logan, McDowell, Mercer, Mingo, Monroe, Raleigh, Summers and Wyoming.

CHAPTER 7

(House Bill No. 226—By Mr. Seibert)

[Passed July 11, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Mental Health, Acct. No. 410, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-
three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

Whereas, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

Whereas, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

Whereas, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

Whereas, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

Whereas, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 410, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:
HEALTH AND WELFARE

61—Department of Mental Health

Acct. No. 410

1 Community Mental Retardation Program $150,000

2 To continue Day Care Program now federally funded and now operated under the sponsorship of the Southern West Virginia Regional Health Council, Inc., in the following counties:

3 Fayette, Logan, McDowell, Mercer, Mingo, Monroe, Raleigh, Summers and Wyoming.

CHAPTER 8

(House Bill No. 245—By Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor after deleting a paragraph providing that the appropriation was conditioned upon compliance with paragraph (a) of the act.]

AN ACT making a supplementary appropriation of public money out of the treasury from federal revenue sharing funds in the amount of $6,808,817 to the Department of Natural Resources, Acct. No. 565 in the 1973 Budget Bill enacted by the Legislature, Regular Session, 1973 (Chapter 10, Acts of the Legislature, Regular Session, 1973), conditioned upon said federal revenue sharing funds being deposited in the state treasury in the “Federal Revenue Sharing Trust Fund” therein.

WHEREAS, The Governor on July 11, 1973, advised that he has received a federal revenue sharing check in the amount of $6,808,817, and said sum of $6,808,817 is available for appropriation for the 1973-74 fiscal year; therefore

Be it enacted by the Legislature of West Virginia:

(a) If said sum of $6,808,817 received by the State of West Virginia pursuant to the provisions of the “State and Local Fiscal Assistance Act of 1972; Title I of Public Law 92-512,” enacted by the Congress of the United States, and approved on October 20, 1972, is deposited in the state treasury, and is kept in a separate account in the state treasury to be entitled “Federal Revenue Sharing Trust
Fund," then Acct. No. 565, Chapter 10, Acts of the Legislature, Regular Session, 1973, known as the Budget Bill, is hereby supplemented, subject to the provisions of paragraph (b) hereof, by adding thereto the following line item appropriation which is hereby appropriated, subject to the provisions of paragraph (b) hereof, from such Revenue Sharing Trust Fund to be available for expenditure during the 1973-74 fiscal year:

Department of Natural Resources

Acct. No. 565

TO BE PAID FROM REVENUE SHARING TRUST FUND

1  Chief Logan State Park-Activities and Food Facilities Center, if there is full compliance with all
2  of the provisions of this paragraph (a) $950,000
3

CHAPTER 9

(House Bill No. 237—By Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Department of Natural Resources, Acct. No. 565, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and
WHEREAS, In addition to the estimate of revenue provided by the
governor, there existed available for appropriation cash balances from
the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of
revenue as provided by the governor and the available cash balance
and estimated expirations, enacted a budget bill for the fiscal year
1973-74, thereby making appropriations to the various accounts of
state spending units, which total appropriations were well within the
total of all revenues available for appropriation for the fiscal year
1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority,
disapproved and reduced items or parts of items contained in Enrolled
Committee Substitute for Senate Bill No. 51, acts of the Legislature,
regular session, one thousand nine hundred seventy-three (now Chap­
ter 10, Acts of the Legislature of 1973), known as the Budget Bill,
wherein appropriations were made to certain designated accounts to
be expended within the fiscal year ending June thirtieth, one thou­
sand nine hundred seventy-four, the governor by his action reduced
the amounts appropriated and thereby made additional revenue avail­
able for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the
total general revenue available for further appropriation of
$18,643,488 during the fiscal year ending June thirtieth, one thousand
nine hundred seventy-four, a part of which balance is hereby appro­
priated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 565, Chapter 10, acts of the Legislature, regu­
ar session, one thousand nine hundred seventy-three, known as the
Budget Bill, be supplemented by adding thereto the following sum
to the designated line item:

CONSERVATION AND DEVELOPMENT

100—Department of Natural Resources

Acct. No. 565

1 Dam Control Act ___________________________ $200,000
AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Governor's Office — Federal-State Coordination — Governor's Committee on Crime, Delinquency and Correction, Acct. No. 125, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three, (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action
reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 125, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

EXECUTIVE

11—Governor's Office—Federal-State Coordination—Governor's Committee on Crime, Delinquency and Correction

Acct. No. 125

<table>
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<th></th>
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<td>1</td>
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CHAPTER 11

(House Bill No. 270—By Mr. Moler and Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor after deleting a paragraph providing that the appropriation was conditioned upon compliance with paragraph (a) of the act.]

AN ACT making a supplementary appropriation of public money out of the treasury from federal revenue sharing funds in the amount of $6,808,817 to the Governor's Office—Amtrak, Acct. No. 127 in the 1973 Budget Bill enacted by the Legislature, Regular Session, 1973 (Chapter 10, Acts of the Legislature, Regular Session, 1973), conditioned upon said federal revenue sharing funds being deposited in the state treasury in the "Federal Revenue Sharing Trust Fund" therein.
Whereas, The Governor on July 11, 1973, advised that he has received a federal revenue sharing check in the amount of $6,808,817, and said sum of $6,808,817 is available for appropriation for the 1973-74 fiscal year; therefore

Be it enacted by the Legislature of West Virginia:

(a) If said sum of $6,808,817 received by the state of West Virginia pursuant to the provisions of the "State and Local Fiscal Assistance Act of 1972; Title I of Public Law 92-512," enacted by the Congress of the United States, and approved on October 20, 1972, is deposited in the state treasury, and is kept in a separate account in the state treasury to be entitled "Federal Revenue Sharing Trust Fund," then Acct. No. 127, Chapter 10, Acts of the Legislature, Regular Session, 1973, known as the Budget Bill, is hereby supplemented, subject to the provisions of paragraph (b) hereof, by adding thereto the following line item appropriation which is hereby appropriated, subject to the provisions of paragraph (b) hereof, from such Revenue Sharing Trust Fund to be available for expenditure during the 1973-74 fiscal year:

Governor's Office—Amtrak
Acct. No. 127

TO BE PAID FROM REVENUE SHARING TRUST FUND

1 Amtrak $130,000

The above supplemental appropriation is to be used exclusively for the purpose of paying a portion of the necessary cost of operation for any daily passenger train operated by Amtrak, the National Railroad Passenger Corporation, wholly or partly within the state of West Virginia. Any money appropriated to this account shall be spent for no other purpose.

CHAPTER 12

(House Bill No. 227—By Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue re-
remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Greenbrier School for Mentally Retarded Children, Acct. No. 414, a new account in an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.
Be it enacted by the Legislature of West Virginia:

That Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, know as the Budget Bill, be supplemented by adding thereto the following new account:

**HEALTH AND WELFARE**

*Greenbrier School for Mentally Retarded Children*

Acct. No. 414

<table>
<thead>
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<th>Services</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$596,500</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$143,500</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$100,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>$60,000</td>
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</tbody>
</table>

**Total** $900,000

The above appropriation for the Greenbrier School for Mentally Retarded Children is for one of the fourteen comprehensive regional mental health centers as provided in section one, article two-a, chapter twenty-seven of the code.

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**CHAPTER 13**

(House Bill No. 247—By Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor after deleting a paragraph providing that the appropriation was conditioned upon compliance with paragraph (a) of the act.]

AN ACT making a supplementary appropriation of public money out of the treasury from federal revenue sharing funds in the amount of $6,808,817 to Huttonsville Correctional Center, Acct. No. 376 in the 1973 Budget Bill enacted by the Legislature, Regular Session, 1973 (Chapter 10, Acts of the Legislature, Regular Session, 1973), conditioned upon said federal revenue sharing funds being deposited in the state treasury in the “Federal Revenue Sharing Trust Fund” therein.

WHEREAS, The Governor on July 11, 1973, advised that he has received a federal revenue sharing check in the amount of $6,808,817,
and said sum of $6,808,817 is available for appropriation for the 1973-74 fiscal year; therefore

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

(a) If said sum of $6,808,817 received by the State of West Virginia pursuant to the provisions of the "State and Local Fiscal Assistance Act of 1972; Title I of Public Law 92-512," enacted by the Congress of the United States, and approved on October 20, 1972, is deposited in the state treasury, and is kept in a separate account in the state treasury to be entitled "Federal Revenue Sharing Trust Fund," then Acct. No. 376, Chapter 10, Acts of the Legislature, Regular Session, 1973, known as the Budget Bill, is hereby supplemented, subject to the provisions of paragraph (b) hereof, by adding thereto the following line item appropriation which is hereby appropriated, subject to the provisions of paragraph (b) hereof, from such Revenue Sharing Trust Fund to be available for expenditure during the 1973-74 fiscal year:

*Huttonsville Correctional Center*

Acct. No. 376

**TO BE PAID FROM REVENUE SHARING TRUST FUND**

1. Three new Boilers $400,000

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**CHAPTER 14**

(Com. Sub. for House Bill No. 284—By Mr. Speaker, Mr. McManus, and Mrs. Withrow)

[Passed June 28, 1973; in effect from passage. Approved by the Governor.]

AN ACT transferring and separating an amount within the total appropriation and redesignating a line item for a certain state spending unit as appropriated by chapter ten, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the "Budget Bill," as amended.

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

That the amount within the appropriation of "157—Pinecrest State Hospital, Acct. No. 431," section three, chapter ten, acts of the Legislature, regular session, one thousand nine hundred seventy-
three, as amended, be transferred and line items redesignated to read as follows:

157—Pinecrest State Hospital  
Acct. No. 431

1 Current Expenses ___________________________ $10,000
2 Repairs and Alterations _____________________  17,000
3 Equipment ________________________________  58,000

4 Total ____________________________________ $85,000

5 The above appropriation is to be expended for the purpose of making use of available space at Pinecrest Hospital designated for the accommodation of patients that will be transferred to the hospital.

6 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1972-1973 is hereby reappropriated for expenditure during the fiscal year 1973-74.

CHAPTER 15  
(Senate Bill No. 70—By Mr. Brotherton, Mr. President)

[Passed July 11, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Commission on Post-Mortem Examination, Acct. No. 401, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and
WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 401, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

HEALTH AND WELFARE

54—Commission on Post-Mortem Examination

Acct. No. 401

1 Total ......................................................$ 25,000.00
Any unexpended balance remaining in the appropriation "Commission on Post-Mortem Examination" at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74.

CHAPTER 16

(House Bill No. 240—By Mr. Seibert)

[Passed July 13, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the Public Service Commission remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the public service commission, Acct. No. 828, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The Executive Budget for the fiscal year 1973-74 presented to the Legislature, February 14, 1973, reflected an estimation of revenues into the Public Service Commission to be $960,000; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chap-
ter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the Public Service Commission fund for further appropriation of $139,183 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 828, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

§2. Appropriations from other funds.

133—Public Service Commission

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salaries of Commissioners $12,000

CHAPTER 17

(Passed July 13, 1973; in effect from passage. Approved by the Governor.)

AN ACT making a supplementary appropriation of public money out of the treasury from federal revenue sharing funds in the amount of $6,808,817 to the Secretary of State, Acct. No. 250 in the 1973 Budget Bill enacted by the Legislature, Regular Session, 1973 (Chapter 10, Acts of the Legislature, Regular Session, 1973), conditioned upon said federal revenue sharing funds being deposited in the state treasury in the “Federal Revenue Sharing Trust Fund” therein.
WHEREAS, The Governor on July 11, 1973, advised that he has received a federal revenue sharing check in the amount of $6,808,817, and said sum of $6,808,817 is available for appropriation for the 1973-74 fiscal year; therefore

Be it enacted by the Legislature of West Virginia:

(a) If said sum of $6,808,817 received by the state of West Virginia pursuant to the provisions of the "State and Local Fiscal Assistance Act of 1972; Title I of Public Law 92-512," enacted by the Congress of the United States, and approved on October 20, 1972, is deposited in the state treasury, and is kept in a separate account in the state treasury to be entitled "Federal Revenue Sharing Trust Fund," then Acct. No. 250, Chapter 10, Acts of the Legislature, Regular Session, 1973, known as the Budget Bill, is hereby supplemented, subject to the provisions of paragraph (b) hereof, by adding thereto the following line item appropriation which is hereby appropriated, subject to the provisions of paragraph (b) hereof, from such Revenue Sharing Trust Fund to be available for expenditure during the 1973-74 fiscal year:

Secretary of State

Acct. No. 250

TO BE PAID FROM REVENUE SHARING TRUST FUND

1 Special Election .............................................$ 500,000

2 (b) The above supplementary appropriation is conditioned upon full compliance with all of the provisions of paragraph (a) hereof and unless there is full compliance with all of the provisions of said paragraph (a), then the foregoing supplementary appropriation shall be void with like effect as if this supplementary appropriation act had not been enacted.

CHAPTER 18

(Senate Bill No. 68—By Mr. Brotherton, Mr. President)

[Passed July 11, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue re-
maining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the State Board of Education—Early Childhood Aides, Acct. No. 297, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.
Be it enacted by the Legislature of West Virginia:

That Acct. No. 297, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

EDUCATIONAL

38—State Board of Education—Early Childhood Aides

Acct. No. 297

1 Early Childhood Aides $2,415,235

CHAPTER 19

(Senate Bill No. 78—By Mr. Brotherton, Mr. President)

[Passed July 13, 1973; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the Treasurer's Office-School Building Sinking Fund, Acct. No. 165, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash
balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, The governor, pursuant to his constitutional authority, on July eleventh, one thousand nine hundred seventy-three, vetoed Enrolled House Bills Nos. 265 and 266, there now remains unappropriated a balance in the total general revenue available for further appropriation of $23,393,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 165, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

FISCAL

Treasurer's Office-State School Buildings Bond Debt Service

Acct. No. 165

1 State School Buildings Bond Debt Service $4,750,000.00
AN ACT making supplementary appropriations of the public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, to the West Virginia University-Medical School, Acct. No. 285, an act, Enrolled Committee Substitute for Senate Bill No. 51, enacted by the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1973-74, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $457,497,200.00 (exclusive of Federal Revenue Sharing Funds); and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1973-74, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1973-74; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 51, acts of the Legislature, regular session, one thousand nine hundred seventy-three (now Chapter 10, Acts of the Legislature of 1973), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, the governor by his action reduced the amounts appropriated and thereby
made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $18,643,488 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-four, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Acct. No. 285, Chapter 10, acts of the Legislature, regular session, one thousand nine hundred seventy-three, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

EDUCATIONAL

29—West Virginia University-Medical School

Acct. No. 285

1  Personal Services ........................................... $1,192,934.00
2  Current Expenses ............................................ 569,519.00
3  Repairs and Alterations .................................... 250,666.00
4  Equipment ..................................................... 122,758.00

5  Total ........................................................... $2,135,877.00

6  To be transferred to the West Virginia University-Medical
7  School Fund, Acct. No. 873, upon requisition of the
8  Governor.

CHAPTER 21

(House Bill No. 291—Originating in the House Committee on Finance.)

[Passed June 28, 1973; in effect from passage. Approved by the Governor.]
session, one thousand nine hundred seventy-two, known as the Budget Bill.

Be it enacted by the Legislature of West Virginia:

That amounts within the total appropriations of "No. 2. Denmar State Hospital," Item VII, section four, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, as amended, be transferred and line items redesignated to read as follows:

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

The above appropriation is for the following:

2. Denmar State Hospital 136,000.00

1 Sewers and sewage treatment $29,000.00
2 Power Plant
3 (for emergency use) 20,000.00
4 New sprinkling system 87,000.00

Any unexpended balance remaining in this account at the close of the fiscal year 1972-73 is hereby reappropriated for expenditure during the fiscal year 1973-74. The foregoing constitutes transfer of amounts within the total appropriation of the designated spending unit. The amounts as itemized for expenditure during the fiscal year one thousand nine hundred seventy-three shall be available for expenditure upon the effective date of this act.

CHAPTER 22

(Senate Bill No. 79—By Mr. Williams)

[Passed July 11, 1973; in effect from passage. Approved by the Governor.]

AN ACT transferring amounts between items of the total appropriation for a certain state spending unit as appropriated by chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, as amended.
Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 480, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, as amended, be transferred to read as follows:

BUSINESS AND INDUSTRIAL RELATIONS

87—Department of Banking

Acct. No. 480

1 Personal Services .................................... $154,000
2 Current Expenses .................................... 70,600

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

CHAPTER 23

(Com. Sub. for Senate Bill No. 4—By Mr. Hubbard)

[Passed June 27, 1973; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, providing for the adoption of the West Virginia community development authority act; setting forth legislative findings and purposes with respect to such act and the need therefor; defining terms used in such act; providing for the creation and establishment of the West Virginia community development authority as a public body corporate and governmental instrumentality of the state; relating to the purposes and functions of such authority; providing for a board of directors of such authority; providing for the appointment of the members of such board of directors and establishing their terms; relating to vacancies in the membership of such board of directors; relating to removal of members of
the board of directors for cause; specifying that members of
the board of directors shall not receive any compensation but
shall be entitled to be reimbursed for expenses; specifying the
number of members of such board of directors which shall con­
stitute a quorum and the number of members which must con­
cur for action to be taken; relating to the management and
control of the West Virginia community development author­
ity and officers of such authority; relating to the custodian of
all moneys of such authority and of the operating loan fund;
relating to bonding requirements; providing that the directors
and officers of the West Virginia community development au­
tority shall not be liable personally for any debt or obligation
created by such authority or the operating loan fund; specify­
ing the powers and duties of the West Virginia community de­
velopment authority; specifically authorizing such authority,
among many other powers and duties, to borrow money and
to issue notes and bonds and to purchase notes and bonds of
other governmental units for public purposes; relating to the
securities in which the funds or moneys of such authority may
be invested; specifying that the notes or bonds of such author­
ity shall be payable out of any revenues or moneys of such
authority; specifying that the notes and bonds issued by such
authority shall be negotiable instruments; relating to the bor­
rowing of money by such authority and the issuance of its
notes or bonds as evidence thereof and making detailed pro­
visions with respect thereto; relating to the sale of notes or
bonds of such authority; relating to resolutions authorizing
notes or bonds of such authority and specifying provisions
which may be contained in any such resolution; relating to the
validity and effect of any pledge, mortgage, deed of trust or
security instrument made by or for the benefit of such author­
ity; relating to the redemption of notes or bonds issued by such
authority; specifying that the state shall not be liable on notes,
bonds or other evidences of indebtedness of such authority
and that the same shall not be a debt of the state; specifying
that the state will not limit or alter the rights vested in the West
Virginia community development authority or impair the rights
and remedies of holders of its notes or bonds until such au­
thority's notes or bonds and moneys due and owing with re­
spect thereto are fully met, discharged and paid; providing for
the waiver of certain defenses by governmental units on the issuance and sale of bonds to such authority; relating to the rights, powers and remedies of holders of the notes or bonds of such authority; relating to default in payment of the principal or of interest on any notes or bonds of any governmental unit of or such authority and the rights, powers and remedies in connection therewith; relating to the appointment of a receiver or trustee and the powers and duties thereof; making the notes and bonds of such authority legal investments; providing full tax and assessment exemption in connection with such authority and its property, obligations, evidences of indebtedness, moneys, funds, revenues or other income and its notes and bonds; providing that the income from the notes or bonds of such authority shall be exempt from taxation; providing for the establishment and operation of the operating loan fund; specifying the purposes of the operating loan fund; specifying the provisions which must be contained in any temporary loan fund agreement; establishing a limit on the aggregate principal amount of notes and bonds which can be issued by the West Virginia community development authority; specifying that no part of the moneys of the West Virginia community development authority or of the operating loan fund shall inure to the benefit of or be distributable to directors or officers or other private persons, with the exception of the payment of reasonable compensation, other than to the directors, for services rendered and the making of loans and the purchasing of bonds, but further specifying that no such loans shall be made to and no such bonds shall be purchased from any director or officer of the West Virginia community development authority; relating to termination or dissolution of such authority; specifying that such authority may provide services to the state and any governmental units and relating to contracts in connection therewith; requiring an annual audit of the West Virginia community development authority and the operating loan fund; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:
ARTICLE 19. WEST VIRGINIA COMMUNITY DEVELOPMENT AUTHORITY.

§31-19-2. Legislative findings and purposes.
§31-19-5. Board of directors; responsibilities; appointment, term, etc., of private directors.
§31-19-6. Quorum; vote.
§31-19-7. Management and control of authority; officers; bonding; liability.
§31-19-9. Notes or bonds as general obligations of authority.
§31-19-10. Notes and bonds as negotiable instruments.
§31-19-12. Sale of notes or bonds.
§31-19-17. Limitation of rights vested in authority by state.
§31-19-18. Waiver of defenses; rights of holders; default in payment of principal or interest.
§31-19-23. Prohibition on funds inuring to the benefit or being distributable to directors, officers or private persons.
§31-19-24. Termination or dissolution.
§31-19-25. Services to the state of West Virginia and its governmental units.

1 This article shall be known and may be cited as the "West Virginia Community Development Authority Act."

§31-19-2. Legislative findings and purposes.
1 (a) The Legislature hereby finds and declares that increasing requirements for essential public services and escalating costs of providing such services have created inordinate demands upon the financial resources of local governmental units necessitating legislation to enable said governmental units to attain a more competitive position in capital markets.

(b) The Legislature hereby finds and declares further that
it is in the public interest and is the responsibility of the
state of West Virginia to foster and promote by all lawful
means the provision of adequate capital markets and facilities
for borrowing money by local governmental units for the
financing of public improvements and the fulfillment of
public purposes, and to make it possible for local govern-
mental units to obtain new or additional sources of capital
funds at acceptable interest costs, including activities to
encourage investor interest in the purchase of bonds or notes
of governmental units as sound and preferred securities for
investment.

(c) The Legislature hereby finds and declares further that
it is in the public interest and is the responsibility of the
state of West Virginia to encourage local governmental units
to continue their independent undertakings of public improve-
ments and fulfillment of public purposes and the financing
thereof and to improve or enhance the possibilities of local
governmental units obtaining funds, to the extent possible, at
reduced interest costs, for orderly financing of public im-
provements and fulfillment of public purposes, particularly
those governmental units not otherwise able to borrow for
such purposes during periods of need.

(d) The Legislature hereby finds and declares further that
it is in the public interest, in order to implement and aid in
the discharge of the responsibilities aforesaid, that a state
instrumentality be created as a public body corporate with
full powers to borrow money and issue its bonds and notes
to the end that funds obtained thereby may be used for the
purchase by such state instrumentality of the bonds or notes
of local governmental units and that such state instrumentality
be granted all powers necessary or appropriate to accomplish
and to carry out the aforesaid public purposes and responsi-
bilities of the state of West Virginia in a manner to make it
possible for local governmental units to sell their municipal
bonds and borrow funds at as low an interest rate as said
instrumentality finds and determines to be feasible, consis-
tent with a self-supporting operation with no expectation
of subsidization with state funds.

(e) The Legislature further finds and declares that in
accomplishing these purposes, the West Virginia community
development authority, created and established by this article, will be acting in all respects for the benefit of the people of the state of West Virginia to serve the public purposes of improving and otherwise promoting their health, education, welfare, safety and prosperity, and that the West Virginia community development authority, so created and established, is empowered hereby to act on behalf of the state of West Virginia and its people in serving the aforesaid public purposes for the benefit of the general public of said state.


1 As used in this article, unless the context otherwise requires:
2 (1) "Authority" or "community development authority" means the West Virginia community development authority created and established by this article;
3 (2) "Bonds" means bonds of the authority issued under this article;
4 (3) "Loan" means the purchase by the authority of municipal bonds;
5 (4) "Local governmental unit" or "governmental unit" means any county, municipality, public service district, school district, or agency thereof, in this state, or any other public body organized under the laws of this state;
6 (5) "Municipal bond" means a bond, note or other evidence of debt of a governmental unit of the state of West Virginia payable from funds derived from taxation or payable from funds derived from sources other than taxation, but does not include any bond, note or other evidence of debt issued by any other state or any public body of any other state;
7 (6) "Notes" means any notes of the authority issued under this article;
8 (7) "Operating loan fund" means the operating loan fund which may be established and operated by the community development authority in accordance with section twenty-one of this article;
(8) "Public body" means any public body corporate, or any political subdivision of this state, established under any law of this state which may issue its bonds or notes, whether heretofore or hereafter established;

(9) "Revenues" means all fees, charges, moneys, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions and all other income derived or to be derived by the authority under this article; and

(10) "Temporary loan" means a temporary loan of money to be used to defray the planning and development costs of a public improvement, pending the receipt of a federal grant or loan or long-term financing of such public improvement.


(a) There is hereby created and established as a governmental instrumentality of the state of West Virginia, a public body corporate to be known as the West Virginia community development authority.

(b) The community development authority is created and established to serve a public corporate purpose, to act for the public benefit and as a governmental instrumentality of the state of West Virginia, and to act on behalf of the state and its people in improving and otherwise promoting their health, education, welfare, safety and prosperity.

§31-19-5. Board of directors; responsibilities; appointment, term, etc., of private directors.

(a) The community development authority shall be governed by a board of directors, consisting of the following five members: The governor as chairman and the state treasurer as treasurer, as public directors, and three members representing the general public, as private directors. No more than two of the private directors shall be members of the same political party.

(b) The board of directors shall be responsible for the administration, management and implementation of the provisions of this article except as is otherwise specifically provided herein.
Upon organization of the community development authority, the governor shall appoint, by and with the advice and consent of the Senate, the private directors for terms of four years: Provided, That of those private directors first appointed, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, respectively, as the governor shall so designate. At the expiration of said terms and for all succeeding terms, the governor shall appoint a successor to the office of private director for a term of four years in each case.

(d) In case of any vacancy in the office of a private director, such vacancy shall be filled within sixty days by appointment by the governor for the unexpired term.

(e) The governor may remove any director whom he may appoint in case of incompetency, neglect of duty, gross immorality or malfeasance in office; and he may declare his office vacant and shall appoint a person for such vacancy as provided in other cases of vacancy.

(f) The public and private directors shall receive no compensation for their services, but shall be entitled to all reasonable and necessary expenses actually incurred in discharging their duties under this article.

§31-19-6. Quorum; vote.

Three members of the board of directors shall constitute a quorum. A vacancy in the membership of the board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the board of directors. No action shall be taken by the board of directors except upon the affirmative vote of at least three of the directors.

§31-19-7. Management and control of authority; officers; bonding; liability.

(a) The management and control of the community development authority shall be vested solely in the board of directors in accordance with the provisions of this article.

(b) The chairman shall be the chief executive officer of the community development authority.
(c) The board of directors may appoint a chief administrative officer and may fix his title, duties and compensation.

(d) The board of directors of the community development authority shall annually appoint a secretary, who need not be a member of the board, to keep a record of the proceedings of the community development authority.

(e) The treasurer of the community development authority shall be custodian of all funds of the community development authority and the operating loan fund and shall be bonded in such amount as the other members of the board of directors may designate. The board may require such additional bonding as it deems necessary. The surety on all such bonds shall be a surety company authorized to do business in this state. All costs of such surety bonds shall be paid by the authority.

(f) The directors and officers of the community development authority shall not be liable personally, either jointly or severally, for any debt or obligation created by the West Virginia community development authority or the operating loan fund.


The community development authority is hereby granted, has 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 sue and be sued.

(2) To have a seal and alter the same at will.

(3) To make, and from time to time amend and repeal, and enforce bylaws and rules and regulations for the conduct of its business and for use of its services and facilities.

(4) To maintain an office and appoint such officers and employ such employees and consultants as the authority deems advisable and fix their compensation and prescribe their duties.

(5) To acquire, hold, use and dispose of its revenues, funds and moneys.
(6) To acquire, rent, lease, hold, use and dispose of other personal property for its purposes.

(7) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the authority deems desirable.

(8) To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold and dispose of any of its bonds or notes.

(9) To issue its bonds and notes payable solely from the revenues or funds available to the authority therefor and to otherwise assist governmental units as provided in this article; and the authority may issue its bonds or notes in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including:

(a) The making of loans.

(b) The payment, funding or refunding of the principal of, interest on, or redemption premiums on, any bonds or notes issued by it whether the bonds, notes or interest to be funded or refunded have or have not become due.

(c) The establishment or increase of reserves to secure or to pay bonds or notes or the interest thereon and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Any bonds or notes may be additionally secured by a pledge of any revenues, funds or moneys of the authority from any source whatsoever.

(10) 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.

(11) 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.
(12) To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(13) To purchase municipal bonds at such prices and in such manner as the authority deems advisable, to hold municipal bonds, and to sell municipal bonds acquired or held by it at such prices without relation to cost and in such manner as the authority deems advisable.

(14) To determine which municipal bonds the authority will purchase, and in making such determination, to consider the need for and the desirability of the proposed sale by the governmental unit, the ability of the governmental unit to sell its bonds to others and the costs involved in a sale to others, and the particular public improvement or purpose to be financed with the proceeds of the municipal bonds proposed to be purchased by the authority.

(15) To prescribe forms of application or procedure required of a governmental unit for, or in connection with, the purchase by the authority of municipal bonds of a governmental unit, and to fix the terms and conditions of such purchase and to enter into agreements with governmental units with respect to any such purchase.

(16) To establish any terms and provisions which the authority shall determine with respect to any purchase of municipal bonds by the authority, including date and maturities of the municipal bonds, provisions as to redemption or payment prior to maturity, and any other matters which are necessary, desirable or advisable in the judgment of the authority.

(17) To enter into and enforce all contracts, other instruments or other transactions necessary, convenient or desirable for the purposes of the authority or pertaining to any purchase or sale of municipal bonds or any investments or to the performance of its duties and the execution or carrying out of any of its powers under this article.
(18) To fix and collect reasonable fees and charges for its expenses and services in reviewing or considering any proposed purchase of municipal bonds of a governmental unit, including charging therefor whether or not the municipal bonds are purchased.

(19) To the extent permitted under its contracts with the holders of bonds or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, note or contract or agreement of any kind to which the authority is a party.

(20) To provide technical, consultative and public improvement assistance services; and to fix and collect fees and charges for the use of its services or facilities.

(21) To invest any funds or moneys of the authority not then required for the purchase of municipal bonds in any of the following securities:

(a) Direct obligations of or obligations guaranteed by the United States of America;

(b) 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";

(c) 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;

(d) Certificates of deposit secured by obligations of the United States of America;
(e) Direct obligations of or obligations guaranteed by the state of West Virginia;

(f) 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, if 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,

(g) 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 (i) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, and (ii) 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 (iii) 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.

(22) To make temporary loans, with or without interest, but with such security for repayment as the community development authority determines reasonably necessary and practicable, from the operating loan fund, if established and operated in accordance with the provisions of section twenty-one of this article.

(23) To do anything authorized by this article, through its officers, agents or employees or by contracts with any person, firm or corporation.

(24) To do all things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this article.

§31-19-9. Notes or bonds as general obligations of authority.

Except as may otherwise be provided by the community
development authority, every issue of its notes or bonds shall be general obligations of the community development authority payable out of any revenues or moneys of the community development authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

§31-19-10. Notes and bonds as negotiable instruments.

The notes and bonds issued by the authority shall be and hereby are made negotiable instruments under the provisions of article eight, chapter forty-six of this code, subject only to the provisions of the notes or bonds for registration.


The borrowing of money and the notes and bonds evidencing any such borrowing shall be authorized by resolution approved by the board of directors of the community development authority, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewal thereof, not exceeding ten years from the date of issue of such original note, and, in the case of any such bonds, not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or conditions of redemption as such resolution or resolutions may provide.

§31-19-12. Sale of notes or bonds.

Any notes or bonds issued by the West Virginia community development authority may be sold in such manner, either at public or private sale, and for such price, upon such terms and at such interest rates per annum, as the authority shall determine to be for the best interests of the authority and to be necessary or appropriate to effectuate the purposes of this article.


Any resolution or resolutions authorizing any notes or
bonds, or any issue thereof, may contain provisions, which
shall be a part of the contract with holders, as to:

(1) Pledging all or part of the revenues of the community
development authority to secure the payment of the notes
or bonds or of any issue thereof, subject to such agreements
with bondholders or noteholders as may then exist;

(2) Pledging all or any part of the assets of the community
development authority to secure the payment of the notes
or bonds or any issue thereof, subject to such agreements
with bondholders or noteholders as may then exist;

(3) The setting aside of reserves or sinking funds and
the regulation and disposition thereof;

(4) Limitations on the purposes to which the proceeds
of sale of notes or bonds may be applied and pledging such
proceeds to secure the payment of the notes or bonds or of
any issue thereof;

(5) Limitations on the issuance of additional notes or
bonds; the terms upon which additional notes or bonds may
be issued and secured; and the refunding of outstanding or
other notes or bonds;

(6) The procedure, if any, by which the terms of any
contract with noteholders or bondholders may be amended
or abrogated, the amount of notes or bonds the holders of
which must consent thereto, and the manner in which such
consent may be given;

(7) Limitations on the amount of moneys to be expended
by the community development authority for operating, ad­
ministrative or other expenses of the community develop­
ment authority;

(8) Vesting in a trustee or trustees the property, rights,
powers and duties of a trustee appointed by the bondholders
pursuant to section eighteen of this article, and limiting or
abrogating the right of the bondholders to appoint a trustee
under section eighteen of this article or limiting the rights,
powers and duties of such trustee; and

(9) Any other matters, of like or different character, which
in any way affect the security or protection of the notes or
bonds.

1 It is the intention hereof that any pledge, mortgage, deed of trust or security instrument made by or for the benefit of the community development authority shall be valid and binding between the parties from the time the pledge, mortgage, deed of trust or security instrument is made; and that the moneys or property so pledged, encumbered, mortgaged or entrusted shall immediately be subject to the lien of such pledge, mortgage, deed of trust or security instrument without any physical delivery thereof or further act. Nothing herein shall be construed to prohibit the community development authority from selling any property subject to any such pledge, mortgage, deed of trust or security instrument. Such property is not to be sold for less than its fair market value.


1 The community development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power, out of any funds available therefor, to purchase notes or bonds of the community development authority.

2 If the notes or bonds are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon.

3 If the notes or bonds are not then redeemable, the price of such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date. Upon such purchase such notes or bonds shall be canceled.


1 The state of West Virginia shall not be liable on notes, bonds or other evidences of indebtedness of the community development authority and such notes, bonds or other evidences of indebtedness shall not be a debt of the state of West Virginia, and such notes, bonds or other evidences of indebtedness shall contain on the face thereof a statement to such effect.
§31-19-17. Limitation of rights vested in authority by state.

1 The state of West Virginia does hereby pledge to and agree
2 with the holders of any notes or bonds issued under this article
3 that the state will not limit or alter the rights hereby vested
4 in the community development authority to fulfill the terms
5 of any agreements made with the holders thereof or in any
6 way impair the rights and remedies of such holders until
7 such notes or bonds, together with the interest thereon, with
8 interest on any unpaid installments of interest, and all costs
9 and expenses for which the community development authority
10 is liable in connection with any action or proceeding by or
11 on behalf of such holders, are fully met and discharged. The
12 community development authority is hereby authorized to
13 include this pledge and agreement of the state in any agree-
14 ment with the holders of such notes and bonds.

§31-19-18. Waiver of defenses; rights of holders; default in pay-
ment of principal or interest.

1 (a) Upon the issuance and sale of any municipal bonds to
2 the authority by any governmental unit, such governmental
3 unit shall be deemed to agree that on the failure of that
4 governmental unit to pay the principal of or interest on any
5 of the municipal bonds owned or held by the authority when
6 payable, all defenses to nonpayment are waived. Notwith-
7 standing any provisions of any other law relating to, limiting
8 or otherwise affecting the time or duration of any default
9 or the percentage of holders or owners of bonds entitled to
10 exercise rights of holders or owners of bonds in default or
11 entitled to invoke any remedies or powers thereof, or the
12 rights of any trustee in connection therewith or of any
13 board, body, agency or commission of the state having
14 jurisdiction in such matter or circumstance, the authority
15 may upon such nonpayment, avail itself of all rights, remedies
16 and provisions of law applicable in that circumstance. The
17 failure by the authority to exercise or exert any such rights,
18 remedies or provisions of law within any time period provided
19 by law may not be raised as a defense by the governmental
20 unit and all of the bonds of any issue of bonds of a govern-
21 mental unit on which there is nonpayment shall for all of
22 the purposes of this section, at the option of the authority,
be deemed to be immediately due and payable. The authority
is authorized and empowered to carry out the provisions of
this section and exercise all of the rights, remedies and
provisions of law herein provided, referred to, or provided
elsewhere by statute or by other law. If there be a default
in the payment of the principal of or interest on or of both
the principal of and interest on any bonds secured by
pledged revenues and purchased by the authority, any court
having jurisdiction shall upon motion of the authority appoint
a receiver to administer any public improvement serving as
security for the bonds; and any such receiver shall be
appointed on behalf of the authority with the power and
authority to charge and collect rates or charges sufficient to
provide for the retirement of the bonds and pay the interest
thereon, and for the payment of the repair, maintenance and
operation expenses of such public improvement. Such receiver
shall serve for such period of time as may be prescribed by
the court having jurisdiction and only so long as may be
necessary to place the operation of the public improvement on
a sound financial basis. The payment of all municipal bonds
for which general tax revenues are pledged as security shall
be provided for as a separate item in the annual budget of
the governmental unit which issued such bonds.

(b) In the event the community development authority
shall default in the payment of principal of or interest on
any issue of its notes or bonds after the same shall become
due, whether at maturity or upon call for redemption, and
such default shall continue for a period of thirty days, or
in the event the community development authority shall fail
or refuse to comply with the provisions of this article or shall
default in any agreement made with the holders of any
issue of notes or bonds, the holders of twenty-five per centum
in aggregate principal amount of the notes or bonds of such
issue then outstanding, by instrument or instruments filed
in the office of the clerk of the county court of any county
in which the community development authority operates and
has an office and acknowledged in the same manner as a
deed to be recorded, may appoint a trustee to represent the
holders of such notes or bonds for the purposes herein
provided:
(1) Any such trustee, upon the written request of the holders of twenty-five per centum in principal amount of such notes or bonds of the authority then outstanding, shall, in his or its own name, do any one or more of the following:

(i) By civil action or other proceeding, enforce all rights of the noteholders or bondholders, including the right to require the community development authority to perform its duties under this article;

(ii) Bring a civil action upon such notes or bonds;

(iii) By civil action or other proceeding, require the community development authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(iv) By civil action or other proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(v) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then annul such declaration and its consequences.

(2) In addition to the foregoing, such trustee shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of holders of notes or bonds of the authority in the enforcement and protection of their rights.

(3) Before declaring the principal of any notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the community development authority.


The notes and bonds of the community development authority are hereby made securities in which all insurance companies and associations, and other persons carrying on an insurance business, all banking institutions, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, and other persons, except administrators, guardians, executors, trustees and fiduciaries, who are now or who may hereafter be authorized to invest in bonds or other

The community development authority shall not be required to pay any taxes and assessments to the state of West Virginia, or to any county, municipality or other governmental subdivision of the state of West Virginia, upon any of its property or upon its obligations or other evidences of indebtedness issued pursuant to the provisions of this article, or upon any moneys, funds, revenues or other income held or received by the community development authority and the notes and bonds of the community development authority, and the income therefrom shall at all times be exempt from taxation, as aforesaid, except for death and gift taxes, taxes on transfers, sales taxes, real property taxes and business and occupation taxes.


(a) The board of directors of the community development authority is hereby empowered and authorized to establish a special revolving loan fund to be known as the operating loan fund and to be governed, administered and accounted for by the directors, officers and staff of the community development authority as a public purpose trust account separate and distinct from any other moneys, fund or funds owned and managed by the community development authority.

(b) The purpose for establishing and operating the operating loan fund shall be to provide a source from which the community development authority may make temporary loans, with or without interest, but with such security for repayment as the community development authority deems reasonably necessary and practicable; such loans to be used to defray the planning and development costs of a public improvement pending the receipt of a federal grant or loan, or of long-term financing of said public improvement.

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

1. The proceeds of all such loans shall be used only to defray the planning and development costs of proposed public improvements;

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 federal grant or loan or the securing of long-term financing, as the case may be, or at such other times as the community development authority deems reasonably necessary or practicable; and

4. Specification of such security for repayments upon such terms and conditions as the community development authority deems reasonably necessary or practicable to ensure all repayments.


The aggregate principal amount of notes and bonds issued by the community development authority shall not exceed two hundred million dollars outstanding at any one time: Provided, that in computing the total amount of notes and bonds which may at any one time be outstanding, the principal amount of any outstanding notes or bonds refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the community development authority or by exchange for any such refunding bonds or notes shall be excluded.

§31-19-23. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

No part of the funds of the community development authority, 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 community development authority shall be authorized and empowered to pay reasonable compensation, other than to the directors, for services rendered and to make loans and purchase municipal bonds as pre-
viciously specified in furtherance of its corporate purpose: Provided, That no such loans shall be made to and no such municipal bonds shall be purchased from any director or officer of the community development authority.

§31-19-24. Termination or dissolution.

Upon termination or dissolution, all rights and properties of the community development authority, including the operating loan fund, shall pass to and be vested in the state of West Virginia, subject to the rights of lienholders and other creditors.

§31-19-25. Services to the state of West Virginia and its governmental units.

(a) The community development authority may provide technical, consultative and public improvement assistance services to the state of West Virginia and any of its governmental units and is hereby authorized to enter into contracts with the state of West Virginia and any of its governmental units to provide such services.

(b) The state of West Virginia or any governmental unit thereof is hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided to it.


The community development authority shall cause an annual audit to be made by a resident independent certified public accountant of its books, accounts and records, with respect to its revenues, disbursements, contracts, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the president of the Senate, the speaker of the House of Delegates and the majority and minority leaders of both houses.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are severable.

CHAPTER 24
(Com. Sub. for House Bill No. 271—By Mr. Seibert)

[Passed July 13, 1973; in effect from passage. Approved by the Governor.]

AN ACT submitting certain proposed amendments to the constitution of the state to the voters of the state for ratification or rejection at a special election to be held throughout the state on the sixth day of November, one thousand nine hundred seventy-three; calling the special election; directing which proposed amendments shall be submitted to the voters of the state at the special election and how such proposed amendments are to be numbered, designated and summarized; providing for publication of the proposed amendments and publication of notice of the special election and the form thereof; providing that no question or issue other than the ratification or rejection of the proposed amendments shall be voted upon at the special election and that the vote on the proposed amendments be taken on each separately; providing for an official ballot and ballot labels, for one board of election officials in each precinct and for recounts; and providing for a proclamation of the result of the special election by the secretary of state and for conduct of and procedures for the special election and that the costs and expenses of the special election be paid out of the state treasury.

Be it enacted by the Legislature of West Virginia:

SPECIAL ELECTION ON PROPOSED CONSTITUTIONAL AMENDMENTS.

§ 1. Calling a special election; when to be held.

§ 2. Proposed amendments to be submitted; how numbered, designated and summarized; publication of proposed amendments.

§ 3. Publication of notice of special election; form.

§ 4. Conduct of and procedures for the special election; official ballot; application of chapter three of the code; payment of costs.
§1. Calling a special election; when to be held.

Pursuant to the authority vested in it by section two, article fourteen of the constitution of the state, the Legislature hereby calls a special election to be held throughout the state for the purpose of submitting proposed amendments to the constitution of the state to the voters of the state for ratification or rejection. The special election shall be held on the sixth day of November, one thousand nine hundred seventy-three.

§2. Proposed amendments to be submitted; how numbered, designated and summarized; publication of proposed amendments.

The proposed amendments to the constitution of the state to be submitted to the voters of the state for ratification or rejection at the special election herein provided for shall be, and they shall be numbered, designated and summarized, in accordance with joint resolutions adopted by the Legislature, as follows:

1. House joint resolution No. 5, adopted by the Legislature the fourteenth day of April, one thousand nine hundred seventy-three, authorizing the submission of a proposed amendment to the constitution of the state numbered “Amendment No. 1,” designated “Vietnam Veterans Bonus Amendment,” and summarized as follows: “To permit the appropriation of general revenues or the sale of state bonds for the payment of bonuses and death benefits to veterans of the Vietnam conflict or their relatives.”

2. Senate joint resolution no. 17, adopted by the Legislature the thirteenth day of April, one thousand nine hundred seventy-three, authorizing the submission of a proposed amendment to the constitution of the state numbered “Amendment No. 2,” designated “Better Highways Amendment,” and summarized as follows: “To empower the Legislature to authorize the issuing and selling of state bonds not exceeding in the aggregate five hundred million dollars to be used for bridge replacement and improvement program, completion of the Appalachian Highway System, upgrading sections of trunkline and feeder systems, upgrading West Virginia State Route 2, upgrading state and local service roads and for construction, reconstruction, improving and materially up-
House joint resolution no. 7, adopted by the Legislature the fourteenth day of April, one thousand nine hundred seventy-three, authorizing the submission of a proposed amendment to the constitution of the state numbered “Amendment No. 3,” designated “Homestead and Taxation Exemption Amendment,” and summarized as follows: “To increase the allowable homestead exemption on real and personal property and to exempt from ad valorem property taxation the first five thousand dollars of assessed valuation of a residence occupied by the owner thereof who is sixty-five years of age or older.”

House joint resolution no. 3, adopted by the Legislature the seventh day of June, one thousand nine hundred seventy-three, authorizing the submission of a proposed amendment to the constitution of the state numbered “Amendment No. 5,” designated “Sheriff’s Succession Amendment,” and summarized as follows: “To amend the State Constitution to permit persons elected sheriff to serve two consecutive terms.”

The secretary of state shall cause each proposed amendment to be published in full compliance with the provisions of section three, article eleven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended (hereinafter referred to as “the code”).

§3. Publication of notice of special election; form.

The secretary of state shall cause notice of the special election herein provided for to be published as a legal advertisement one time at least three months before the special election in some newspaper in every county of the state in which a newspaper is printed. The form of the notice shall be as follows:

“NOTICE OF SPECIAL ELECTION FOR RATIFICATION OR REJECTION OF PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE STATE

A special election shall be held on the sixth day of November, one thousand nine hundred seventy-three for the grading of U. S. Route 52, between Huntington and Bluefield, West Virginia.”
§4. Conduct of and procedures for the special election; official ballot; application of chapter three of the code; payment of costs.

No question or issue other than the ratification or rejection of the proposed amendments shall be voted upon at the special election herein provided for. The vote on the proposed amendments shall be taken on each separately. Each of the proposed amendments shall be placed on the official ballot or upon the ballot label in counties where voting machines are used, for the special election. Such official ballot shall have the same form as the "ballot on constitutional amendments" provided for in section four, article eleven, chapter three of the code. There shall be but one board of election officials in each precinct, consisting of three commissioners and two poll clerks. Any person voting in the special election may demand a recount of the results thereof in the county wherein he voted. Every such person who demands such recount shall be required to furnish bond in a reasonable amount with good and sufficient surety to guarantee payment of the costs and expenses of such recount in the event the results of the special election be not changed by such recount, but the amount of such bond shall in no case exceed three hundred dollars. If the result of the special election in such county be not changed by such recount, the costs and expenses of such recount shall be paid by the person or persons at whose instance the same was made. The secretary of state shall declare by proclamation the result of the special election in the manner provided for in section six, article eleven, chapter three of the code. The costs and expenses of the special election throughout the state shall be paid out of the state treasury from funds appropriated therefor.

Except to the extent this act expressly provides otherwise, the special election shall be superintended, conducted and returned and the result thereof ascertained and certified by the same officers and in the same manner as provided in chapter
three of the code for a general election. In any matter in which no specific provision of this act applies for the conduct of any phase of the special election, those pertinent provisions of said chapter three which may furnish guidance and may be made controlling shall be applied.

CHAPTER 25

(House Bill No. 269—By Mrs. Smirl and Mr. Kopp)

[Passed June 6, 1973; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, four, eight, nine, thirteen and sixteen, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the inclusion of “blindness” under the antidiscrimination provisions of the West Virginia human rights act; the West Virginia human rights commission; declaration of policy; definitions; human rights commission continued; status, powers and objects; commission powers, functions, services; unlawful discriminatory practices; exclusiveness of remedy; certain records exempt.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, eight, nine, thirteen and sixteen, article eleven, 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 11. HUMAN RIGHTS COMMISSION.

§5-11-2. Declaration of policy.

§5-11-3. Definitions.

§5-11-4. Human rights commission continued; status; powers and objects.

§5-11-8. Commission powers; functions; services.


§5-11-2. Declaration of policy.

It is the public policy of the state of West Virginia to provide all of its citizens equal opportunity for employment,
equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age or blindness. Equal opportunity in housing accommodations or real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry or blindness.

The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age or blindness is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

§5-11-3. Definitions.

When used in this article:

(a) The term "person" means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons;

(b) The term "commission" means the West Virginia human rights commission;

(c) The term "director" means the executive director of the commission;

(d) The term "employer" means the state, or any political subdivision thereof, and any person employing twelve or more persons within the state: Provided, That such terms shall not be taken, understood or construed to include a private club;

(e) The term "employee" shall not include any individual employed by his parents, spouse or child, or in the domestic service of any person;

(f) The term "labor organization" includes any organization which exists for the purpose, in whole or in part, for collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment;
(g) The term "employment agency" includes any person undertaking with or without compensation to procure, recruit, refer or place employees. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be an employment agency;

(h) The term "discriminate" or "discrimination" means to exclude from, or fail or refuse to extend to, a person equal opportunities because of race, religion, color, national origin, ancestry, sex, age or blindness and includes to separate or segregate;

(i) The term "unlawful discriminatory practices" includes only those practices specified in section nine of this article;

(j) The term "place of public accommodations" means any establishment or person, as defined herein, including the state, or any political or civil subdivision thereof, which offers its services, goods, facilities or accommodations to the general public, but shall not include any accommodations which are in their nature private;

(k) The term "housing accommodations" means any building or portion thereof, which is used or intended for use as the residence or sleeping place of one or more persons. Nothing contained in this definition or this article shall apply to the rental of a room or rooms in a rooming house occupied by the owner as a place of residence and containing no more than four rented rooms, or rooms to be rented;

(l) The term "real property" includes real estate, lands, leaseholds, commercial or industrial buildings and any vacant land offered for sale or rent on which the construction of a housing accommodation, commercial or industrial building is intended, and any land operated as a trailer camp or rented or leased for the use, parking or storage of mobile homes or house trailers;

(m) The term "real estate broker" includes any person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of
real estate or solicits for prospective purchaser or assists or
directs in the procuring of prospects or the negotiation or
closing of any transaction which does or is contemplated to
result in the sale, exchange, leasing, renting or auctioning of
any real estate or negotiates, offers or attempts or agrees to
negotiate a loan secured or to be secured by mortgage or
other encumbrance upon transfer of any real estate for others,
or any person who, for pecuniary gain or expectation of
pecuniary gain, conducts a public or private competitive sale
of lands or any interest in lands. In the sale of lots, the
term “real estate broker” shall also include any person,
partnership, association or corporation employed by or on
behalf of the owner or owners of lots or other parcels of
real estate, at a stated salary, or upon a commission, or
upon a salary and commission, or otherwise to sell such real
estate, or any parts thereof, in lots or other parcels, and who
shall sell or exchange, or offer or attempt or agree to
negotiate the sale or exchange, of any such lot or parcel of
real estate. A newspaper engaged in the activity of advertising
in the normal course of its business shall not be deemed to
be a real estate broker;

(n) The term “real estate salesman” includes any person
who, for compensation, valuable consideration or commission,
or other thing of value, or by reason of a promise or
reasonable expectation thereof, is employed by and operates
under the supervision of a real estate broker to sell, buy or
offer to buy or negotiate the purchase, sale or exchange of
real estate, offers or attempts to negotiate a loan secured or
to be secured by a mortgage or other encumbrance upon or
transfer of real estate for others, or to collect rents for the
use of real estate, or to solicit for prospective purchasers
or lessees of real estate, or who is employed by a licensed
real estate broker to sell or offer to sell lots or other parcels
of real estate, at a stated salary, or upon a commission, or
upon a salary and commission, or otherwise to sell real
estate, or any parts thereof, in lots or other parcels;

(o) The term “purchaser” includes any occupant, pros-
pective occupant, lessee, prospective lessee, renter, prospec-
tive renter, buyer or prospective buyer;

(p) The term “owner” shall include the owner, lessee,
sublessee, assignee, manager, agents, or other person, firm or corporation having the right to sell, rent or lease any housing accommodation or real property within the state of West Virginia or any agent of any of these;

(q) The term "age" means ages forty through sixty-five, both inclusive;

(r) The term "rooming house" means a house or building where there are one or more bedrooms which the proprietor can spare for the purpose of giving lodgings to such persons as he chooses to receive;

(s) For the purpose of this article, a person shall be considered to be blind only if his central visual acuity does not exceed twenty/two hundred in the better eye with correcting lenses, or if his visual acuity is greater than twenty/two hundred but is occasioned by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

§5-11-4. Human rights commission continued; status, powers and objects.

The West Virginia human rights commission, heretofore created, is hereby continued. The commission shall have the power and authority and shall perform the functions and services as in this article prescribed and as otherwise provided by law. The commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the state and shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, religion, color, national origin, ancestry, sex, age or blindness and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, religion, color, national origin, ancestry or blindness.

§5-11-8. Commission powers; functions; services.

The commission is hereby authorized and empowered;

(a) To cooperate and work with federal, state and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and
greater equality of rights between and among all racial, religious and ethnic groups in this state;

(b) To enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the state in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and peoples;

(c) To receive, investigate and pass upon complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, sex, age or blindness, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, national origin, ancestry or blindness and to initiate its own consideration of any situations, circumstances or problems, including therein any racial, religious or ethnic group tensions, prejudice, disorder or discrimination reported or existing within the state relating to employment, places of public accommodations, housing accommodations and real property;

(d) To hold and conduct public and private hearings on complaints, matters and questions before the commission and, in connection therewith, relating to discrimination in employment, or places of public accommodations, housing accommodations or real property and during the investigation of any formal complaint before the commission relating to employment, places of public accommodations, housing accommodations or real property to:

(1) Issue subpoenas and subpoenas duces tecum upon the concurrence of at least five members of the commission, administer oaths, take the testimony of any person under oath, and make reimbursement for travel and other reasonable and necessary expenses in connection with such attendance;

(2) Furnish copies of public hearing records to parties involved therein upon their payment of the reasonable costs thereof to the commission;

(3) Delegate to a panel of one commission member appointed by the chairman and a hearing examiner who shall...
be an attorney, duly licensed to practice law in West Virginia, the power and authority to hold and conduct the hearings, as herein provided, but all decisions and actions growing out of or upon any such hearings shall be reserved for determination by the commission;

(4) To enter into conciliation agreements and consent orders;

(5) To apply to the circuit court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement or consent order by seeking specific performance of such agreement or consent order;

(6) To issue cease and desist orders against any person found, after a public hearing, to have violated the provisions of this article or the rules and regulations of the commission;

(7) To apply to the circuit court of the county where the respondent resides or transacts business for an order enforcing any lawful cease and desist order issued by the commission;

(e) To recommend to the governor and Legislature policies, procedures, practices and legislation in matters and questions affecting human rights;

(f) To delegate to its executive director such powers, duties and functions as may be necessary and expedient in carrying out the objectives and purposes of this article;

(g) To prepare a written report on its work, functions and services for each year ending on the thirtieth day of June and to deliver copies thereof to the governor on or before the first day of December next thereafter;

(h) To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objects, functions and services contemplated by the provisions of this article, including the promulgation of rules and regulations in accordance with the provisions of article three, chapter twenty-nine-a of this code, implementing the powers and authority hereby vested in the commission;

(i) To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purposes of this article, to study the problem of discrimination in all or specific fields or instances of dis-
82 discrimination because of race, religion, color, national origin, ancestry, sex, age or blindness; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of this state, and to make recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this subdivision. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all elements of the population of the state;

(j) To accept contributions from any person to assist in the effectuation of the purposes of this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this section;

(k) To issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination: Provided, That the identity of the parties involved shall not be disclosed.


1 It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the state of West Virginia or its agencies or political subdivisions:

(a) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment if the individual is able and competent to perform the services required even if such individual is blind: Provided, That it shall not be unlawful discriminatory practice for an employer to observe the provisions of any bona fide pension, retirement, group or em-
employee insurance, or welfare benefit plan or system not
adopted as a subterfuge to evade the provisions of this sub-
division;

(b) For any employer, employment agency or labor organ-
ization, prior to the employment or admission to membership,
to (1) elicit any information or make or keep a record of or
use any form of application or application blank containing
questions or entries concerning the race, religion, color,
national origin, ancestry, sex or age of any applicant for
employment or membership; (2) print or publish or cause to
be printed or published any notice or advertisement relating
to employment or membership indicating any preference,
limitation, specification or discrimination based upon race,
religion, color, national origin, ancestry, sex, or age; or (3)
deny or limit, through a quota system, employment or mem-
bership because of race, religion, color, national origin,
ancestry, sex, age or blindness;

(c) For any labor organization because of race, religion,
color, national origin, ancestry, sex, age or blindness of any
individual to deny full and equal membership rights to any
individual or otherwise to discriminate against such individuals
with respect to hire, tenure, terms, conditions or privileges
of employment or any other matter, directly or indirectly,
related to employment;

(d) For an employer, labor organization, employment
agency or any joint labor-management committee controlling
apprentice training programs to:

(1) Select individuals for an apprentice training program
registered with the state of West Virginia on any basis other
than their qualifications as determined by objective criteria
which permit review;

(2) Discriminate against any individual with respect to
his right to be admitted to or participate in a guidance
program, an apprenticeship training program, on-the-job train-
ing program, or other occupational training or retraining
program;

(3) Discriminate against any individual in his pursuit of
such programs or to discriminate against such a person in the
terms, conditions or privileges of such programs;
(4) Print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, discrimination or any intent to discriminate, unless based upon a bona fide occupational qualification;

(e) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his race, religion, color, national origin, ancestry, sex, age or blindness;

(f) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations to:

(1) Refuse, withhold from or deny to any individual because of his race, religion, color, national origin, ancestry, sex, age or blindness, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of such place of public accommodations;

(2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, privileges or services of any such place shall be refused, withheld from or denied to any individual on account of race, religion, color, national origin, ancestry, sex, age or blindness, or that the patronage or custom thereat of any individual, belonging to or purporting to be of any particular race, religion, color, national origin, ancestry, sex or age or who is blind is unwelcome, objectionable, not acceptable, undesired or not solicited;

(g) For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any housing accommodations or real property or part or portion thereof, or any agent, or employee of any of them; or for any real estate broker, real estate salesman, or employee or agent thereof:

(1) To refuse to sell, rent, lease, assign or sublease or otherwise to deny to or withhold from any person or group
of persons any housing accommodations or real property, or part or portion thereof, because of race, religion, color, national origin, ancestry or blindness of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, religion, color, national origin, ancestry or blindness of such person or group of persons in the terms, conditions, or privileges of the sale, rental, or lease of any housing accommodations or real property, or part or portion thereof, or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication, or sign or to use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodations or real property, or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment or sublease of any housing accommodations or real property or part or portion thereof, which expresses, directly or indirectly, any discrimination as to race, religion, color, national origin, ancestry or blindness or any intent to make any such discrimination and the production of any statement, advertisement, publicity, sign, form of application, record or inquiry purporting to be made by any such person shall be prima facie evidence in any action that the same was authorized by such person;

(h) For any person or financial institution or lender to whom application is made for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodations or real property, or part or portion thereof, or any agent or employee thereof to:

(1) Discriminate against any person or group of persons because of race, religion, color, national origin, ancestry or blindness, of such person or group of persons or of the prospective occupants or tenants of such housing accommodations or real property, or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or
in the fixing of the rates, terms, conditions or provisions of
going on financial assistance or in the extension of services
in connection therewith;
(2) Use any form of application for such financial assis-
tance or to make any record of inquiry in connection with
applications for such financial assistance which expresses,
directly or indirectly, any discrimination as to race, religion,
color, national origin, ancestry or blindness or any intent to
make any such discrimination;
(i) For any person, employer, employment agency, labor
organization, owner, real estate broker, real estate salesman
or financial institution to:
(1) Engage in any form of threats or reprisal, or to engage
in, or hire, or conspire with others to commit acts or activities
of any nature, the purpose of which is to harass, degrade,
embarrass, or cause physical harm or economic loss or to
aid, abet, incite, compel or coerce any person to engage in any
of the unlawful discriminatory practices defined in this
section;
(2) Willfully obstruct or prevent any person from com-
plying with the provisions of this article, or to resist, prevent,
impede or interfere with the commission or any of its mem-
bers or representatives in the performance of duty under this
article;
(3) Engage in any form of reprisal or otherwise discrimi-
nate against any person because he has opposed any practices
or acts forbidden under this article or because he has filed a
complaint, testified or assisted in any proceeding under this
article;
(4) For profit to induce or attempt to induce any person
to sell or rent or to not sell or rent any housing accommoda-
tions or real property by representations regarding the entry
or prospective entry into the neighborhood of a person or
persons who are blind or who are of a particular race, religion,
color, national origin or ancestry.
Nothing contained in this article shall be deemed to repeal
or supersede any of the provisions of any existing or hereafter
adopted municipal ordinance, municipal charter or of any law
of this state relating to discrimination because of race, religion, color, national origin, ancestry, sex, age or blindness, but as to acts declared unlawful by section nine of this article the procedure herein provided shall, when invoked, be exclusive and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the complainant concerned. If such complainant institutes any action based on such grievance without resorting to the procedure provided in this article, he may not subsequently resort to the procedure herein. In the event of a conflict between the interpretation of a provision of this article and the interpretation of a similar provision contained in any municipal ordinance authorized by charter, the interpretation of the provision in this article shall apply to such municipal ordinance.


1. Notwithstanding any other provisions of this article, it shall not be an unlawful discriminatory practice for the department of employment security to ascertain and record the age, sex, race, religion, color, national origin, ancestry or blindness of any individual for the purpose of making such reports as may from time to time be required by agencies of the federal government or be necessary to show compliance with any rule or regulation issued by any such agency. Said records may be made and kept in the manner required by the federal government: Provided, That such recording of the age, sex, race, religion, color, national origin, ancestry or blindness of any individual shall not be used to discriminate, within the meaning of this article, directly or indirectly, against any such individual as prohibited by all other sections of this article.
Virginia, one thousand nine hundred thirty-one, as amended, relating to the short title “West Virginia Public Employees Insurance Act;” permitting counties, cities and towns in this state, any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law, any corporation or instrumentality supported in most part by counties, cities or towns, any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns, any agency or organization established by, or approved by the department of mental health for the provision of community health or mental retardation services and which is supported in part by state, county or municipal funds and combined city-county health departments to participate in the state insurance program upon approval of a majority vote of their governing body and thereby making employees thereof eligible to participate in such program; redefining terms to effect such purpose; and providing for the payment of costs of all participating employers.

Be it enacted by the Legislature of West Virginia:

That sections two, thirteen, fifteen and seventeen, article sixteen, 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 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-2. Definitions.
§5-16-13. Payment of costs by employer; special funds created; duties of treasurer with respect thereto.
§5-16-15. Expense fund.
§5-16-17. Permissive participation; exemptions.

§5-16-2. Definitions.

1 The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

2 (1) “Board” means the public employees insurance board created by this article.

3 (2) “Employee” means any person, including elected officers, who works regularly full time in the service of the state
of West Virginia and, for the purpose of this article only, the
term "employee" shall also mean any person, including elected
officers, who works regularly full time in the service of a county
board of education; a county, city or town in the state; any
separate corporation or instrumentality established by one or
more counties, cities or towns, as permitted by law; any
corporation or instrumentality supported in most part by
counties, cities or towns; any public corporation charged by
law with the performance of a governmental function and whose
jurisdiction is coextensive with one or more counties, cities or
towns; any agency or organization established by, or approved
by the department of mental health for the provision of com-

(3) "Retired employee" shall mean an employee of the
state who retired after the twenty-ninth day of April, one
thousand nine hundred seventy-one, and an employee of the
West Virginia board of regents and a county board of educa-
tion who retires on or after the twenty-first day of April,
one thousand nine hundred seventy-two and all additional
eligible employees who retire on or after the effective date of
this article.

(4) "Employer" means the state of West Virginia, its
boards, agencies, commissions, departments, institutions or
spending units; a county board of education; a county, city
or town in the state; any separate corporation or instrumentality
established by one or more counties, cities or towns, as per-
mittted by law; any corporation or instrumentality supported
in most part by counties, cities or towns; any public corpora-
tion charged by law with the performance of a governmental
function and whose jurisdiction is coextensive with one or more
counties, cities or towns; any agency or organization established
by, or approved by the department of mental health for the
provision of community health or mental retardation services, and which is supported in part by state, county or municipal funds; and a combined city-county health department created pursuant to article two, chapter sixteen of the code. Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided by the board. The term “employer” shall not include within its meaning the national guard.

§5-16-13. Payment of costs by employer; special funds created; duties of treasurer with respect thereto.

The Legislature shall appropriate annually from the general revenue fund such sums as may be required to pay the state’s proportionate share of the premium costs of those spending units operating from the general revenue fund, and each spending unit operating from special revenue funds, or federal funds, or both, shall pay to the board their proportionate share of premium costs from their personal services budget. All other employers not operating from the state general revenue fund shall pay to the board their proportionate share of premium costs from their respective budgets.

The portion of the premium or cost attributable to all insurance coverage provided hereunder and not paid by the state, or county board of education, shall be paid by the employee, and the employers’ contribution shall be seventy percent of the cost of the employees’ insurance package. The contribution of other employers, (namely: a county, city or town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any agency or organization established by, or approved by the department of mental health for the provision of community health or mental retardation services, and which is supported in part by state, county or municipal funds; and a combined city-county health department created pursuant to article two, chapter sixteen of the code) shall be such percentage of the cost of the employees’ insurance package
as the employers deem reasonable and proper under their own
particular circumstances.

The employee's proportionate share of the premium or cost
shall be withheld or deducted by the employer from such
employee's salary or wages as and when paid and such sums
shall be forwarded to the board with such supporting data as
the board may require.

All moneys received by the board shall be deposited in a
special fund or funds as are necessary in the state treasury and
the treasurer of the state shall be custodian of such fund or
funds and shall administer such fund or funds in accordance
with the provisions of this article or as the board may from
time to time direct. The treasurer shall pay all warrants issued
by the state auditor against such fund or funds as the board
direct in accordance with the provisions of this article.

§5-16-15. Expense fund.
1 The Legislature shall annually appropriate such sums as may
2 be necessary to pay the proportionate share of the administra-
3 tive costs for the state as an employer, and each division,
4 agency, board, commission or department of the state which
5 operates out of special revenue funds or federal funds or both
6 shall pay its proportionate share of the administrative costs of
7 the insurance plan or plans authorized under the provisions
8 of this article. All other employers not operating from the state
9 general revenue fund shall pay their proportionate share of the
10 administrative costs of the insurance plan or plans authorized
11 under the provisions of this article.

§5-16-17. Permissive participation; exemptions.
1 The provisions of this article shall not be mandatory upon
2 any employee or employer who is not an employee of or is
3 not the state of West Virginia, its boards, agencies, commis-
4 sions, departments, institutions or spending units or a county
5 board of education, and nothing contained in this article shall
6 be construed so as to compel any employee or employer to en-
7 roll in or subscribe to, any insurance plan authorized by the
8 provisions of this article.

Those employees enrolled in the insurance program autho-
9 rized under the provisions of article two-b, chapter twenty-one-a
10 of this code shall not be required to enroll in or subscribe to an
insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost thereof may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but any such employee or employer shall not remain enrolled in both such programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of the code, relating to group life insurance, accident and sickness insurance, and group accident and sickness insurance, shall not be applicable to the provisions of this article whenever the provisions of said articles and chapter are in conflict with or contrary to any provision set forth herein.

Employers, other than the state of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education shall be exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It shall be the duty of the clerk or secretary of the governing body of an employer who by such majority vote becomes a participant in the insurance program to notify the board not later than ten days after such vote.

AN ACT to amend article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-two, relating to the appointment of counsel for parole violators and the authority to appoint and pay such counsel.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. PROBATION AND PAROLE.

§62-12-22. Appointment of counsel for parole violators; authority to appoint; payment of counsel.

Any person accused of a violation of his parole, as set forth in this article, may be represented by counsel at any hearing held for the purpose of determining whether his parole should be revoked. In the event the person accused of a violation of his parole is unable to pay for counsel and desires to have counsel appointed for him, he shall present his application for the appointment of counsel and an affidavit reflecting his inability to pay for such counsel to a court of record having criminal jurisdiction in the county in which such person is confined or in the county in which the hearing is to be held for the purpose of determining whether his parole should be revoked, or to the judge thereof in vacation. If it appears to the satisfaction of the court or judge that such person is in fact unable to pay for counsel, such court or judge may appoint counsel to represent such person. In every case where counsel is so appointed, the court, by order entered of record, shall allow such appointed counsel a fee not to exceed two hundred dollars, said fee to be paid from the fund allocated by the state for the payment of criminal charges in the same manner as is provided for the payment of fees in felony cases as set forth in section one, article three of this chapter.

CHAPTER 28

(House Bill No. 268—By Mr. Seibert)

[Passed June 28, 1973; in effect July 1, 1973. Approved by the Governor.]
hundred thirty-one, as amended, relating to public service commission of West Virginia; composition; appointment, qualifications and disqualification of commissioners; removal from office; terms of office; vacancies; increasing salaries.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GENERAL PROVISIONS.

§24-1-2. Composition; appointment, qualifications and disqualification of commissioners; removal from office; terms of office; vacancies; salaries.

1 There shall be a public service commission of West Virginia which by that name may sue and be sued. The unexpired terms of members of the public service commission at the time this section becomes effective shall hereby be continued. Such public service commission shall consist of three members who shall be appointed by the governor with the advice and consent of the Senate. The commissioners shall be citizens and residents of this state and at least one of them shall be duly licensed to practice law in West Virginia, of not less than ten years' actual experience at the bar. No more than two of said commissioners shall be members of the same political party. The appointment of a commissioner shall be for a period of six years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each commissioner shall, before entering upon the duties of his office, take and subscribe to the oath provided by section five, article four of the constitution, which oath shall be filed in the office of the secretary of state. The governor shall annually designate one of the commissioners as chairman who shall be the chief administrative officer of the commission. The governor may remove any commissioner only for incompetency, neglect of duty, gross immorality or malfeasance in office.

23 No person while in the employ of, or holding any official relation to, any public utility subject to the provisions of this chapter, or holding any stocks or bonds thereof, or who is pecuniarily interested therein, shall serve as a member of the
commission or as an employee thereof. Nor shall any such
commissioners be a candidate for or hold public office, or be a
member of any political committee, while acting as such com-
misisoner; nor shall any commissioner or employee of said
commission receive any pass, free transportation or other thing
of value, either directly or indirectly, from any public utility
subject to the provisions of this chapter. In case any of such
commissioners shall become a candidate for any public office
or a member of any political committee, his office as com-
misisoner shall be ipso facto vacated.

For the administration of this chapter each commissioner
shall receive a salary of twenty thousand dollars per annum
to be paid in monthly installments from the special fund col-
lected from public utilities under the provisions of subsection
(a), section six, article three of this chapter.

CHAPTER 29

(Com. Sub. for House Bill No. 209—By Mr. Seibert)

[Passed June 5, 1973; in effect from passage. Approved by the Governor.]
the giving of certain preferential treatment in making such leases or issuing such permits to use; relating to instruments executed pursuant to the provisions of such section; and relating to moneys received from the sale or lease of or permit to use any such airspace or any part thereof.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-19a. Transfer of airspace; procedures to be followed.

1 In any instance where the West Virginia department of highways has or shall hereafter acquire title to the airspace upon and over any highway or right-of-way for highway purposes, such department may, subject to the conditions herein, transfer such airspace or any part thereof to any person, firm or corporation by sale, lease or permit to use.

2 When such airspace or any part thereof is determined by the commissioner not necessary, or desirable for present or presently foreseeable future state road purposes, it may be transferred by lease for such period or periods of time and on such terms and conditions, including consideration, as the commissioner shall determine to be fair and reasonable, or it may be transferred by sale, or the commissioner may transfer the use thereof by a permit to use such airspace or any part thereof for such period or periods of time as he shall determine and under such terms and conditions, including consideration, as he shall deem fair and reasonable, except that in the case of a publicly or privately owned utility, no consideration shall be required for an easement through such airspace or any part thereof.

21 Every such transfer by sale shall be at public auction in the county in which the airspace to be transferred by sale is locat-
ed, and the department shall advertise, by publication, the
time, place and terms of such sale at least twenty days prior
thereto. The publication shall be published as a Class I-O 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 the airspace to
be transferred by sale is located. The airspace shall be sold in
a manner which will bring the highest and best price therefor.
The department may reject any or all bids received at the sale.
The commissioner shall keep a record, open to public inspec-
tion, indicating the newspapers in which the airspace to be
transferred by sale was publicly advertised for sale, the high-
est bid received therefor and from what party, the party to
whom sold, and the payment received therefor. Such record
shall be kept for a period of five years and may thereafter be
destroyed. Every such transfer by lease with any party other
than another agency of this state or any county or municipality
in this state or any agency thereof shall be upon the basis of
competitive bids solicited by publication of a notice of the
proposed lease published as a Class I-O 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 the airspace to be transferred by
lease is located.

The commissioner shall adopt and promulgate rules and
regulations governing and controlling the transferring of air-
space by sale, lease, or permit to use, pursuant to the pro-
visions of this section, which rules and regulations shall provide
for the giving of preferential treatment in making leases or
issuing permits to use to the persons from whom the airspace
was acquired, or their heirs or assigns.

The commissioner may insert in any instrument executed
pursuant to the provisions of this section such conditions as
are in the public interest and have been approved in advance
by the governor.

All moneys received from the sale or lease of, or permit to
use, any airspace or any part thereof, shall be paid into the
state treasury and credited to the state road fund.
AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the better school buildings amendment of 1972, in the amount not exceeding fifty million dollars during the fiscal year ending the thirtieth day of June, one thousand nine hundred seventy-four, for the sole purpose of raising funds for distribution to county boards of education that qualify by meeting conditions, qualifications and requirements as are prescribed by general law and used and appropriated 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; 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; establishing a special account designated state school buildings bond debt service account and stating what moneys shall be deposited therein and disposition thereof; 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 and for expenditures from such account and investment of the proceeds in 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 repre-
sentative to serve as bond counsel; and providing that all neces-
sary expenses, including legal expenses approved by the attorney
general, incurred in the execution of this act shall be paid out of
the state school buildings bond debt service account 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 SCHOOL BUILDING BONDS.

§1. School buildings 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. Establishment of state school buildings bond debt service account; deposits
therein.
§7. Covenants of state.
§8. Sale by governor; minimum price.
§9. Proceeds paid into separate account; 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. School buildings bonds; amount; when may issue.

Bonds of the state of West Virginia, under authority of
the better school buildings amendment of 1972, of the par
value not to exceed fifty million dollars during the fiscal
year ending the thirtieth day of June, one thousand nine
hundred seventy-four, are hereby authorized to be issued
and sold for the sole purpose of raising funds for distribution
to county boards of education that qualify by meeting
conditions, qualifications and requirements as are prescribed
by general law and used and appropriated 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 by the governor in such amounts, in coupon
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 needs of the various county boards of education which justify 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. Such bonds shall mature within and not exceeding twenty-five years from their date. 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.

The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds and for each such transfer a fee of one dollar shall be charged by and paid to the state of West Virginia, to the credit of the state school buildings bond debt service account. 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 one dollar shall likewise be charged by and paid to the state of West Virginia, to the credit of the state school buildings bond debt service account. 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
§3. **Form of bond.**

The bond 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 SCHOOL BUILDINGS BOND**

(Or registered school buildings bond, as the case may be)

**OF THE**

**STATE OF WEST VIRGINIA**

$_________  
No.__________

The state of West Virginia, under and by virtue of authority of an amendment to the constitution, which was proposed by Senate Joint Resolution No. 4, adopted the ninth day of March, one thousand nine hundred seventy-two, and was ratified by a vote of the people at the general election on the seventh day of November, one thousand nine hundred seventy-two, 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 ____________ percent a year
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 ex-
changed 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 pay-
ment of the principal and interest of this bond; (3) that an
annual state tax shall be collected in an amount sufficient to
pay as it may accrue the interest on this bond and the principal
as the same mature; and (4) that to the full extent permitted
by the constitution of West Virginia any of the covenants,
agreements and provisions of this act may be enforced in
any court of competent jurisdiction by any holder of such
bonds or of any interest coupon appertaining thereto.

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 signa-
ture of the treasurer of the state of West Virginia, and the
manual or facsimile countersignature of the auditor of the state,
hereof 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

2 Bond No. ____________ Coupon No. ____________

4 On the first day of _______________ 19___, the
5 state of West Virginia will pay to the bearer, in lawful money of
6 the United States of America, at the office of the treasurer of
7 the state, or, at _______________ bank in the city of
8 New York, or, at _______________, at the option
9 of the holder, the sum of _______________ dollars, the
10 same being semiannual interest on School Buildings Bond
11 No. ____________.
12
13 Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be by his
15 facsimile signature and the coupons shall be numbered in the
16 order of their maturity, from number one consecutively. The
17 bonds and coupons may be signed, as provided in this act, by
18 the present treasurer and auditor, or by any of their respective
19 successors in office, and the bonds signed by the persons now in
20 office may be sold by the governor or his successor in
21 office without being signed by the successor in office of the pre-
22 sent treasurer or auditor.

§ 5. Listing by auditor.

1 All coupons and registered bonds issued under this act
2 shall be separately listed by the auditor of the state in books
3 provided for the purpose, in each case giving the date, num-
4 ber, character and amount of obligations issued, and in the
5 case of registered bonds, the name and post-office address
6 of the person, firm or corporation registered as the owner
7 thereof.

§ 6. Establishment of state school buildings bond debt service ac-

1 The treasurer shall establish in his office a special account
2 designated state school buildings bond debt service account.
3 Into such account and from the appropriation made by the
4 Legislature for such purpose there shall be transferred suffi-
cient moneys to pay the interest as the same may accrue and
the principal as the same mature on such bonds. Moneys re-
ceived from transfer and registration fees shall likewise be de-
posited into said special account.

§7. Covenants of state.

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 prin-
cipal and interest of such bonds; (3) that an annual state tax
shall be collected in an amount sufficient to pay as it may
accrue the interest on this bond and the principal as the same
mature; and (4) that to the full extent permitted by the con-
stitution of West Virginia any of the covenants, agreements
and provisions of this act may be enforced in any court of
competent jurisdiction by any holder of such bonds or of any
interest coupon appertaining thereto.

§8. Sale by governor; minimum price.

The governor shall sell the bonds herein authorized at such
time or times as he may determine necessary to provide funds
for the construction, renovation, remodeling and equipping of
elementary or secondary public school buildings or facilities as
herein provided, 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 in-
effective, before the delivery of the bonds so sold.

§9. Proceeds paid into separate account; expenditures.

The proceeds of all sales of bonds herein authorized shall be
paid into a separate and distinct account and shall be used
and appropriated solely for the construction, renovation, re-
modeling and equipping of elementary or secondary public
school buildings or facilities as provided for by the state con-
stitution and the laws enacted thereunder. Except for such
sums necessary for current operating balances, such account
shall be invested and reinvested in short-term obligations of
the United States treasury: Provided, That no such investment
or reinvestment shall adversely affect the current operating
balances of such account.

§10. Plates, etc., property of state.

The plates, casts, dies or other forms from which the bonds
authorized by this act are produced or made shall be the
property of the state of West Virginia.

§11. Auditor to be custodian of unsold bonds.

The state auditor shall be the custodian of all unsold bonds
issued pursuant to the provisions of this act.

§12. Interim certificates.

The governor may authorize the issuance of interim cer-
tificates to be issued to the purchasers of such bonds to be
held by them in lieu of permanent bonds. When interim
certificates are so issued, they shall become full and legal
obligations of the state of West Virginia under all of the
provisions of this act just as fully and completely as the
permanent bonds.

§13. State treasurer to be financial advisor.

The state treasurer shall serve as financial advisor to the
governor for the issuance and sale of such bonds.

§14. Attorney general or his duly appointed legal representative
to serve as bond counsel.

The attorney general or his duly appointed legal representa-
tive, shall serve as bond counsel and shall be responsible for
the issuance of a final approving opinion regarding the
legality of the sale of such bonds.

§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 chargeable to and paid out of the state school build-
ings bond debt service account on warrants of the auditor of
the state drawn on the state treasurer.
AN ACT to amend and reenact article nine-c, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the management and administration by the West Virginia board of education of funds derived from the issuance and sale of bonds of the state of West Virginia under authority of the better school buildings amendment; providing for distribution of such funds to such county boards of education as qualify therefor, for use by such boards solely for the construction, renovation, remodeling and equipping of elementary and secondary school buildings and facilities and for acquisition and preparation of sites therefor; relating to the purposes and construction of article; defining terms used in article; defining the powers and duties of the West Virginia board of education with regard to management and administration of funds derived from the issuance and sale of such bonds; establishing the state school building fund; relating to the contents and use of such fund; relating to the determination of anticipated funds and the entitlement to such funds by county boards of education; requiring approval of plans of county boards of education by state board of education; providing incentive provisions; specifying that powers are supplemental; providing that conflicting laws are superseded; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article nine-c, 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 9C. STATE AID FOR CONSTRUCTION, RENOVATION AND REMODELING OF SCHOOL BUILDINGS AND EQUIPPING OF THE SAME.

§18-9C-1. Purposes and construction of article.
§18-9C-2. Definitions.
§18-9C-3. Powers and duties of state board of education with regard to management and administration of funds derived from issuance and sale of bonds.
§18-9C-4. Establishment of state school building fund; contents and use of funds.
§18-9C-5. Entitlement to counties.
§18-9C-6. Submission of plans; approval; incentive provisions.
§18-9C-7. Supplemental powers conferred; conflicting laws superseded.
§18-9C-8. Severability.

§18-9C-1. Purposes and construction of article.

The ratification of the “better school buildings amendment” has provided the potential source of funds for county boards of education to use for the construction, renovation, remodeling and equipping of elementary or secondary public school buildings or facilities and for the acquisition and preparation of sites for elementary or secondary public school buildings or facilities. Because of the importance of these activities to the whole state of West Virginia, it is necessary that the various county boards of education receive guidance from a state board with regard to overall planning responsibilities. With this in mind, this article is enacted to provide the framework whereby the management and administration of funds can be effectively coordinated so that said funds derived from the sale of bonds pursuant to the “better school buildings amendment” can be used to the best advantage of all our school children wherever they might live in the state.

§18-9C-2. Definitions.

For the purpose of this article:

“Assistance ratio” means the state bond potential per pupil divided by the county bond potential per pupil and the result multiplied by .8971819.

“County board” means a county board of education.

“Existing bonded indebtedness” means outstanding obligations of principal and interest payments that a county board of education owes as of the first day of July, one thousand nine hundred seventy-two.

“Net enrollment” means the number of children enrolled in grades one to twelve, inclusive, and in special education programs of the public schools of the state as of the end of the third school month of the school year one thousand nine hundred seventy-two—seventy-three.

“State board” means the West Virginia board of education.
§18-9C-3. Powers and duties of state board of education with regard to management and administration of funds derived from issuance and sale of bonds.

1 The state board is hereby authorized and empowered to accept, administer, manage and expend for the purposes designated all funds derived from the sale of bonds under authority of the “better school buildings amendment,” pursuant to the allocation formula set forth in this article. The state board shall require comprehensive school facilities plans from each county board and shall release funds only for projects which are an approved part of such comprehensive plans. The state board shall make an annual report of their expenditures to the governor and the Legislature at the end of each fiscal year.

12 The state board is authorized and empowered, from time to time, to promulgate such rules and regulations as it may deem necessary and convenient to insure the full implementation of its powers and duties authorized under this article.

§18-9C-4. Establishment of state school building fund; contents and use of fund.

1 There is hereby established a state school building fund into which there shall be paid all the moneys derived from the sale of the bonds authorized by the “better school buildings amendment.” The proceeds of the fund shall be distributed by the state board to such county boards of education as qualify therefor by meeting such conditions, qualifications and requirements as are prescribed in this article. The proceeds of the fund shall be used by the 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.

16 Except for such sums necessary for current operating balances, the proceeds of the funds shall be invested and rein-
vested in short-term obligations of the United States treasury. However, no such investment or reinvestment shall adversely affect the current operating balances of such fund. Any sums accruing as a result of such investment shall be allocated to the counties on a per pupil basis without regard to any incentive provision as provided in section six of this article.

§18-9C-5. Entitlement to counties.

Each county board of education shall be entitled to receive, subject to the provisions of this article and further subject to the availability of money in the school building fund, the amounts as set forth in the following schedule:

1. $200,000 FLAT GRANT
2. $239.2722 PER NET ENROLLED PUPIL
3. ASSISTANCE RATIO × 239.2722 PER NET ENROLLED PUPIL

<table>
<thead>
<tr>
<th>County</th>
<th>Flat Grant</th>
<th>Per Pupil In Net Enrollment</th>
<th>Assistance Ratio X 239.2722</th>
<th>Total</th>
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<td>$863,602</td>
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§18-9C-6. Submission of plans; approval; incentive provisions.

1. Each county shall be entitled to receive the sum of two hundred thousand dollars as hereinafter set forth. Each county board shall be required to submit unto the state board a comprehensive plan or plans encompassing, but not necessarily limited to, its proposed use of the grant funds and those remaining funds set forth for each county in the distribution schedule of section five of this article. The county board shall be required to resubmit said plan or plans as, in the determination of the state board, said action is necessary to meet the rules and regulations authorized under this article. The state board
shall approve or disapprove said submitted plan or plans within ninety days of the date of submission of said plans. Once said plan or plans are approved and, in the determination of the state board, the project or projects are ready to be undertaken, the state board shall distribute the amount to the respective counties equal to that amount due under the distribution schedule contained in section five of this article.

Notwithstanding any other provision of this article, priority in the approval of submitted plan or plans shall be given to any county which satisfactorily shows to the state board that it has sufficient resources, through grants, gifts, excess levies, county bond funds, or any other money available to county boards, with which to defray the cost of its plan or plans where said plan or plans call for total expenditures in excess of the amounts designated for that county under the distribution schedule in section five of this article: Provided, That this requirement shall, in no way, deter the distribution to a county, with an approved plan or plans, which county has at least eighty percent of its bonding potential obligated.

In any event, at the end of two years from the effective date of this legislation, all counties' eligibility to their entitlement shall vest; however, said counties shall not receive said moneys until their comprehensive plan or plans have been approved by the state board.

§18-9C-7. Supplemental powers conferred; conflicting laws superseded.

The powers conferred by this article shall be in addition and supplemental to the existing powers of the county boards of education. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict.

§18-9C-8. Severability.

If any part of this article is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article, or the article in its entirety.
AN ACT to amend and reenact section five, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and eight, article four, chapter eighteen-a of said code, relating to increasing state basic foundation allowance for other personnel; increasing state minimum salaries for teachers; establishing minimum pay and employment term for auxiliary and service personnel; and methods of allocation of funds for service and auxiliary personnel.

Be it enacted by the Legislature of West Virginia:

That section five, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two and eight, article four, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

Chapter
18. Education
18A. School Personnel

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-5. Foundation allowance for other personnel.

1 The total allowance for other personnel shall be the sum of the following:

2 (1) An amount equal to fourteen percent of the computed total state allocation for professional educators, as defined in section four above, such amount to be distributed to the counties in proportion to the adjusted enrollment; and

3 (2) An amount equal to six percent of the total state allocation for professional educators, such amount to be distribut-
ed in proportion to the number of full-time school bus drivers employed within the several counties.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-2. State minimum salaries.

§18A-4-8. Minimum pay for service and auxiliary personnel.

§18A-4-2. State minimum salaries.

### STATE MINIMUM SCHEDULE

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<th>M.A.</th>
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§18A-4-8. Minimum pay for service and auxiliary personnel.

1 The purpose of this section is to establish a state minimum pay scale and employment term for auxiliary and service personnel. The employment term for auxiliary and service personnel shall be no less than ten months, a month to be defined as twenty employment days: Provided, That the county board of education may contract with all or part of such personnel for a longer term. The beginning and closing dates of the ten month term shall not exceed forty-three weeks. Auxiliary
and service personnel employed on an annual basis may be employed by the calendar month. Whenever there is a change in job assignment during the school year, the minimum pay scale and any county supplement shall be applicable.

From the effective date of this article, the county board of education pay scale for auxiliary and service personnel shall not be less than three hundred thirty-five dollars per month: Provided, That auxiliary and service personnel who are employed for less or for more than the normal working day established for a specific job position shall have their minimum pay increased or reduced in proportion to the above pay scale.

The county board of education may establish salary schedules which shall be in excess of the state minimum fixed by this article, such county schedules to be uniform throughout the county with regard to any training classifications, experience, responsibility, duties, pupil participation, pupil enrollment, size of buildings, operation of equipment or other requirements. Uniformity shall apply to any additional salary or compensation for all persons performing like assignments and duties within the county: Provided, That, from the effective date of this article in establishing such local salary schedules, no county shall reduce local funds allocated for auxiliary and service personnel salaries used for supplementing federal and state funds provided for such salaries.

All auxiliary and service personnel shall receive no less than a five percent increase in their total present annual salaries as a result of the enactment of this section.
twenty-six-f, relating to computation of benefits under the state teachers retirement system, by granting increases to teachers who retired prior to the first day of July, one thousand nine hundred seventy.

_Be it enacted by the Legislature of West Virginia:

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

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

§18-7A-26f. Supplemental benefits for certain annuitants.

1 As an additional supplement to other retirement allowances provided, each annuitant whose retirement allowance became effective during the respective dates indicated in this section shall receive, upon application, an increased amount, payable monthly, which is the product of his present retirement allowance multiplied by the percentage increase applicable, according to the effective date of retirement and according to the plan of retirement, as provided by the schedule below.

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<thead>
<tr>
<th>Effective Date of Retirement</th>
<th>Percentage of Retirement Allowance Increase</th>
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<td>July 1, 1941 through June 30, 1953</td>
<td>16.00</td>
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<tr>
<td>July 1, 1953 through June 30, 1963</td>
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<td>July 1, 1968 through June 30, 1969</td>
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<tr>
<td>July 1, 1969 through June 30, 1970</td>
<td>9.00</td>
</tr>
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</table>

20 Any additional benefit conferred herein shall not be retroactive to the time of retirement, but shall be paid as follows:

21 One half of the respective retirement allowance percentage increase shall become effective July 1, 1973, and one half of the respective retirement allowance percentage increase shall become effective July 1, 1974.
AN ACT to amend and reenact section five-c, article nineteen, 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 four new sections, designated sections five-d, five-e, five-f and five-g, all relating to the soft drinks tax; providing for reports, due date of reports, and additional reports; providing for examination of witnesses under oath; providing for certification of facts and names to circuit courts in order to obtain subpoena duces tecum; providing for investigation, examination, assessment and jeopardy assessment of tax; providing for written notice of assessment of tax and petition for reassessment; providing for finalization of assessment of tax upon failure to petition for reassessment within specified time; providing for hearing and written notice of such hearing upon a petition for reassessment; providing for finalization of assessment of tax upon failure to appeal from decision of commissioner on petition for reassessment; providing for collection of tax and penalty; providing for appeal from decision of commissioner; providing for notice, filing and docketing of such appeal; providing for filing of bond on such appeal; providing for certified copy of commissioner's assessment as prima facie evidence of tax due on such appeal; providing for decree of the circuit court on such appeal; and providing for appeal from the decree of the circuit court to the supreme court of appeals.

Be it enacted by the Legislature of West Virginia:

That section five-c, article nineteen, chapter eleven 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 four new sections, designated sections five-d, five-e, five-f and five-g, all to read as follows:

ARTICLE 19. SOFT DRINKS TAX.

§11-19-5c. Reports; subpoena duces tecum.
§11-19-5d. Assessment of tax when insufficiently returned.
§11-19-5e. Jeopardy assessments.
§11-19-5g. Hearing; appeals; collection by action or suit.

§11-19-5c. Reports; subpoena duces tecum.

Every person subject to the tax imposed by this article shall on or before the fifteenth day of each month make to the commissioner such reports of such person's operations for the preceding month necessary to verify such person's liability under this article as the commissioner may require, and shall, from time to time as the commissioner may require by due notice of fifteen days, make such additional reports necessary to verify such person's liability under this article 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.

As a further means of obtaining the records, books, and papers of any person and ascertaining the amount of taxes and the reports due under this article, the commissioner shall have the power to examine witnesses, under oath; and if any witness shall fail or refuse upon the request of the commissioner to grant access to such records, books 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.

§11-19-5d. Assessment of tax when insufficiently returned.

If the commissioner believes that the tax imposed by this article is insufficiently returned by a person, either because said person 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, or has requested or has been granted a refund and credit which is incomplete, deficient or otherwise erroneous, he may proceed to investigate and determine or estimate the tax liability and make an assessment therefor.

§11-19-5e. Jeopardy assessments.

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 immediate-
ly due and payable. Unless a person against whom a jeopardy
assessment is made petitions for reassessment within twenty
days after service of notice of jeopardy assessment, such
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.

1 The commissioner shall give written notice of any assessment
2 made pursuant to this article. Unless the person to whom a
3 notice of assessment is directed shall, within thirty days after
4 service thereof (except in the case of jeopardy assessments)
either personally or by certified mail, file with the commis-
5 sioner a petition in writing, verified under oath by said person
6 or his duly authorized agent having knowledge of the facts,
7 setting forth with particularity the items of the assessment ob-
8 jected to, together with the reasons for objections, said assess-
9 ment shall become final and conclusive, not subject to
10 judicial review, and the amount thereof shall be pay-
11 able at the end of the thirty-day period (twenty days in the
12 case of a jeopardy assessment). A petition for reassessment
13 shall be deemed to be timely filed if the postmark date thereon
14 is clearly within said thirty days (twenty days in case of a
15 jeopardy assessment) of receipt of said assessment or is re-
16 ceived within such period. If the thirtieth day (twentieth day
17 in case of a jeopardy assessment) falls on a Saturday, Sunday
18 or legal holiday, filing will be considered timely if it is done
19 on the next succeeding day which is not a Saturday, Sunday or
20 legal holiday.

§11-19-5g. Hearing; appeals; collection by action or suit.
1 In every case where a petition for reassessment as above de-
2 scribed is filed, the commissioner shall assign a time and place
3 for the hearing of same and shall notify the petitioner of such
4 hearing by written notice at least twenty days in advance there-
5 of, 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. After any such hearing, the commissioner shall, within ninety days, give notice in writing of the decision. Unless an appeal is taken within thirty days after service of this notice, the commissioner's decision shall be final and not subject to judicial review. The amount, if any, due the state under such decision shall be due and payable on the day following the date upon which such decision becomes final.

Taxes and penalties due and unpaid under this article may be collected by civil action or suit in a justice court, where the same is within the jurisdiction of the justice court.

An appeal may be taken by the taxpayer from the decision of the commissioner on his petition for reassessment to the circuit court of the county in which the activity taxed was carried on, 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 decision 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 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 enter
judgment accordingly, 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, if necessary, 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.

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CHAPTER 35

(House Bill No. 267—By Mr. Speaker, Mr. McManus)

[Passed June 27, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend and reenact section nine, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the raising of revenues from ad valorem property taxation and to the exemptions from such taxation; the exemption from such taxation of bank deposits and money; exempting from such taxation household goods to the value of two hundred dollars, whether or not held or used for profit; exempting from such taxation household goods and personal effects when not held or used for profit; deleting the requirement that the assessor reflect on his books the value of personal property exempted from such taxation; and requiring the state tax commissioner to issue to all assessors regulations to insure uniform assessment practices with respect to the exemptions from such taxation.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

1 All property, real and personal, described in this section, and to the extent herein limited, shall be exempt from taxation, that is to say: Property belonging to the United States, other than property permitted by the United States to be taxed under
state law; property belonging exclusively to the state; property
belonging exclusively to any county, district, city, village or
town in this state, and used for public purposes; property lo-
cated in this state belonging to any city, town, village, county
or any other political subdivision of another state, and used
for public purposes; property used exclusively for divine wor-
ship; parsonages, and the household goods and furniture pert-
taining thereto; mortgages, bonds and other evidence of in-
debt edness in the hands of bona fide owners and holders here-
after issued and sold by churches and religious societies for
the purposes of securing money to be used in the erection of
church buildings used exclusively for divine worship, or for
the purpose of paying indebtedness thereon; cemeteries; prop-
erty belonging to, or held in trust for, colleges, seminaries,
academies and free schools, if used for educational, literary or
scientific purposes, including books, apparatus, annuities and
furniture; public and family libraries; property used for chari-
table purposes, and not held or leased out for profit; property
used for area economic development purposes by nonprofit
corporations when such property is not leased out for profit;
all real estate not exceeding one-half acre in extent, and the
buildings thereon, and used exclusively by any college or uni-
versity society as a literary hall, or as a dormitory or club-
room, if not leased or otherwise used with a view to profit; all
property belonging to benevolent associations, not conducted
for private profit; property belonging to any public institution
for the education of the deaf, dumb or blind, or any hospital
not held or leased out for profit; house of refuge, lunatic or
orphan asylum; homes for children or for the aged, friendless
or infirm, not conducted for private profit; fire engines and
implements for extinguishing fires, and property used exclu-
sively for the safekeeping thereof, and for the meeting of fire
companies; and all property on hand to be used in the sub-
sistence of livestock on hand at the commencement of the
assessment year; household goods to the value of two hundred
dollars, whether or not held or used for profit; bank deposits
and money; household goods (which term is deemed for pur-
poses of this section to mean only personal property and house-
hold goods commonly found within the house and items used to
care for the house and its surrounding property) when not held
or used for profit, and personal effects (which term is deemed for purposes of this section to mean only articles and items of personal property commonly worn on or about the human body, or carried by a person and normally thought to be associated with the person) when not held or used for profit; dead victuals laid away for family use and any other property or security exempted by any other provision of law; but no property shall be exempt from taxation which shall have been purchased or procured for the purpose of evading taxation, whether temporarily holding the same over the first day of the assessment year or otherwise: Provided, That real property which is exempt from taxation by this section, shall be entered upon the assessor’s books, together with the true and actual value thereof, but no taxes shall be levied upon the same or extended upon the assessor’s books.

Notwithstanding any other provisions of this section, however, no language herein shall be construed to exempt from taxation any property owned by, or held in trust for, educational, literary, scientific, religious or other charitable corporations or organizations, unless such property is used primarily and immediately for the purposes of such corporations or organizations.

The tax commissioner shall, by issuance of regulations, provide each assessor with guidelines to insure uniform assessment practices statewide to effect the intent of this section.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 5

(By Mr. Cline)

[Adopted June 28, 1973]

Providing for a special committee to study all aspects of the legislative process; defining its powers and duties and providing for its expenses.

WHEREAS, The very nature of legislative procedure has been revolutionized by the Modern Budget Amendment, in that the relative strength of the Legislature, as a coequal branch of government with the Executive and Judicial branches, is being threatened; and

WHEREAS, Growing constituency demands, technological innovations and changing relationships between State Government and the Federal Government are requiring enormous amounts of time and energy from the legislators, thus straining the legislative process; and

WHEREAS, The citizen legislator must not be denied the opportunity to fulfill his obligations to the people of his constituency and the people of this State because he is not given the authority, compensation, equipment, facilities, information or support to do his job; therefore, be it

Resolved by the Legislature of West Virginia:

That a special committee, consisting of three members of the Senate, to be appointed by the President thereof, no more than two of whom shall be of the same political party, one of whom the President shall designate as cochairman; 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, one of whom the Speaker shall designate as cochairman; two citizens of this State to be appointed by the President of the Senate; two citizens of this State to be appointed by the Speaker of the House of Delegates; the Clerk of the Senate, the Clerk of the House of Delegates, the Legislative Auditor and the Director of the Office
of Legislative Services, is hereby created to make a study of all aspects of the legislative process; and, be it

Further Resolved, That this special committee report its findings, recommendations and any proposed legislation to the regular session of the Legislature, 1974; and be it

Further Resolved, That all expenses necessary to conduct the study, draft proposed legislation, reimburse members of this special committee for the necessary expenses actually incurred for the discharge of their duties, and to fulfill the purpose of this resolution, shall be paid out of the legislative appropriations made to the Joint Committee on Government and Finance and these funds shall not be expended without prior approval of the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Hamilton)

[Adopted June 27, 1973]

Directing the Joint Committee on Government and Finance to make a study of the feasibility of the State operating a scenic railroad between Thurmond and Minden in Fayette County.

WHEREAS, The existing railroad tracks extending from Thurmond in the New River Gorge to Minden near the City of Oak Hill in Fayette County, transverse a most scenic portion of south central West Virginia; and

WHEREAS, These tracks have been purchased for scrap iron by a Pennsylvania firm that has agreed to postpone salvage operations pending any expression by this State of an interest in preserving and operating this facility as a tourist attraction; and

WHEREAS, Should the State choose to acquire this railroad, surplus rolling stock to equip it is available from the State Department of Natural Resources; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to conduct a study of the feasibility of the State acquiring by lease or purchase the railroad right-of-way and tracks extending
from Thurmond in the New River Gorge to Minden near the City of Oak Hill in Fayette County and operating thereon a scenic railroad, to determine the anticipated cost thereof and to determine the economic potential to be derived therefrom; and, be it

Further Resolved, That the Joint Committee on Government and Finance submit its report to the regular session of the Legislature, 1974, concerning its findings, conclusions and recommendations, together with drafts of any proposed legislation determined necessary to carry its recommendations into effect; and, be it

Further Resolved, That the expenses necessary to conduct such study, to prepare such report and draft such proposed legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 2
(By Mr. Moreland and Mr. Galperin)
[Adopted June 26, 1973]
Designating the West Virginia Department of Employment Security as the West Virginia coordinator of the on-the-job training of veteran medics as physicians assistants, which training program is nationally referred to as “Medex.”

WHEREAS, In recent months and years there has been discharged from the United States Armed Forces a large number of veterans who are highly trained and greatly experienced in paramedical and related fields; and

WHEREAS, There is in the State of West Virginia a need for the use of such veterans as trained physicians assistants; and

WHEREAS, There has been for some time a program established by the Federal Public Health Service of the Department of Health, Education and Welfare, a program known as “Medex”; and

WHEREAS, The “Medex” training program, which consists of both classroom and clinical work, has been implemented in many states so that returning veteran medics can render useful service in our society; and

WHEREAS, There is need for a state agency to be designated as
the coordinator of the program and the conduit for Federal funds; and

WHEREAS, The West Virginia Department of Employment Security is the coordinator of most of the State and federally funded on-the-job training programs; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia Department of Employment Security be designated as the state sponsor for an on-the-job training program for veteran medic physicians assistants; and, be it

Further Resolved, That said Department be requested to develop (a) A "Medex" program funded by the United States Government and/or (b) A "Medex" type program funded by any source available.

SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Brotherton)

[A adopted June 27, 1973]

Directing the Joint Committee on Government and Finance to select and employ a consultant to study economic and industrial growth in the State and to report to such committee how best to remove any existing impediments to such growth.

WHEREAS, During the past decade the State of West Virginia has suffered a marked loss of total manufacturing jobs available to the citizens of this State, and such loss is deemed to be detrimental to the economy of the State and the welfare of the people; and

WHEREAS, The Joint Committee on Government and Finance of the West Virginia Legislature has during the past year received and benefitted from the opinions, testimony and recommendations of sundry economic and industrial development groups and officials within the State; and

WHEREAS, It is necessary and desirable that the State Legislature continue to explore and evaluate the ways and means through which new manufacturing jobs may be created and the economy of the State may be diversified and expanded; and
WHEREAS, An objective and impartial evaluation of available executive and legislative remedies as a portion of a more vigorous program of economic development would be of value and benefit to the Legislature in its future deliberations; and

WHEREAS, The Joint Committee on Government and Finance is deemed to be the most appropriate entity for the receipt, evaluation and dissemination of such impartial and objective findings; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby authorized to identify, select and enter into a contract for services with a nationally or regionally prominent consultant on state economic development programs; and to counsel with said consultant for the purposes of identifying specific impediments to more rapid industrial and economic growth in the State of West Virginia and recommending specific actions by the Executive or the Legislature, or actions by both, that are necessary to remove or reduce the effect of such impediments, with the consultant’s recommendations to be presented to the Joint Committee in writing prior to the convening of the regular session of the Legislature, 1974; and, be it

Further Resolved, That the expenses necessary to employ such consultant be paid from the legislative appropriations to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Neeley)

[Adopted June 7, 1973]

Directing the Clerk of the Senate to file certified copies of this Resolution with the Federal Home Loan Bank Board and the Comptroller of the Currency which is in opposition to their respective practices of granting charters for branches of federally-chartered savings and loan associations and affiliates of national banks which violate the laws and policies of the State of West Virginia.

WHEREAS, The laws of West Virginia permit only limited off-premise facilities for state-chartered banks and savings and loan associations; and
WHEREAS, These laws are binding upon the Comptroller of the Currency by virtue of and incorporated into the National Bank Act; and

WHEREAS, The Federal Home Loan Bank Board has formally promulgated a policy of deferring to state law on questions of off-premise activity; and

WHEREAS, The Federal Home Loan Bank Board has recently given notice that it will no longer adhere to its formal policy in West Virginia because of evidence that the Comptroller of the Currency has issued charters for national banks which will be closely affiliated with existing national banks and thus violative of the laws and the policies of this State; and

WHEREAS, The principle of competitive equality between state and national banking institutions has been undermined by the policies and practices of the Federal Home Loan Bank Board and the Comptroller of the Currency to the detriment of the State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That this Legislature urges the Federal Home Loan Bank Board and the Comptroller of the Currency, in the strongest terms possible, to cease and desist in their respective practices of chartering branches of savings and loan associations and close affiliates of existing national banks until such time as these facilities are permissible under legislative standards for financial institutions chartered under the laws of West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is instructed to forward certified copies of this Resolution to the Federal Home Loan Bank Board, the Comptroller of the Currency, members of the United States Congress for West Virginia and the respective chairmen of the Banking Committees in the United States Senate and the House of Representatives in Washington, D. C.

SENATE CONCURRENT RESOLUTION NO. 5
(By Mrs. Leonard and Mr. Oates)
[Adopted June 26, 1973]

Directing the West Virginia Department of Highways to make a study of West Virginia State Route 51 between its intersection with
U. S. Highway 340 at Charles Town, Jefferson County, West Virginia, and its intersection with Interstate Highway 81 near Inwood, Berkeley County, West Virginia, in order to determine the cost and feasibility of redeveloping and relocating West Virginia State Route 51 in this area.

Whereas, The counties of Jefferson and Berkeley experienced population growth of 14% and 7.6%, respectively, while the total population of the State of West Virginia declined by 6.2% from 1960 to 1970; and

Whereas, In conjunction with this rapid population growth, Interstate Highway 81 running north and south through Berkeley County and Interstate Highway 70-S running east and west through the state of Maryland have made this area more accessible and desirable for industrial development, recreation and tourism; and

Whereas, The highways of Jefferson and Berkeley counties are heavily overcrowded with traffic generated by: The one million persons who annually visit the two horse racing tracks in Jefferson County; the one million four hundred thousand persons who annually visit Harper's Ferry National Historical Park; the increased volume of truck traffic; the thousands of persons who visit other recreational and historic sites in the area; a rapidly growing local population caused by the in-migration of industry and people from the urban areas to the north and east; and

Whereas, The proximity of Dulles International Airport to Jefferson and Berkeley counties will insure a continuing growth of population and industry in the area; and

Whereas, The combination of all these factors have resulted in traffic congestion and deteriorated roadways, thus creating a very real need for a major east-west highway between Interstate Highway 81 in Berkeley County, West Virginia, and U. S. Highway 340 in Jefferson County, West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia Department of Highways shall make a study of West Virginia State Route 51 between its intersection with U. S. Highway 340 at Charles Town, Jefferson County, West Virginia, and its intersection with Interstate Highway 81 near Inwood, Berkeley County, West Virginia, giving particular attention to the
most advantageous method of redeveloping and relocating this highway, the kind of highway that anticipated use will justify, the cost of such an undertaking, the availability of matching funds and other pertinent factors. The West Virginia Department of Highways shall report its findings, conclusions and recommendations to the Legislature not later than the first day of the regular session of the Legislature, 1974.

SENATE CONCURRENT RESOLUTION NO. 6
(By Mr. McGraw)
[Adopted July 13, 1973]

Directing the Attorney General to institute legal proceedings to recompensate West Virginia state and local governments for expenditures incurred as a result of the disaster at Buffalo Creek.

WHEREAS, On February 26, 1972, the collapse of a sludge dam on Buffalo Creek in Logan County released a torrent of water that claimed at least 118 lives, destroyed almost one thousand homes and resulted in millions of dollars of damage to public and private property; and

WHEREAS, In addition to the human misery caused by the disaster, the immediate health and safety hazards resulting therefrom required immediate action by federal, state and local governments, without delaying action for a determination of legal responsibility; and

WHEREAS, Responding to this crisis, the Legislature appropriated one million dollars for disaster relief in the Buffalo Creek area on February 28, 1972, and, on April 22 of that year, the Legislature appropriated an additional amount of one million two hundred thousand dollars; and

WHEREAS, In addition to these state funds specifically appropriated for such disaster relief, substantial expenditures by state and local governments were incurred to meet health needs, public safety needs, highway reconstruction needs and the immediate human needs for food and shelter; and

WHEREAS, According to the official report of the Governor's Ad Hoc Commission of Inquiry into the Buffalo Creek Flood and the
report of the Buffalo Creek Citizens' Disaster Committee, the responsibility for the disaster lies with the Pittston Company, owner of the sludge dam that collapsed, in that the Pittston Company failed in several ways to meet its responsibilities, as detailed on page 6-4 of the Governor's Commission report; and

WHEREAS, The President of the Pittston Company, Nicholas T. Camicia, testifying before a subcommittee of the United States Congress on May 31, 1972, stated that the potential financial liability for this disaster would not be material in relation to the consolidated financial position of the Pittston Company; and

WHEREAS, According to the testimony of Mr. Camicia, the Pittston Company was covered by liability insurance policies at the time of the disaster, and the assessment of the liability could be within the range of the coverage of those policies; and

WHEREAS, It is right and proper that state and local governments be reimbursed by the Pittston Company, and its insurers, for expenditures resulting from the company's negligence; and

WHEREAS, It would not be right or proper for the victims of the disaster or the citizens of the State of West Virginia to bear the financial burdens involved in this tragedy; therefore, be it

Resolved by the Legislature of West Virginia:

That the Attorney General of this State is hereby directed to institute legal proceedings to recompense the State and its local governments, including boards of education, for expenditures incurred as a result of the disaster at Buffalo Creek on February 26, 1972; and, be it

Further Resolved, That such recompensation efforts be directed at the Pittston Company, their subsidiaries and their insurers, but not at the victims of the disaster or at the general public; and, be it

Further Resolved, That the Auditor of this State is hereby directed to assist the Attorney General in determining the amounts of the just claims involved, not only for this State and its agencies but also for its local governments, school boards and other governmental subdivisions; and, be it

Further Resolved, That the Attorney General and the Auditor jointly prepare and submit to the 1974 regular session of this Legis-
lature a written report of their results in this effort as well as a recommendation for distributing moneys from any settlement or judgment among the state and local governmental entities involved; and, be it

Further Resolved, That the costs of implementation of the requirements of this resolution shall be provided by funds which shall be made available from the appropriation made to the Governor's office, Acct. No. 120, for Disaster Relief, fiscal year 1973-74, as re-appropriated, such funds to be transferred to the office of the Attorney General and the office of the State Auditor for expenses and costs in carrying out provisions hereof.

SENATE CONCURRENT RESOLUTION NO. 12
(By Mr. McGraw)
[Adopted July 13, 1973]

Directing the Joint Committee on Government and Finance to conduct a study of the policies and practices of transferring conservation officers within the Law Enforcement Division of the Department of Natural Resources.

WHEREAS, It has come to the attention of the Legislature that certain conservation officers in this State may have been transferred to other posts for reasons which may have been unjust and outside the bounds of propriety; and

WHEREAS, Conservation officers within the Law Enforcement Division of the Department of Natural Resources may have been hindered by these policies and practices in the performance of their duties, namely, the protection of our environment from illegal and damaging activity of others; and

WHEREAS, In order to have effective enforcement of the conservation laws of this State the conservation officer should have the power and ability to act without fear of being transferred merely because he is carrying out his legal duties; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a study of the policies and practices of transferring conservation offi-
JOINT RESOLUTION

cers within the Law Enforcement Division of the Department of Natural Resources; and, be it

Further Resolved, That the Joint Committee receive, in executive session, the testimony of conservation officers in this State who have come in contact with these policies and practices; and, be it

Further Resolved, That the Joint Committee on Government and Finance submit a report of its findings, conclusions and recommendations, together with drafts of any legislation it may propose to the regular session of the Legislature, 1974; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare the report and draft any legislation proposed be paid from legislative appropriations to the Joint Committee on Government and Finance.

COMMITTEE SUBSTITUTE

FOR

HOUSE JOINT RESOLUTION NO. 3

(By Mrs. Smirl and Mr. Romine)

[Adopted June 7, 1973]

Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article nine thereof, relating to permitting a sheriff to serve two consecutive terms; 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-four, or at any special election held prior thereto for the purpose of presenting to the voters of the State the question of ratification or rejection of one or more constitutional amendments, which proposed amendment is that section
three, article nine thereof be amended to read as follows:

**ARTICLE IX. COUNTY ORGANIZATION.**

§3. Sheriffs.

A person who has been elected or who has served as sheriff during all or any part of two consecutive terms shall be ineligible for the office of sheriff during any part of the term immediately following the second of the two consecutive terms. The person holding the office of sheriff when this section is ratified shall not be prevented from holding the office of sheriff during the term immediately following the term he is then serving.

**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 “Sheriff’s Succession Amendment,” and the purpose of the proposed amendment is summarized as follows: “To amend the State Constitution to permit persons elected sheriff to serve two consecutive terms.”
AN ACT to amend and reenact section three, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the residency requirement of voters in state, county and municipal elections.

Be it enacted by the Legislature of West Virginia:

That section three, 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.

§3-1-3. Persons entitled to vote.

1 Citizens of the state shall be entitled to vote at all elections held within the precincts of the counties and municipalities in which they respectively reside. But no person who has not been registered as a voter as required by law, or who is a minor, or of unsound mind, or a
section, citizens of the state who are between the ages of eighteen and twenty-one and who are otherwise qualified to vote shall not be entitled to vote except in elections held on and after July one, one thousand nine hundred seventy-one, one thousand nine hundred seventy-one, within the precincts of the counties and municipalities in which they respectively reside.

CHAPTER 2

(Com. Sub. for Senate Bill No. 5—By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Passed April 21, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, three, five, seven, nine, ten, thirteen, fifteen and eighteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the short title of the “West Virginia Public Employees Insurance Act”; legislative intent; definitions of terms; composition of board; powers and duties of board generally; expenses; creation and establishment of the public employees insurance board as a body corporate; authorization to establish group hospital and surgical insurance plan, group
major medical insurance plan and group life and accidental death insurance plan; separate rating for claims experience purposes; rules and regulations for administration of plans; what plans may provide; authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts; contract provisions for group hospital and surgical, group major medical, and group life and accidental death insurance for retiring employees, their spouses and dependents; payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto; providing for an expense fund; and rules and regulations for administration of article.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, five, seven, nine, ten, thirteen, fifteen and eighteen, article sixteen, 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 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-1. Short title; legislative intent.

§5-16-2. Definitions.

§5-16-3. Public employees insurance board created and established; body corporate.

§5-16-5. Composition of board; powers and duties of board generally; expenses.

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan and group life and accidental death insurance plan; rules and regulations for administration of plans; what plans may provide; separate rating for claims experience purposes.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

§5-16-10. Contract provisions for group hospital and surgical, group major medical, and group life and accidental death insurance for retiring employees, their spouses and dependents.
§5-16-13. Payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto.

§5-16-15. Expense fund.

§5-16-18. Rules and regulations for administration of article.

§5-16-1. Short title; legislative intent.
1 The short title by which this article may be referred to is "West Virginia Public Employees Insurance Act" and it is the express intent of the Legislature to encourage and promote a uniform partnership relation between all employers and employees participating in the insurance plan or plans formulated under the provisions of this article and to hereby declare same to be a public purpose.

§5-16-2. Definitions.
1 The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Board" means the public employees insurance board created by this article.

(2) "Employee" means any person, including elected officers, who works regularly full time in the service of the state and, for the purpose of this article only, the term "employee" shall also mean any person who works regularly full time in the service of a county board of education and any person who works regularly full time in the service of the West Virginia board of regents. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the board.

(3) "Retired employee" shall mean an employee of the state who retired after the twenty-ninth day of April, one thousand nine hundred seventy-one, and an employee of the West Virginia board of regents and a county board of education who retires after the effective date of this article.

(4) "Employer" means the state of West Virginia, its boards, agencies, commissions, departments, institutions or spending units and a county board of education. The term "employer" shall not include within its meaning the national guard and any other political subdivision.
§5-16-3. Public employees insurance board created and established; body corporate.

1 The West Virginia public employees insurance board is hereby created and established to provide group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance for all employees in the manner as hereinafter provided. The board shall constitute a body corporate. All business of the board shall be transacted in the name of the West Virginia public employees insurance board.

§5-16-5. Composition of board; powers and duties of board generally; expenses.

1 The board shall consist of:
2 (a) The auditor of the state by virtue of his office;
3 (b) The workmen’s compensation commissioner;
4 (c) The treasurer of the state by virtue of his office.
5 The board shall hold a meeting at least twice each year and shall designate the time and place. Two board members shall constitute a quorum at any meeting of the board. Each board member shall be entitled to one vote on each question before the board. A majority of the quorum present shall be required for a decision by the board at its meetings. The board shall adopt its own rules of procedure and shall keep a record of its proceedings.

14 The board shall be responsible for the administration and management of the public employees insurance system as provided for in this article and in connection therewith shall have the power and authority to make all rules and regulations necessary to effectuate the provisions of this article, except as is otherwise specifically provided in this article.

21 No member of the board shall receive any compensation for serving as such; however, each member of the board shall be reimbursed for all reasonable and necessary expenses actually incurred by him in carrying out his duties as a member of the board.
§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan and group life and accidental death insurance plan; rules and regulations for administration of plans; what plans may provide; separate rating for claims experience purposes.

1 The board is hereby empowered and authorized to establish a group hospital and surgical insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans for those employees herein made eligible, and to establish and promulgate rules and regulations for the administration of such plans, subject to the limitations contained in this article. Such plans may provide for group hospital and surgical and group major medical insurance against the financial cost of hospitalization, surgical and medical treatment and care, and may also include, among other things, prescribed drugs, medicines, prosthetic appliances, hospital inpatient and outpatient service benefits, and medical expenses and indemnifying benefits, and group life and accidental death insurance, and such other coverage and benefits deemed appropriate and desirable by the board.

The board may cause to be separately rated for claims experience purposes (1) all employees of the state of West Virginia, (2) all teaching and professional employees of the West Virginia board of regents and county boards of education, (3) all nonteaching employees of the West Virginia board of regents and county boards of education or (4) any other categorization which would insure the stability of the overall program.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

1 The board is hereby given exclusive authorization to execute such contract or contracts as are necessary to
carry out the provisions of this article and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance in this state.

The group life and accidental death insurance herein provided for shall not exceed an amount equal to the annual salary of the employee to the nearest one thousand dollar multiples and under no circumstances shall the amount of the group life and accidental death insurance exceed ten thousand dollars for any one employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced by fifty percent upon such employee attaining age sixty-five.

All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

The provisions of article three, chapter five-a of this code, relating to the division of purchases of the department of finance and administration, shall not apply to any contracts for any insurance coverage authorized to be executed under the provisions of this article; however, before entering into any contract for any insurance coverage, as herein authorized, said board shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired. The board shall deal directly with insurers in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reason-
ably related to actual service rendered for such agent or agents may be paid by the underwriting company or companies: Provided, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The board shall award such contract or contracts on a competitive basis. In awarding the contract or contracts the board shall take into account the experience of the offering agency, corporation, insurance company or service organization in the group hospital and surgical insurance field, group major medical insurance field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the board may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the board with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage. The board may authorize the carrier with whom a primary contract is executed to reinsure portions of such contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state. Each employee who is covered under any such contract or contracts shall receive a certificate setting forth a fee schedule of the hospital, surgical or medical benefits to which such employee, his spouse and his dependents are entitled hereunder, to whom such benefits shall be payable, to whom claims shall be submitted, and a summary of the provisions of any such contract or contracts as they affect the employee, his spouse and his dependents. The board may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.
§5-16-10. Contract provisions for group hospital and surgical, group major medical, and group life and accidental death insurance for retiring employees, their spouses and dependents.

1 Any contract or contracts entered into hereunder may provide for group hospital and surgical, group major medical, and group life and accidental death insurance for retiring employees and their spouses and dependents as defined by rules and regulations of the board, and on such terms as the board may deem appropriate.

7 In the event the board provides the above benefits for retiring employees, their spouses and dependents, the board shall adopt rules and regulations prescribing the conditions under which retiring employees may elect to participate in or withdraw from the plan or plans. Any contract or contracts herein provided for shall supplement any hospital, surgical, major medical or health insurance plan administered by the United States department of health, education, and welfare to which the employee, spouse or dependent may be eligible under any law or regulation of the United States.

§5-16-13. Payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto.

1 The state shall pay for each employee a monthly sum for all insurance coverage provided in this article as set forth in the following schedule of insurance:

<table>
<thead>
<tr>
<th>Annual Compensation</th>
<th>Payment by State:</th>
<th>Amount of Coverage for:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Employee &amp; Only Family</td>
<td>Accidental Death and Dismemberment</td>
</tr>
<tr>
<td>Less than $1,500</td>
<td>$9.34</td>
<td>$1,000</td>
</tr>
<tr>
<td>$1,500 but less than 2,500</td>
<td>9.93</td>
<td>2,000</td>
</tr>
<tr>
<td>2,500 but less than 3,500</td>
<td>10.51</td>
<td>3,000</td>
</tr>
<tr>
<td>3,500 but less than 4,500</td>
<td>11.10</td>
<td>4,000</td>
</tr>
<tr>
<td>4,500 but less than 5,500</td>
<td>11.69</td>
<td>5,000</td>
</tr>
<tr>
<td>5,500 but less than 6,500</td>
<td>12.28</td>
<td>6,000</td>
</tr>
<tr>
<td>$1,500</td>
<td>$25.09</td>
<td>$1,000</td>
</tr>
<tr>
<td>$2,500</td>
<td>25.68</td>
<td>2,000</td>
</tr>
<tr>
<td>$3,500</td>
<td>26.26</td>
<td>3,000</td>
</tr>
<tr>
<td>$4,500</td>
<td>26.85</td>
<td>4,000</td>
</tr>
<tr>
<td>$5,500</td>
<td>27.44</td>
<td>5,000</td>
</tr>
<tr>
<td>$6,500</td>
<td>28.03</td>
<td>6,000</td>
</tr>
</tbody>
</table>
## §5-16-15. Expense fund.

1. The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission or department

<table>
<thead>
<tr>
<th>Salary Range</th>
<th>Insurance Costs</th>
<th>Premium Costs</th>
<th>Cost Share</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>6,500 but less than</td>
<td>7,500</td>
<td>12.87</td>
<td>28.62</td>
<td>7,000</td>
</tr>
<tr>
<td>7,500 but less than</td>
<td>8,500</td>
<td>13.45</td>
<td>29.20</td>
<td>8,000</td>
</tr>
<tr>
<td>8,500 but less than</td>
<td>9,500</td>
<td>14.04</td>
<td>29.79</td>
<td>9,000</td>
</tr>
<tr>
<td>9,500 and over</td>
<td></td>
<td>14.63</td>
<td>30.38</td>
<td>10,000</td>
</tr>
</tbody>
</table>

*For the full plan of benefits in each salary classification relating to group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance.*

The Legislature shall appropriate annually from the general revenue fund such sums as may be required to pay the state's proportionate share of the premium costs of those spending units operating from the general revenue fund, and each spending unit operating from special revenue funds, or federal funds, or both, shall pay to the board their proportionate share of premium costs from their personal services budget.

The portion of the premium or cost attributable to all insurance coverage provided hereunder and not paid by the state shall be paid by the employee, and in no event shall the employee's contribution exceed thirty percent of the cost of the employee's insurance package.

The employee's proportionate share of the premium or cost shall be withheld or deducted by the employer from such employee's salary or wages as and when paid and such sums shall be forwarded to the board with such supporting data as the board may require.

All moneys received by the board shall be deposited in a special fund or funds as are necessary in the state treasury and the treasurer of the state shall be custodian of such fund or funds and shall administer such fund or funds in accordance with the provisions of this article or as the board may from time to time direct. The treasurer shall pay all warrants issued by the state auditor against such fund or funds as the board may direct in accordance with the provisions of this article.
5 of the state which operates out of special revenue funds
6 or federal funds or both shall pay its proportionate share
7 of the administrative costs of the insurance plan or plans
8 authorized under the provisions of this article.
9 A county board of education shall pay no administrative
10 costs other than those related to the withholding or de-
11 ducting of an employee's proportionate share of the pre-
12 mium or cost for the insurance plan or plans herein
13 authorized.

§5-16-18. Rules and regulations for administration of article.
1 The board shall promulgate such rules and regulations
2 as may be required for the effective administration of the
3 provisions of this article. All rules and regulations of the
4 board and all hearings held by the board shall be promul-
5 gated and held in accordance with the provisions of
6 chapter twenty-nine-a of the code.
7 Such regulations shall provide that any employee of
8 the state who has been compelled or required by law to
9 retire before reaching the age of sixty-five years shall be
10 eligible for coverage at their own expense for the total
11 cost of coverage, as provided under this article, and the
12 dependents of any deceased member shall be entitled to
13 continue their participation and coverage upon payment
14 of the total cost for such coverage. Any employee who
15 voluntarily retires, as provided by law, shall be eligible
16 to participate in the public employees health insurance
17 program at his own expense for the total cost of such
18 coverage.

CHAPTER 3

(Senate Bill No. 2—By Mr. McCourt, Mr. President, and Mr. Hubbard)

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

AN ACT to repeal sections twenty-one and twenty-two, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and
to amend and reenact sections nineteen and twenty of said article, relating to the suspension, demotion and discharge of members of the department of public safety; abolishing the board of commissioners of the department of public safety and creating a board of appeals for said department; relating to the rights of replacement appointees to said department; specifying that the right to appeal a suspension or discharge shall not apply to members who have not completed their probationary period with the department of public safety; relating to the appointment, qualifications, terms, compensation and expenses of the members of the board of appeals; relating to the composition of and vacancies on said board of appeals; relating to the powers and duties of said board of appeals; relating to appeals to said board of appeals; relating to appeal hearings by said board of appeals and decisions following such hearings; providing for judicial review of a decision by the board of appeals; and relating to the effect of reversal of a decision of the board of appeals which sustained the superintendent’s order.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-19. Suspension, demotion or discharge of members.

§15-2-20. Board of appeals created; members, powers and duties; appeal, hearing and decision.

§15-2-19. Suspension, demotion or discharge of members.

1 The superintendent may suspend, demote in rank or discharge from the service any member of the department of public safety for any of the following causes: Refusing to obey the orders of his superior officer, neglect of duty, drunkenness, immorality, inefficiency, abuse of his authority, interference with the lawful right of any person, participation in political activities, primaries, conventions or elections, or any other cause which may in the opinion
of the superintendent be necessary for the good of the
service. The superintendent shall cause an investigation
to be made when notice of any one or more of such
causes is brought to his attention and shall determine
whether or not the member should be suspended, demoted
in rank or discharged. If the superintendent orders the
member suspended, demoted in rank or discharged, a
written statement of the charges and a written order of
suspension, demotion in rank or discharge shall be de-
ivered personally to the member by his commanding
officer, or next in command in the absence of his com-
manding officer. The superintendent shall explicitly set
forth in any such written statement of charges the details
giving rise to the cause or causes upon which he ordered
such suspension, demotion in rank or discharge. The
member may appeal the superintendent's order to the
board of appeals created for such purpose, and all of the
original papers in such cases shall be delivered by the
superintendent to such board, which shall decide such
cases in the manner hereinafter provided.

Any person who shall by the superintendent be ap-
pointed to membership in said department as a replace-
ment appointee, pursuant to section two, article eleven,
chapter six of this code, may at any time be discharged at
the will and pleasure of the superintendent without the
assignment of cause and without right of appeal to the
board of appeals.

The right of a member to appeal a suspension or dis-
charge shall not apply to members until they have com-
pleted their probationary period with said department of
public safety. Except in cases of emergency, no member
of the department shall be transferred without having
received at least eight days' notice of such transfer.

§15-2-20. Board of appeals created; members, powers and
duties; appeal, hearing and decision.

The board of commissioners, heretofore created in
this article, is hereby abolished, and there is hereby
created a board of appeals composed of five members
appointed by the governor, by and with the advice and
consent of the Senate. Each member shall serve for a term of five years, except of the members first appointed, one shall be appointed for a term ending the thirtieth day of June, one thousand nine hundred seventy-three, and one each for terms ending one, two, three and four years thereafter. Vacancies shall be filled for the unexpired term by appointment of the governor, by and with the advice and consent of the Senate. Members shall be residents of the state and no more than three shall be members of the same political party. A member shall hold no other office (other than the office of notary public) or employment under this state during his term, and a member may be reappointed on the expiration of his term.

As soon as practical after appointment of the board, the members shall convene on call of the governor and thereupon and annually thereafter elect a chairman and such other officers as the board deems necessary. All other meetings of the board shall be on call of the chairman.

Each member of the board shall be paid, from appropriations to the department, the sum of fifty dollars per day for each day necessarily employed in the discharge of his duties as a member of the board, and, in addition thereto, he shall be reimbursed for all reasonable and necessary expenses actually incurred in attending meetings of the board.

Other than the annual meeting for the purpose of electing a chairman and other officers, the board shall not meet except for the purpose of hearing and considering appeals to it by members of the department.

Within fifteen days after a member of the department has received a statement of charges and an order of suspension, demotion in rank or discharge by the superintendent, he may appeal the order to the board by filing with the board, or any of its members, a written notice of appeal. Upon receipt of a notice of appeal, the board shall immediately notify the superintendent by sending him a copy of the notice of appeal and set a date and time for a hearing on the appeal. The hearing shall be set
44 within thirty days after the board has received a member's
45 notice of appeal and the superintendent and member ap-
46 pealing shall be notified by the board of the date and
47 time at least fifteen days prior to the hearing.
48
49 Any member of the department who timely files a
50 notice of appeal, as aforesaid, may be represented by an
51 attorney or by any member of the department or retired
52 member who is receiving benefits from the death, dis-
53 ability and retirement fund of the department. The super-
54 intendent may be represented by counsel of his choice and
55 has the burden of proof at the hearing as to the charges
56 which he had found to be the cause or causes for his
57 order of suspension, demotion in rank or discharge. The
58 procedure in any hearing before the board shall be in-
59 formal and without adherence to the technical rules of
60 evidence required in proceedings in courts of record. All
61 evidence submitted to the board shall be submitted under
62 oath. The chairman, or any member of the board, shall
63 have authority to administer oaths to witnesses present-
64 ing testimony at a hearing. The board shall designate a
65 reporter for any such hearing who shall report and
66 transcribe all of the proceedings. The accused member
67 may demand a public hearing on the charges, and in the
68 absence of such a demand, the board may determine
69 whether or not the hearing should be public. Any hear-
70 ing may be continued, recessed or adjourned by the
71 board.
72
73 The superintendent shall provide reasonable office and
74 filing space for use of the board, routine secretarial and
75 clerical assistance and appropriate space for the conduct of
76 hearings. The charges of the reporter in transcribing any
77 hearing shall be paid by the superintendent from avail-
78 able appropriations. At the conclusion of the hearing by
79 the board, the board shall determine whether or not the
80 superintendent's order shall be sustained. The board's
81 decision shall be issued in writing, with copies thereof
82 being sent by the board to the superintendent and to the
83 appealing member by certified mail, return receipt re-
84 quested. The member or the superintendent of the de-
85 partment may appeal a decision of the board to the
circuit court of Kanawha county within sixty days of
receipt of a copy of the board’s decision, and the court
shall hear the appeal upon the record and determine all
questions submitted to it on appeal from the decision of
the board. In the event any decision sustaining the
superintendent’s order is reversed upon judicial review,
which reversal is final, the superintendent shall return the
member to his status prior to the superintendent’s order,
with full payment of any compensation withheld and with
full credit for service between the date the superintendent
issued his order and the date of the final judicial decision
reversing the decision of the board.

A hearing shall be conducted by at least three members
of the board and the decision of the board shall be made
by a majority vote of all of the members of the board.

CHAPTER 4

(Com. Sub. for House Bill No. 1—By Mr. Speaker, Mr. McManus,
and Mr. Seibert)

(Passed April 21, 1972; in effect from passage. Approved by the Governor.)

AN ACT authorizing the issuance and sale by the governor of
bonds of the state of West Virginia, under authority of the
Roads Development Amendment of 1968, in the amount
not exceeding one hundred 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 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; pre-
scribing the duties of the auditor and treasurer with
respect to such bonds; providing for transfer and regist-
tration 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 Roads Development Amendment of 1968, of the par value not to exceed one hundred 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 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,** that such bonds shall mature within and not exceeding twenty-five years from their date: **Provided, however,** 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.

§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" bond 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
15 governor, or, at the option of the holder at such other
16 bank or banks, within the state, as may be designated or
17 approved by the governor. The bonds shall bear interest,
18 payable semiannually, to bearer, at the office of the
19 treasurer of the state of West Virginia, at the capitol of
20 the state, or at the banks designated and approved by the
21 governor, upon presentation and surrender of interest
22 coupons, then due, in the case of coupon bonds. For the
23 payment of interest on registered bonds, the treasurer of
24 the state of West Virginia shall requisition a warrant
25 from the auditor of the state to be drawn on the state
26 treasurer, and shall mail such warrant to the registered
27 owner at the address as shown by the record of registra-
28 tion. Both the principal and interest of the bonds shall
29 be payable in lawful money of the United States of
30 America and the bonds shall be exempt from taxation by
31 the state of West Virginia, or by any county, district or
32 municipality thereof, which facts shall appear on the face
33 of the bonds as part of the contract with the holder
34 thereof.

§3. Form of bond.

The bond 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: Pro-
vided, That one of said signatures on said bonds shall be
a manual signature and said bonds shall be in the follow-
ing form or to the following effect, as nearly as may be,
namely:

COUPON ROAD BOND
(Or registered road bond, as the case may be)
OF THE
STATE OF WEST VIRGINIA

The state of West Virginia, under and by virtue of
authority of an amendment to the constitution, which
was proposed by Senate Joint Resolution No. 2, adopted
the eighth day of February, one thousand nine hun-
dred sixty-eight, and was ratified by a vote of the people at the general election on the fifth day of November, one thousand nine hundred sixty-eight, 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.

To secure the payment of the principal and interest of this bond, the state of West Virginia covenants and agrees with the holder as follows: (1) That this bond shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is pledged to secure the payment of the principal and interest of this bond; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on this bond and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of this bond becoming due and payable in such year are insufficient therefor.
This bond is hereby made exempt from any taxation by the state of West Virginia, or by any county, district, or municipal corporation thereof.

In testimony whereof, witness the 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.

The form of coupon shall be substantially as follows, to wit:

STATE OF WEST VIRGINIA

On the first day of , 19 , the state of West Virginia will pay to the bearer, in lawful money of the United States of America, at the office of the 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 moneys 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 the 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 provisions of this act shall be expended for the pur-
pose 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:
2 (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 (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 free 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 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 shall be paid into a separate and distinct account in the state road fund and shall be used and appropriated solely for the building and construction of free state roads and
§10. **Plates, etc., property of state.**

1 The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

§11. **Auditor to be custodian of unsold bonds.**

1 The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

§12. **Interim certificates.**

1 The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

§13. **State treasurer to be financial advisor.**

1 The state treasurer shall serve as financial advisor to the governor for the issuance and sale of such bonds.

§14. **Attorney general or his duly appointed legal representative to serve as bond counsel.**

1 The attorney general, or his duly appointed legal representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds.

§15. **Approval and payment of all necessary expenses.**

1 All necessary expenses, including legal expenses approved by the attorney general, incurred in the execution of this act shall be paid out of state road fund on warrants of the auditor of the state drawn on the state treasurer.
CHAPTER 5

(Com. Sub. for House Bill No. 6—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 9, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT making supplementary appropriations of public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, to the West Virginia Industrial School for Boys, Acct. No. 370; West Virginia Forestry Camp for Boys, No. 1 (Davis), Acct. No. 371; West Virginia Industrial Home for Girls, Acct. No. 372; West Virginia Forestry Camp No. 2 (Leckie), Acct. No. 373; West Virginia State Prison for Women, Acct. No. 374; West Virginia Penitentiary, Acct. No. 375; Huttonsville Correctional Center, Acct. No. 376; West Virginia Children’s Home, Acct. No. 380; Andrew S. Rowan Memorial Home, Acct. No. 384; Fairmont Emergency Hospital, Acct. No. 425; Welch Emergency Hospital, Acct. No. 426; Hopemont State Hospital, Acct. No. 430; Pinecrest State Hospital, Acct. No. 431; Denmar State Hospital, Acct. No. 432, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the
various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $1,164,246.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, all of which said amount is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account Nos. 370, 371, 372, 373, 374, 375, 376, 380, 384, 425, 426, 430, 431 and 432, chapter 7, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sums to each of the designated line items:

**CHARITIES AND CORRECTION**

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

Acct. No. 370

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$145,811.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$48,305.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$6,540.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$200,656.00</strong></td>
</tr>
</tbody>
</table>

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

Acct. No. 371

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,834.00</td>
</tr>
</tbody>
</table>
### SUPPLEMENTARY APPROPRIATIONS

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>372</td>
<td>$23,477.00</td>
</tr>
</tbody>
</table>

#### 46—West Virginia Forestry Camp No. 2 (Leckie)

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>373</td>
<td>$13,205.00</td>
</tr>
</tbody>
</table>

#### 47—West Virginia State Prison for Women

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>374</td>
<td>$7,174.00</td>
</tr>
</tbody>
</table>

#### 48—West Virginia Penitentiary

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>375</td>
<td>$85,948.00</td>
</tr>
</tbody>
</table>

#### 49—Huttonsville Correctional Center

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>376</td>
<td>$247,732.00</td>
</tr>
</tbody>
</table>

#### 50—West Virginia Children’s Home

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>380</td>
<td>$7,540.00</td>
</tr>
</tbody>
</table>

#### 51—Andrew S. Rowan Memorial Home

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>384</td>
<td>$51,634.00</td>
</tr>
</tbody>
</table>

### HEALTH AND WELFARE

#### 68—Fairmont Emergency Hospital

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>425</td>
<td>$1,485.00</td>
</tr>
</tbody>
</table>

#### 69—Welch Emergency Hospital

<table>
<thead>
<tr>
<th>Description</th>
<th>Account No.</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>426</td>
<td>$4,028.00</td>
</tr>
</tbody>
</table>
### SUPPLEMENTARY APPROPRIATIONS [Ch. 6]

#### 70—Hopemont State Hospital

**Acct. No. 430**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$210,317.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$30,625.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$38,945.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$279,887.00</td>
</tr>
</tbody>
</table>

#### 71—Pinecrest State Hospital

**Acct. No. 431**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$156,223.00</td>
</tr>
</tbody>
</table>

#### 72—Denmar State Hospital

**Acct. No. 432**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$72,423.00</td>
</tr>
</tbody>
</table>

Any moneys received from a superintendent, other officer or employees as payment for board, living quarters, fuel, light, groceries or household facilities and supplies shall be directly deposited in the state treasury, state fund, general revenue.

---

# CHAPTER 6

(Com. Sub. for Senate Bill No. 9—By Mr. Hubbard and Mr. Fanning)

[Passed June 8, 1972; in effect July 1, 1972. 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 ending June thirtieth, one thousand nine hundred seventy-three, to the Department of Natural Resources, Account No. 565, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the “Budget Bill.”
WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $16,900,989.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 565, chapter 7, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sums to each of the designated line items:
CONSERVATION AND DEVELOPMENT

97—Department of Natural Resources

Acct. No. 565

Personal Services—Water Resources $ 190,000.00
Current Expenses—Water Resources 8,000.00
Repairs and Alterations—Water Resources 4,000.00
Equipment—Water Resources 5,000.00
Panther State Forest 200,000.00
Piney Creek Watershed 150,000.00

Total $ 557,000.00

CHAPTER 7

[Com. Sub. for House Bill No. 16—By Mr. Speaker, Mr. McManus, and Mr. Seibert]

[Passed April 21, 1972; in effect from passage. Approved by the Governor.]

AN ACT making a supplemental appropriation of public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, to the Department of Natural Resources, Account No. 565, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1971-72, substantiated by the “Executive Budget” prepared by the governor, communications from the governor and enacted legislation totals $398,470,706.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available
cash balance and estimated expirations, enacted a budget bill for the fiscal year 1971-72, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1971-72; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $4,145,282.80 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 565, chapter 6, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the Budget Bill, be supplemented by adding thereto the following line item appropriation:

CONSERVATION AND DEVELOPMENT

87—Department of Natural Resources

Acct. No. 565

15 Coal Refuse Disposal Control Act $ 50,000.00
CHAPTER 8

(House Bill No. 4—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 9, 1972; in effect July 1, 1972. 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 ending June thirtieth, one thousand nine hundred seventy-three, to the State Board of Education, Acct. No. 278, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand
nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $16,900,989.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 278, chapter 7, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sums to each of the designated line items:

**EDUCATIONAL**

**26—State Board of Education**

Acct. No. 278

<table>
<thead>
<tr>
<th>Line Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Early Childhood Education (Public Kindergarten)</td>
<td>$3,500,000.00</td>
</tr>
<tr>
<td>3 Total</td>
<td>$3,500,000.00</td>
</tr>
</tbody>
</table>

The above supplemental appropriation is for implementation of the final step in the public kindergarten program in the fifty-five counties of the state. Any moneys allocated to a county or counties unable to utilize the same shall be expended for no other purpose and shall remain unexpended.

---

**CHAPTER 9**

(Com. Sub. for Senate Bill No. 11—By Mr. Hubbard and Mr. Wallace)

[Passed April 22, 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 ending June thirtieth, one thousand nine hundred seventy-two, 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."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1971-72, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $398,470,706.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1971-72, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1971-72; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriations of $4,145,282.80 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, a part of which 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 6, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the Budget Bill, be supplemented by adding thereto the following line item appropriation:

**EXECUTIVE**

8—Governor’s Office

Acct. No. 120

6a Disaster Relief..............................................$ 1,200,000.00

The above appropriation is to be expended in connection with the emergency flood disaster in Logan County, West Virginia.

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.

CHAPTER 10

(Com. Sub. for House Bill No. 7—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 9, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT making supplementary appropriations of public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, to the Guthrie Center, Acct. No. 418; Colin Anderson Center, Acct. No. 419; Weston State Hospital, Acct. No. 420; Spencer State Hospital, Acct. No. 421; Huntington State Hospital, Acct. No. 422; Lakin State Hospital, Acct. No. 423; Barboursville State Hospital, Acct. No. 424, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the “Executive Budget” prepared by the governor, communications
from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the Governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $16,900,989.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account Nos. 418, 419, 420, 421, 422, 423, 424, chapter 7, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sums to each of the designated line items:
### SUPPLEMENTARY APPROPRIATIONS

#### HEALTH AND WELFARE

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**Total** $866,538.00

Any moneys received from a superintendent, other officer or employees as payment for board, living quarters, fuel, light, laundry, groceries or household facilities and supplies shall be directly deposited in the state treasury, state fund, general revenue.
CHAPTER 11
(Senate Bill No. 20—Originating in the Committee on Finance)

[Passed April 21, 1972; in effect July 1, 1972. 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 ending June thirtieth, one thousand nine hundred seventy-three, to the West Virginia Public Employees Insurance Board, Account No. 615, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hun-
dred seventy-three, the governor by his action reduced, in particular, the appropriation in respect to the item relating to the West Virginia Public Employees Insurance Board by the amount of $8,128,370.00 and thereby made available for supplemental appropriation such said amount.

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of the said amount of $8,128,370.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, all of which said amount is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 615, chapter 7, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

West Virginia Public Employees Insurance Board
Acct. No. 615
Public Employees Health Insurance—State
Contribution $8,128,370.00

Total $8,128,370.00

CHAPTER 12

(House Bill No. 5—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 9, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT making supplementary appropriations of public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, to the West Virginia Board of Regents, Acct. No. 279 and Acct. No. 280, chapter seven, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the "Budget Bill."
WHEREAS, The estimated revenue in the state fund, general revenue, for the fiscal year 1972-73, substantiated by the "Executive Budget" prepared by the governor, communications from the governor and enacted legislation totals $414,085,556.00; and

WHEREAS, In addition to the estimate of revenue provided by the governor, there existed available for appropriation cash balances from the previous fiscal year and anticipated expirations; and

WHEREAS, The Legislature, basing its action upon the estimate of revenue as provided by the governor and the available cash balance and estimated expirations, enacted a budget bill for the fiscal year 1972-73, thereby making appropriations to the various accounts of state spending units, which total appropriations were well within the total of all revenues available for appropriation for the fiscal year 1972-73; and

WHEREAS, The governor, pursuant to his constitutional authority, disapproved and reduced items or parts of items contained in Enrolled Committee Substitute for Senate Bill No. 44, acts of the Legislature, regular session, one thousand nine hundred seventy-two (now chapter 7, acts of the Legislature of 1972), known as the Budget Bill, wherein appropriations were made to certain designated accounts to be expended within the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, the governor by his action reduced the amounts appropriated and thereby made additional revenue available for supplemental appropriations; and

WHEREAS, There now remains unappropriated a balance in the total general revenue available for further appropriation of $16,900,989.00 during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, a part of which balance is hereby appropriated by the terms of this supplementary appropriation bill.

Be it enacted by the Legislature of West Virginia:

That Account No. 279 and Account No. 280, acts of the Legislature, regular session, one thousand nine hundred seventy-two, known as the Budget Bill, be supplemented by adding thereto the following sums to each of the designated line items:
RESOLUTION

SENATE JOINT RESOLUTION NO. 3

(By Mr. McCourt, Mr. President, and Mr. Hubbard)

(Adopted April 22, 1972)

Ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women.

WHEREAS, The Ninety-second Congress of the United States of America at its second session by a constitutional two-thirds vote in both Houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, which Joint Resolution is in the following words:

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),
JOINT RESOLUTION

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE ____

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

Therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby ratifies this proposed amendment to the Constitution of the United States; and, be it

Resolved further, That the Secretary of State of the State of West Virginia notify the Administrator of General Services, Washington, D. C., the President of the Senate of the United States and the Speaker of the House of Representatives of the United States of this action by forwarding to each of them a certified copy of this Joint Resolution adopted by the West Virginia Legislature.
DISPOSITION OF BILLS ENACTED

The first column gives the number of the bill and the second column gives the chapter assigned to it.

Regular Session, 1973

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[745]
### First Extraordinary Session, 1973

#### HOUSE BILLS

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#### SENATE BILLS

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