

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 1973

First Extraordinary Session, 1973

First Extraordinary Session, 1972

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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.

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.

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

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

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MEMBERS OF THE HOUSE OF DELEGATES

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

County or District	Name	Address
Barbour	Gary L. Everson (R)	Belington
Boone	Thomas G. Goodwin (D)	Seth
	Ivan White (D)	Madison
Braxton	Rodney B. Belknap (D)	Gassaway
Brooke	Mino R. D'Aurora (D)	Follansbee
	Charles Donley (D)	Wellsburg
Cabell	Roy A. Edwards, Jr. (R)	Huntington
	Hugh A. Kincaid (D)	Huntington
	Charles M. Polan, Jr. (D)	Huntington
	G. Michele Prestera (D)	Huntington
	Charles E. Romine, Jr. (R)	Huntington
	Jody G. Smirl (R)	Huntington
Clay	Robert Reed (D)	Clay
Fayette	Carroll E. Bumgarner (D)	Oak Hill
	T. E. Myles (D)	Fayetteville
	Adam Toney (D)	Oak Hill
Hampshire	James B. Cookman (D)	Romney
Hancock	Gust G. Brenda, Jr. (D)	Weirton
	Kim Bryan Carey (D)	Weirton
Harrison	Gino R. Colombo (D)	Nutter Fort
	Michael D. Greer (R)	Salem
	Donald Lee Kopp (D)	Clarksburg
	John F. McCuskey (R)	Clarksburg
Jackson	William F. Carmichael (R)	Ripley
Jefferson	James M. Moler (D)	Charles Town
Kanawha	James E. Copenhaver (R)	Elkview
	W. C. Field (R)	Charleston
	Lucille E. Gillispie (R)	Clendenin
	Phyllis E. Given (D)	Charleston
	Jean S. Holt (R)	Charleston
	James C. Jeter (R)	Charleston
	Cleo S. Jones (R)	Charleston
	Leo G. Kopelman (R)	East Bank
	Louie A. Paterno, Jr. (R)	Charleston
	Thomas E. Potter (R)	Charleston
	Phyllis J. Rutledge (D)	Charleston
	Roland Savilla (D)	St. Albans
	Leonard I. Underwood (D)	St. Albans
	Paul Zakaib, Jr. (R)	Charleston
Lewis	Fred L. Mulneix (R)	Weston
Lincoln	H. Leon Hager (D)	Hamlin
Logan	Charles Gilliam (D)	Logan
	Thomas W. Mathis (D)	Logan
	Ervin S. Queen (D)	Logan
Marion	William M. Hawkins (R)	Fairmont
	Paul E. Prunty (R)	Fairmont
	William E. Shingleton (D)	Fairmont
Marshall	Robert C. Polen (R)	Moundsville
	Dan R. Tonkovich (D)	Benwood
Mason	R. Michael Shaw (R)	Point Pleasant

HOUSE OF DELEGATES

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County or District	Name	Address
McDowell	Ronnie McKenzie (D) Ernest C. Moore (D) Harry R. Pauley (D) T. J. Scott (D)	Roderfield Thorpe Jaeger Welch
Mercer	Clarence C. Christian, Jr. (D) Charles E. Lohr (D) William P. Stafford (R) Tony E. Whitlow (D)	Princeton Princeton Princeton Princeton
Mineral	Robert D. Harman (R)	Keyser
Mingo	Joe W. Hatfield (D) R. Doyle Van Meter, II. (D)	Gilbert Williamson
Monongalia	Robert W. Dinsmore (D) Terry T. Jones (R) Robert B. Stone (R)	Morgantown Morgantown Morgantown
Monroe	W. Marion Shiflet (D)	Union
Nicholas	Larry A. Tucker (D)	Summersville
Ohio	George F. Beneke (R) Fred A. Grewe, Jr. (R) Judith A. Herndon (R) George H. Seibert, Jr. (R)	Wheeling Wheeling Wheeling Wheeling
Preston	James W. Teets (R)	Terra Alta
Putnam	Raymond Peak (D)	Hurricane
Raleigh	Lewis N. McManus (D) Mary Martha Merritt (D) Ted T. Stacy (D) Mrs. W. W. Withrow (D)	Beckley Beckley Beckley Beckley
Randolph	Earl H. Stalnaker (D)	Elkins
Roane	Orton R. Karickhoff (R)	Spencer
Summers	James E. Meadows (R)	Hinton
Taylor	Samuel A. Morasco (D)	Grafton
Upshur	Charles R. Shaffer (R)	Buckhannon
Wayne	Clayton C. Davidson (D) Walter Rollins (D)	Huntington Kenova
Webster	A. L. Sommerville, Jr. (D)	Webster Springs
Wetzel	Joseph M. Ballouz (D)	New Martinsville
Wood	J. C. Butcher (R) Calvin A. Calendine (R) Gene A. Haynes (R) James M. McCutcheon (R)	Parkersburg Parkersburg Parkersburg Parkersburg
Wyoming	C. E. Allen (D) Charles R. Cline (D)	Mullens Pineville
1st District Berkeley Morgan	Wallace L. Files (R) Luke E. Terry (R)	Martinsburg Martinsburg
2nd District Grant, Tucker	Larkin B. Ours (R)	Dorcas
3rd District Hardy, Pendleton	Thomas J. Hawse (D)	Moorefield
4th District Greenbrier, Pocahontas	Frank E. Jolliffe (D) Sarah Lee Neal (D)	Lewisburg Rainelle
5th District Doddridge, Tyler	Larry D. Swann (R)	Salem
6th District Pleasants, Ritchie	Harry E. Moats (R)	Harrisville
7th District Calhoun, Gilmer, Wirt	Billy Brown Burke (D)	Glenville

(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

District	Name	Address
First	* Chester R. Hubbard (R) Samuel N. Kusic (R)	Wheeling Weirton
Second	+ William L. Gilligan (R) Roy A. Rogerson (R)	Sistersville Moundsville
Third	* Russell G. Beall (D) J. Frank Deem (R)	Parkersburg St. Marys
Fourth	+ Robert F. Hatfield (D) Orton A. Jones (R)	Hurricane Spencer
Fifth	H. Darrel Darby (D) * Robert R. Nelson (D)	Huntington Huntington
Sixth	John Pat Fanning (D) * Lefe P. Ward (D)	Iaeger Williamson
Seventh	* David E. Wallace (D) Todd C. Willis (D)	Madison Logan
Eighth	Mario J. Palumbo (D) * John T. Poffenbarger (R)	Charleston Dunbar
Ninth	Warren R. McGraw (D) * Alan L. Susman (D)	Pineville Beckley
Tenth	* J. C. Dillon, Jr. (D) Odell H. Huffman (D)	Hinton Princeton
Eleventh	Patrick R. Hamilton (D) * Ralph D. Williams (D)	Oak Hill Rainelle
Twelfth	* Carl E. Gainer (D) Richard H. Benson (D)	Richwood Elkins
Thirteenth	* W. Walter Neeley (D) William R. Sharpe, Jr. (D)	Clarksburg Weston
Fourteenth	James L. Davis (D) * William A. Moreland (D)	Fairmont Morgantown
Fifteenth	* C. N. Harman (R) J. D. Hinkle, Jr. (R)	Grafton Buckhannon
Sixteenth	* Louise Leonard (R) William J. Oates, Jr. (D)	Harpers Ferry Romney
Seventeenth	William T. Brotherton, Jr. (D) * St. Galperin, Jr. (D)	Charleston Charleston

(+) 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

1973

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.

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, Benke, 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, Copenhagen, 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, Tonkovich, 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, Tonkovich, Van Meter, White, Calendine, Edwards, Field, Gillispie, Greer, Jeter, McCuskey, Moats, Paterno and Shaffer.

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, Pauley, 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.

JOINT COMMITTEES

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.

LEGISLATURE OF WEST VIRGINIA

ACTS

REGULAR SESSION, 1973

CHAPTER 1

(House Bill No. 1036—By Mr. Shaw)

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

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
2 be appraised as follows: The court or clerk by whose order
3 any person is authorized to act as personal representative shall,
4 upon the qualification of such personal representative, appoint
5 not less than three nor more than five appraisers, any three of
6 whom may act, in the county in which the will of the deceased
7 is probated or administration is granted upon his estate, and
8 a like number in every other county in which there may be any
9 real or personal estate of the deceased: *Provided*, That at the
10 request of the personal representative, the appraisers appointed

11 in the county in which the will of the deceased is probated
12 or administration is granted upon his estate shall have the
13 authority to act in any county in the state in which there may
14 be any real or personal estate of the deceased and the court or
15 clerk shall so designate in the order of appointment, and, in
16 such event, it shall be unnecessary to appoint appraisers in
17 every other county in which there may be any real or personal
18 estate of the deceased. Such appraisers, after first taking an
19 oath for the purpose, shall list and appraise at its real
20 and actual value all the real estate and all the tangible
21 property of every description owned by the deceased at the time
22 of his death and located in each county or the counties, as the
23 case may be, and they shall also list and appraise all his in-
24 tangible property of every description, including moneys,
25 credits, investments, annuities, insurance policies, judgments,
26 and decrees for moneys, notes, bonds, accounts and all other
27 evidences of debt, whether owing to him by persons or corpora-
28 tions in or out of the state, and the number and value, including
29 both the par value, if any, and the actual value, of any shares
30 of capital stock owned by him in any corporation, whether
31 located in this state or elsewhere. Such appraisers shall
32 designate such intangible property as good, bad or doubtful
33 as to them may appear to be correct, and by whom owing
34 and when payable, and from what time such of them as are
35 interest-bearing bear interest. Every note, bond or evidence of
36 debt shall have endorsed thereon the word "appraised," under
37 which each acting appraiser shall sign his name. No judgment
38 shall be rendered by any of the courts of the state upon such
39 note, bond or evidence of debt unless and until the same shall
40 be first shown to have been listed by the appraisers: *Provided,*
41 *however,* That any note, bond or evidence of debt which bears
42 the endorsement by the appraisers, as above required, shall
43 need no further proof that the same was listed. The several
44 appraisements and lists aforesaid shall be executed in duplicate
45 and shall be signed by the appraisers who made the same, and
46 be forthwith returned to the commissioner of accounts to
47 whom the estate of such deceased person has been referred
48 as provided in section one, article two of this chapter. Said
49 commissioner of accounts shall inspect such appraisements, see
50 that the same are in proper form, and, within ten days after
51 they are received and approved by him, deliver one copy of the

52 same to the clerk of the county court, who shall record the
53 same, with the certificate of approval, and mail one copy of
54 the same to the tax commissioner of West Virginia. The date
55 of return of an appraisalment shall be entered by such clerk
56 in his record of fiduciaries. Every such appraisalment and list
57 shall be prima facie evidence of the value of the estate
58 embraced therein, and that the personal estate embraced
59 therein came to the hands of the personal representative.
60 Such appraisers shall each receive a fee of not less than one
61 dollar nor more than five dollars per day, to be fixed by said
62 commissioner in accordance with the amount of the estate
63 and the work involved in making the appraisalment, and their
64 actual expenses necessarily incurred in making such appraisal-
65 ment, and such fees and expenses and the commissioner's
66 approval thereof shall be noted in the commissioner's certifi-
67 cate. No person shall be permitted by any means whatsoever to
68 avoid the appraisalment and listing of his estate as herein
69 provided, nor shall his personal representative be permitted
70 to do so. Any personal representative who fails, refuses or
71 declines to comply with the provisions of this section shall
72 be guilty of a misdemeanor, and, upon conviction, shall be
73 fined not less than twenty-five dollars nor more than five
74 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 certain 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 de-
15 cent," designates an individual, who is the husband, wife,
16 father, mother, brother, sister, child, grandchild or sole

17 beneficiary of such resident decedent, as executor, then such
18 designated individual may qualify and act as such executor
19 notwithstanding the fact that he is a nonresident. Nonresi-
20 dent executors of resident decedents shall give bond with
21 corporate surety thereon, qualified to do business in this
22 state, in such penalty as may be fixed pursuant to the pro-
23 visions of section seven, article one of this chapter except
24 that such penalty shall not be less than (1) double the value
25 of the personal estate and (2) double the value of any real
26 property authorized to be sold under the will or the value of
27 any rents and profits from any real property which the will
28 authorizes such nonresident executor to receive. The per-
29 sonal estate of a resident decedent may not be removed
30 from this state until the inventory or appraisal of the
31 resident decedent's estate has been filed and any new or
32 additional bond required to satisfy the penalty specified
33 above in this section has been furnished. The liability of
34 such nonresident executor and such surety shall be joint
35 and several and a civil action on any such bond may be
36 instituted and maintained against the surety, notwithstand-
37 ing any other provision of this code to the contrary, even
38 though no civil action has been instituted against the non-
39 resident executor.

40 When a nonresident qualifies as an executor pursuant
41 to the provisions of this section, he thereby constitutes
42 the clerk of the county court wherein the will was ad-
43 mitted to probate, or his successor in office, his true and
44 lawful attorney in fact upon whom may be served all
45 notices and process in any action or proceeding against
46 him as executor or with respect to such estate, and such
47 qualification shall be a signification of such executor's
48 agreement that any such notice or process, which is
49 served in the manner hereinafter in this section provided,
50 shall be of the same legal force and validity as though
51 said executor were personally served with notice and pro-
52 cess within this state. Service shall be made by leaving
53 the original and two copies of any notice or process,
54 together with a fee of five dollars, with the clerk of such
55 county court, whereupon such clerk shall endorse upon
56 one copy thereof the day and hour of service and shall

57 file such copy in his office and said service shall con-
58 stitute personal service upon such nonresident executor:
59 *Provided, however,* That the other copy of such notice
60 or process shall be forthwith sent by registered or certi-
61 fied mail, return receipt requested, deliver to addressee
62 only, by said clerk to the nonresident executor at the address
63 last furnished by him to said clerk and either (a) such non-
64 resident executor's return receipt signed by him or (b) the
65 registered or certified mail bearing thereon the stamp of the
66 post-office department showing that delivery therefor was
67 refused by such nonresident executor is appended to the
68 original notice or process and filed therewith in the office of
69 the clerk of the court from which such notice or process was
70 issued. No notice or process shall be served on such clerk of
71 the county court or accepted by him less than twenty days
72 before the return day thereof. The clerk of such county court
73 shall keep a record in his office of all such notices and
74 process and the day and hour of service thereof. The pro-
75 vision for service of notice or process herein provided is
76 cumulative and nothing herein contained shall be construed
77 as a bar to service by publication where proper or to the
78 service of notice or process in any other lawful mode or
79 manner. The fee of five dollars shall be deposited in the
80 county treasury.

81 Any nonresident executor who removes from this state the
82 personal estate of a resident decedent without complying with
83 the provisions of this section shall be guilty of a misdemeanor,
84 and, upon conviction thereof, shall be punished by a fine of
85 not more than one thousand dollars or by confinement in the
86 county jail for not more than one year, or, in the discretion
87 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.

1 Any dog which is registered, kept and controlled as pro-
2 vided in this article or any dog, irrespective of age, which
3 shall be owned and kept by any person shall be protected
4 by law; and any person who shall unlawfully steal, kill
5 or injure, administer poison to or knowingly expose the
6 same so that it shall be taken by any such dog, or shall,
7 in any other manner, intentionally and unlawfully cause the
8 death or injury of any such dog shall be guilty of a mis-
9 demeanor, and, if such dog be of the assessed value of
10 more than twenty dollars, shall, upon conviction, be im-
11 prisoned in the county jail for a period not in excess of
12 twelve months, or fined not in excess of two hundred dollars,
13 or both, in the discretion of the court; and if such dog be
14 of twenty dollars or less in assessed value, such person shall
15 be imprisoned in the county jail for a period not in excess
16 of six months, or fined not in excess of fifty dollars, or both,
17 in the discretion of the court. Any person whose dog shall
18 be killed or injured wrongfully or unlawfully by any other
19 person shall have a right of action against the person who
20 shall so kill or injure such dog, but in no case can recovery
21 be had in excess of the assessed value of such dog. In no
22 case can any action under the provisions of this section
23 be maintained if the dog concerned shall not have been
24 duly registered pursuant to the provisions of this article or
25 owned and kept pursuant to the provisions of this section
26 at the time the cause of action shall have arisen.

27 It shall be the duty of all members of the department of

28 public safety, sheriffs, constables and police officers to aid
29 in the enforcement of the provisions of this article, and
30 for services rendered in the enforcement thereof such per-
31 sons shall be entitled to fees in the amounts set forth in
32 section eight. Such fees shall be paid by the county court
33 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 super-
2 visors, appointed or elected, as provided in preceding sections.
3 The two supervisors appointed by the committee shall be
4 persons who are by training and experience qualified to per-
5 form the specialized skilled services which will be required
6 of them in the performance of their duties hereunder, and
7 must be legal residents and landowners of the district.

8 The supervisors shall designate a chairman and may, from
9 time to time, change such designation. The term of office of

10 each supervisor shall be three years, except that the super-
11 visors who are first appointed shall be designated to serve
12 for terms of one and two years, respectively, from the date of
13 their appointment. A supervisor shall hold office until his
14 successor has been elected, or appointed. In case a new
15 county or portion thereof is added to a district the committee
16 may appoint a supervisor to represent it until such time as
17 the next regular election of supervisors for the district takes
18 place. In case a vacancy occurs among the elected super-
19 visors of a district the committee shall appoint a successor
20 from the same county to fill the unexpired term. Such
21 appointment shall be made from a name or list of names
22 submitted by local farm organizations and agencies. When
23 any county or portion thereof lying within the boundaries of
24 a district shall have in effect eight hundred or more signed
25 agreements of cooperation with occupiers of land located
26 within said county, then at the next regular election of
27 supervisors the land occupiers within said county or portion
28 thereof are entitled to elect two supervisors to represent the
29 county instead of one for the term and in the manner pre-
30 viously prescribed. A majority of the supervisors shall con-
31 stitute a quorum and the concurrence of a majority in any
32 matter within their duties shall be required for its determina-
33 tion. A supervisor shall be entitled to expenses, and a per
34 diem not to exceed twelve dollars when engaged in the
35 performance of his duties.

36 The supervisors may with the approval of the state com-
37 mittee employ a secretary, technical experts, and such other
38 officers, agents, and employees, permanent and temporary,
39 as they may require, and shall determine their qualifications,
40 duties and compensation. The supervisors may delegate to
41 their chairman, to one or more supervisors or to one or
42 more agents, or employees, such administrative powers and
43 duties as they may deem proper. The supervisors shall
44 furnish to the state soil conservation committee, upon request,
45 copies of such ordinances, rules, regulations, orders, contracts,
46 forms, and other documents as they shall adopt or employ,
47 and such other information concerning their activities as it
48 may require in the performance of its duties under this
49 article.

50 The supervisors shall provide for the execution of surety
51 bonds for all employees and officers who shall be entrusted
52 with funds or property; shall provide for the keeping of a
53 full and accurate record of all proceedings and of all
54 resolutions, regulations and orders issued or adopted; and
55 shall provide for an annual audit of the accounts of receipts
56 and disbursements. Any supervisor may be removed by the
57 state soil conservation committee upon notice and hearing,
58 for neglect of duty or malfeasance in office, but for no other
59 reason.

60 The supervisors may invite the legislative body of any
61 municipality or county located near the territory comprised
62 within the district to designate a representative to advise and
63 consult with the supervisors of a district on all questions of
64 program and policy which may affect the property, water
65 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.

§8-29A-9. Powers of authorities generally.

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

3 (1) To make and adopt all necessary bylaws, rules and

4 regulations for its organization and operations not inconsistent
5 with law;

6 (2) To elect its own officers, to appoint committees and
7 to employ and fix the compensation for personnel including
8 attorneys necessary for its operation;

9 (3) To enter into contracts with any person, governmental
10 department, firm or corporation, and generally to do any and
11 all things necessary or convenient for the purpose of acquiring,
12 equipping, constructing, maintaining, improving, extending,
13 financing and operating a public airport, including the develop-
14 ment of an industrial park in the same general area;

15 (4) To delegate any authority given to it by law to any of
16 its officers, committees, agents or employees;

17 (5) To apply for, receive and use grants-in-aid, donations
18 and contributions from any source or sources, including but
19 not limited to the federal government and any agency thereof,
20 and the state of West Virginia, and to accept and use be-
21 quests, devises, gifts and donations from any person, firm
22 or corporation;

23 (6) To acquire lands and hold title thereto in its own
24 name;

25 (7) To purchase, own, hold, sell and dispose of personal
26 property and to sell, lease or otherwise dispose of any real
27 estate which it may own;

28 (8) To borrow money and execute and deliver negotiable
29 notes, revenue bonds, debentures and other evidences of
30 indebtedness therefor, and give such security therefor as shall
31 be requisite, including giving a mortgage or deed of trust on
32 its airport properties and facilities in connection with the
33 issuance of bonds;

34 (9) To raise funds by the issuance and sale of revenue
35 bonds or refunding bonds in the manner provided by the
36 applicable provisions of article sixteen of this chapter, it being
37 hereby expressly provided that, for that purpose, a county
38 airport authority shall be treated as a municipality or board
39 as those terms are used in said article sixteen;

40 (10) To acquire, construct, establish, equip, maintain and
41 operate, within a reasonable distance of the airport, a water-

42 works, a sewerage system or a combined waterworks and
43 sewerage system for its own use and for the use of any person,
44 and to finance the same by the issuance of revenue bonds
45 as provided in this article: *Provided, however,* That no existing
46 waterworks or sewage system, or any part thereof, may be
47 acquired without the prior consent and approval of the public
48 service commission;

49 (11) To establish, charge and collect reasonable fees and
50 charges for services or for the use of any part of its property
51 or facilities, or for both services and such use; and

52 (12) To expend its funds in the execution of the powers
53 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 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.

§8-29B-2. Definitions.

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

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

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

§8-29B-6. Required security measures.

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

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

§8-29B-2. Definitions.

1 As used in this article:

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

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

13 (3) "Airport operator" means a governing body, regional

14 airport authority or county airport authority, under articles
15 twenty-eight, twenty-nine or twenty-nine-a of this chapter, or
16 a board, commission, authority or committee operating under
17 any local act of the Legislature, charged with the operation and
18 management of an airport.

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

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

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

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

1 (a) To enforce any federal or state law or rules and
2 regulations relating to airports and airport security and any
3 rules and regulations promulgated by the airport operator, to
4 protect air passengers, airport personnel, aircraft and the
5 airport and to preserve law and order in connection therewith,
6 the airport operator shall have plenary power and authority to

7 make arrangements for one or more airport police officers,
8 pursuant to the provisions of subsections (b) and (c) of this
9 section.

10 (b) In those instances in which the airport operator is the
11 governing body of a municipality, and if requested by such
12 airport operator, one or more police officers of such munici-
13 pality shall be assigned by the mayor thereof to serve as an
14 airport police officer or officers. In those instances in which
15 the airport operator is the governing body of a county or is a
16 county airport authority, and if requested by such airport
17 operator, one or more deputy sheriffs of such county may be
18 assigned by the sheriff of such county, in his discretion, to
19 serve as airport police officer or officers. Compensation for the
20 performance of duties by any such officer assigned as an
21 airport police officer shall be paid as agreed between the
22 airport operator and the mayor or sheriff, as the case may be.

23 (c) In lieu of or in addition to obtaining one or more
24 airport police officers pursuant to the provisions of subsection
25 (b) of this section and in all instances in which the airport
26 operator is other than as specified in said subsection (b), the
27 airport operator may provide for the appointment and super-
28 vision of, or contract for the furnishing by any private security
29 force and the designation by such airport operator of, one or
30 more airport police officers, and pay the agreed compensation
31 thereto or therefor. Any person appointed or designated as an
32 airport police officer pursuant to the provisions of this sub-
33 section (c) shall, before entering upon the performance of his
34 duties, qualify in the same manner as is required of a con-
35 stable by the taking and filing of an oath of office as required
36 by article one, chapter six of this code and by the filing of an
37 official bond as required by article two of said chapter six.

38 (d) The airport operator may terminate the assignment of
39 an airport police officer assigned pursuant to the provisions of
40 subsection (b) of this section by notice to the mayor or sheriff,
41 as the case may be, who made the assignment, and the airport
42 operator may relieve any person appointed or designated,
43 pursuant to the provisions of subsection (c) of this section,
44 from his duty as an airport police officer, by filing a notice
45 to such effect in the office in which such person's oath of
46 office as an airport police officer was officially filed.

47 (e) The airport operator shall specify a uniform, badge or
48 other indicia of authority to be worn by all airport police
49 officers while on duty: *Provided*, That as to any airport police
50 officer who is either a municipal police officer or deputy
51 sheriff, the uniform, badge or other indicia of authority
52 specified shall be the uniform, badge or other indicia of
53 authority worn by such individual as a municipal police officer
54 or deputy sheriff, as the case may be.

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

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

1 In any area under the jurisdiction and control of the airport
2 operator, or in connection with the airport, or in pursuit of one
3 or more individuals therefrom, any airport police officer shall
4 have (1) all of the power and authority which a regularly
5 appointed deputy sheriff of a county in this state has in en-
6 forcing the criminal laws of this state; (2) full power and
7 authority to enforce any and all federal laws and rules and
8 regulations relating to airports, air passengers, baggage inspec-
9 tion, the screening of air passengers and other airport security
10 measures; (3) full power and authority to enforce any and all
11 rules and regulations promulgated by the airport operator;
12 and (4) the power to search persons, packages, containers and
13 baggage and the power to arrest persons: *Provided*, That the
14 foregoing provisions of this section shall under no circum-
15 stances whatever be construed as in any way limiting the
16 power and authority of a municipal police officer or deputy
17 sheriff who has been assigned to serve as an airport police
18 officer which he has by virtue of his being a municipal police
19 officer or deputy sheriff, and under no circumstances whatever
20 shall the assignment or appointment or designation of one or
21 more airport police officers at an airport be deemed in any
22 way to supersede or limit the power and authority of other
23 peace officers to preserve law and order at such airport.

24 Consistent with the provisions of section five, article seven,
25 chapter sixty-one of this code, any municipal police officer or
26 deputy sheriff assigned as an airport police officer pursuant to

27 the provisions of subsection (b), section four of this article,
28 and (notwithstanding any provision of this code to the con-
29 trary) any person appointed or designated as an airport police
30 officer pursuant to the provisions of subsection (c), section four
31 of this article, shall not be required to obtain a state license to
32 carry a deadly weapon, as provided for in section two, article
33 seven of said chapter sixty-one. Any municipal police officer or
34 deputy sheriff assigned as an airport police officer pursuant to
35 the provisions of subsection (b), section four of this article
36 shall not be required to furnish any bond under section five,
37 article seven of said chapter sixty-one other than the bond
38 furnished thereunder as such municipal police officer or deputy
39 sheriff. When one or more policies of public liability insurance
40 are obtained providing insurance coverage for legal liability of
41 an airport police officer for bodily injury, personal injury
42 or damage (including, but not limited to, false arrest and
43 false imprisonment) and property damage, and affording
44 said airport police officer insurance coverage against any
45 and all legal liability arising from, growing out of, or by
46 reason of or in any way connected with, any acts or omis-
47 sions of said airport police officer in the performance of
48 his official duties, and so long as the coverage aforesaid re-
49 mains in full force and effect as to such airport police officer,
50 then the bond specified in section five, article seven of said
51 chapter sixty-one shall not be required as to such airport
52 police officer; otherwise such bond shall be required and must
53 be furnished.

§8-29B-6. Required security measures.

1 In addition to any and all other security measures which
2 may be required by an airport operator, and unless otherwise
3 provided by rules and regulations promulgated by such airport
4 operator, at least one airport police officer must be present
5 prior to, at the point of, and throughout the final passenger
6 screening process prior to the boarding of an aircraft at an
7 airport (other than a charter or commuter flight), and such
8 police officer shall be present continuously until all doors on
9 such aircraft being boarded are closed and such aircraft has
10 taxied away from the boarding area. An airport police officer
11 shall have the same duty and responsibility in the event such
12 aircraft returns to the boarding area prior to takeoff.

CHAPTER 7

(House Bill No. 1030—By Mr. Speaker, Mr. McManus, and Mr. Shiflet)

[Passed April 3, 1973; in effect ninety days from passage. Approved by the Governor.]

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
2 than five groups with respect to volume of business. An agent
3 shall be compensated in a fixed sum, uniform within each
4 group, and in an amount to be fixed by the commissioner, but
5 not more than six thousand dollars in any one year.

6 Each agent shall give bond in an amount fixed by the com-
7 missioner conditioned upon the faithful observance of the pro-
8 visions of this chapter, compliance with the rules and regu-
9 lations of the commissioner, and the accounting for and paying
10 over of all moneys coming into his custody by virtue of his
11 agency. An agent shall not, at any time, have on hand a stock
12 of alcoholic liquors greater in value than the amount of his
13 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
- 2 for an appeal from, or writ of error or supersedeas to, any
- 3 judgment, decree or order rendered or made by such court of
- 4 limited jurisdiction, whether the state be a party thereto or not,

5 which shall have been rendered or made more than four months
6 before such petition is presented: *Provided*, That the judge of
7 such court of limited jurisdiction may, prior to the expiration
8 of such period of four months, by order entered of record
9 extend and reextend such period for such additional period
10 or periods, not to exceed a total extension of four months, as
11 in his opinion may be necessary for preparation of the
12 transcript, if the request for such transcript was made by
13 the party seeking such judicial review within sixty days
14 after such judgment, decree or order was rendered or made.
15 Such judge may also extend and reextend such period for
16 such additional period or periods of time not to exceed a total
17 extension of four months, upon petition made prior to the
18 expiration of the initial four month period for good cause
19 shown and if the request for such transcript was made by
20 the party seeking such judicial review within sixty days after
21 such judgment, decree or order was rendered or made.

22 In criminal cases no petition for appeal or writ of error shall
23 be presented unless a notice of intent to file such petition shall
24 have been filed with the clerk of the court in which the judg-
25 ment was entered within sixty days after such judgment was
26 entered. The notice shall fairly state the grounds for the peti-
27 tion without restricting the right to assign additional grounds
28 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.**

1 The circuit court or the judge thereof, upon consideration
2 of the petition, shall enter an order granting or refusing it.
3 If the circuit court or judge deems the judgment, decree or
4 order of such court of limited jurisdiction to be plainly right,
5 and rejects it on that ground, and the order of rejection so
6 states, no further petition shall afterwards be presented to the
7 circuit court or judge for the same purpose; but in any
8 case where the circuit court or judge rejects the petition, the
9 petition and order of rejection, together with the record of the
10 cause, may, within four months from the date of the order of
11 rejection, be presented to the supreme court of appeals, or
12 any judge thereof in vacation, for an appeal from, or writ of
13 error or supersedeas to, such order of rejection, and, if allowed,

14 the same proceedings may be had thereon as if the same were
15 a petition originally from the circuit court of such county to
16 the supreme court of appeals: *Provided*, That the judge of the
17 circuit court which rejected the petition may, prior to the
18 expiration of such period of four months by order entered of
19 record extend and reextend such period for such additional
20 period or periods, not to exceed a total extension of one month,
21 as in his opinion may be necessary for preparation of the
22 transcript of the proceeding in the circuit court, if the request
23 for such transcript was made by the party seeking judicial
24 review in the supreme court of appeals within thirty days after
25 the entry of such order of rejection. Such judge may also
26 extend and reextend such period for such additional period
27 or periods of time not to exceed a total extension of four
28 months, upon petition made prior to the expiration of the
29 initial four month period for good cause shown and if the
30 request for such transcript was made by the party seeking
31 judicial review in the supreme court of appeals within thirty
32 days after the entry of such order of rejection. After the
33 petition has been rejected by the circuit court or judge, the
34 clerk of the circuit court shall, as soon as may be, upon
35 request of the petitioner, transmit to the clerk of the supreme
36 court of appeals, or such judge of said court as the petitioner
37 shall designate, if said court be not then in session, by United
38 States registered mail or valued express, the petition, the
39 record of the cause as presented to the circuit court or judge,
40 and the order of rejection. Before such petition, record and
41 order are transmitted as aforesaid, the petitioner shall deposit
42 with the clerk of the circuit court a sufficient sum of money
43 to defray the costs of transmission and return of the record,
44 and the making of a transcript of the record, or file with the
45 clerk a bond conditioned to pay the same, in a penalty and with
46 sureties to be fixed and approved by such clerk, who shall
47 endorse on the petition that such deposit has been made or
48 such bond filed. If the appeal or writ of error prayed for be
49 granted, the clerk of the supreme court of appeals shall, im-
50 mediately after the issuance of the appellate process, return
51 the record to the clerk of the circuit court, by mail or express,
52 as aforesaid; and such circuit clerk shall forthwith make a
53 transcript, as provided in section seven of article five of this
54 chapter, of so much of the record as is required for the pur-

55 poses of the appeal or writ of error and transmit the same to
56 the clerk of the supreme court of appeals. Insofar as provision
57 therefor is not made by existing law, the compensation of the
58 clerk of the circuit court for services rendered hereunder
59 shall be fixed by the judge of the circuit court. If the prayer
60 of the petition be not granted by the supreme court of appeals
61 or judge thereof, the petition and record shall be returned as
62 aforesaid, and the clerk of the circuit court shall repay to the
63 petitioner, or his attorney, the money deposited with him, if
64 any, less his fees and expenses, and the petition and record
65 shall be returned to the office of the clerk of the court of
66 limited jurisdiction. The rejection of such petition by a judge of
67 the supreme court of appeals in vacation shall not prevent the
68 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
2 supersedeas allowed by a circuit court, or in the case of an
3 order of rejection the supreme court of appeals, or judge of
4 either of such courts to or from a judgment, decree or order, if,
5 when the record is delivered to the clerk of the appropriate
6 court, four months (or the extended period or periods, if any,
7 allowed by order pursuant to either section four or section
8 seven of this article, as the case may be) shall have elapsed
9 since the date of such judgment, decree or order; but the ap-
10 peal, writ of error or supersedeas shall be dismissed whenever
11 it appears that four months or the extended period, if any, as
12 the case may be, has elapsed since such date before the record
13 is delivered to such clerk, or that two months have elapsed since
14 the date when the appeal, writ of error or supersedeas was
15 granted before such bond is given as is required to be given
16 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

2 of error or supersedeas to, any judgment, decree or order,
3 whether the state be a party thereto or not, which shall have
4 been rendered or made more than eight months before such
5 petition is presented: *Provided*, That the judge of the circuit
6 court may, prior to the expiration of such period of eight
7 months, by order entered of record extend and reextend such
8 period for such additional period or periods, not to exceed a
9 total extension of four months, as in his opinion may be
10 necessary for preparation of the transcript, if the request for
11 such transcript was made by the party seeking such judicial
12 review within sixty days of the entry of such judgment, decree
13 or order. Such judge may also extend and reextend such
14 period for such additional period or periods of time not to
15 exceed a total extension of four months, upon petition made
16 prior to the expiration of the initial eight month period for
17 good cause shown and if the request for such transcript was
18 made by the party seeking such judicial review within sixty
19 days of the entry of such judgment, decree or order.

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

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

1 No process shall issue upon any appeal, writ of error or
2 supersedeas allowed from or to a final judgment, decree or
3 order, if, when the record is delivered to the clerk of the
4 appellate court, eight months (or the extended period or
5 periods, if any, allowed by order pursuant to section four
6 of this article) shall have elapsed since the date of such final
7 judgment, decree or order; but the appeal, writ of error or
8 supersedeas shall be dismissed whenever it appears that eight
9 months or the extended period or periods, if any, as the case
10 may be, have elapsed since such date before the record is
11 delivered to such clerk, or that two months have elapsed since
12 the date when the appeal, writ of error or supersedeas was
13 granted before such bond is given as is required to be given be-
14 fore 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:

FISCAL

18—*Treasurer's Office*

Acct. No. 160

2	Other Personal Services	\$ 178,220
3	Current Expenses	47,468

19—*State Commissioner of Public Institutions*

Acct. No. 190

4	Other Personal Services	\$ 474,900
5	Current Expenses	145,900

LEGAL

22—*Attorney General*

Acct. No. 240

2	Other Personal Services	\$ 619,280
4	Equipment	39,500

*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

132—Public Service Commission—Motor Carrier Division

Acct. No. 829

2	Current Expenses	_____	\$	85,605
6	Public Employees Health Insurance	_____		9,440

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

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

TITLE 1. GENERAL PROVISIONS.

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

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

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

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

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

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

10 “From collections” shall mean that part of the total appro-
11 priation which must be collected by the spending unit to be
12 available for expenditure. If the authorized amount of col-
13 lections is not collected, the total appropriation for the spend-
14 ing unit shall be reduced automatically by the amount of the
15 deficiency in the collection. If the amount collected exceeds
16 the amount designated “from collections” the excess shall
17 be set aside in a special surplus fund and may be expended
18 for the purpose of the spending unit as provided by Chapter
19 5A, Article 2 of the Code of West Virginia.

1 **Sec. 3. Classification of Appropriations.**—An appropria-
2 tion for:

3 “Personal Services” shall be expended only for the pay-
4 ment of salaries, wages, fees and other compensation for
5 skill, work, or employment, except from the appropriations
6 made to the spending units of State Government, there may

7 be transferred upon approval of the Governor, to a special
8 account an amount sufficient to match Federal Funds under
9 any Federal Acts.

10 Unless otherwise specified, appropriations for personal ser-
11 vices shall include salaries of heads of spending unit;

12 "Current Expenses" shall be expended only for operating
13 cost other than personal services or capital outlay;

14 "Repairs and Alterations" shall include all expenditures for
15 materials, supplies and labor used in repairing and altering
16 buildings, grounds and equipment, other than personal services;

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

20 "Buildings" shall include construction and alteration of struc-
21 tures and the improvements of lands, sewer and water im-
22 provements, and shall include shelter, support, storage, pro-
23 tection, or the improvement of a natural condition;

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

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

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

TITLE 2. APPROPRIATIONS.

§1. Appropriations from general revenue.

AGRICULTURE

Department of agriculture—Acct. No. 510	67
Department of agriculture (agricultural awards)—Acct. No. 515	69
Department of agriculture (division of rural resources)— Acct. No. 513	68
Department of agriculture (meat inspection)—Acct. No. 514	69
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Department of agriculture (West Virginia state fair grounds building)—Acct. No. 518	69

BUSINESS AND INDUSTRIAL RELATIONS

Antiquities commission—Acct. No. 478	66
Bureau of labor and department of weights and measures— Acct. No. 450	63
Council of State Governments—Acct. No. 472	65
Department of banking—Acct. No. 480	66
Department of commerce—Acct. No. 465	63
Department of mines—Acct. No. 460	63
Interstate commission on Potomac river basin—Acct. No. 473	65
Interstate education compact—Acct. No. 477	66
Ohio river basin commission—Acct. No. 469	65
Ohio river valley water sanitation commission—Acct. No. 474	65
Southern regional education board—Acct. No. 475	66
State commission on manpower, technology and training— Acct. No. 470	65
West Virginia air pollution commission—Acct. No. 476	66
West Virginia nonintoxicating beer commissioner—Acct. No. 490	67
West Virginia racing commission—Acct. No. 495	67
West Virginia state aeronautics commission—Acct. No. 485	67

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Huttonsville Correctional Center—Acct. No. 376	53
West Virginia children's home—Acct. No. 380	54
West Virginia forestry camp No. 2 (Leckie)—Acct. No. 373	52
West Virginia industrial home for girls—Acct. No. 372	52
West Virginia industrial school for boys—Acct. No. 370	51
West Virginia penitentiary—Acct. No. 375	53, 91
West Virginia state prison for women—Acct. No. 374	53

CONSERVATION AND DEVELOPMENT

Department of natural resources—Acct. No. 565	70, 92, 109
Geological and economic survey commission—Acct. No. 520	70
Public land corporation—Acct. No. 566	71

EDUCATIONAL

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Department of education—Acct. No. 286	46
Department of education (aid for exceptional children)— Acct. No. 296	48
Educational broadcasting authority—Acct. No. 291	47
State board of education (early childhood aides)—Acct. No. 297	49
State board of education (to implement federal vocational educa- tion Act)—Acct. No. 293	48
State board of education (vocational division)—Acct. No. 294	48
State board of education (vocational division—adult basic educa- tion)—Acct. No. 289	47
State department of education (state aid to schools)—Acct. No. 295	48

State department of education (school lunch program)—Acct. No. 287	47
State department of education (teacher education program)— Acct. No. 277	45
State FFA-FHA camp and conference center—Acct. No. 336	50
Teachers retirement board—Acct. No. 298	49
West Virginia board of regents—Acct. No. 280	45
West Virginia board of regents (control)—Acct. No. 279	45
West Virginia library commission—Acct. No. 350	50
West Virginia schools for the deaf and blind—Acct. No. 333	49
West Virginia University (medical school)—Acct. No. 285	46

EXECUTIVE

Governor's office—Acct. No. 120	38
Governor's office (civil contingent fund)—Acct. No. 124	38
Governor's office (custodial fund)—Acct. No. 123	38
Governor's office (disaster relief-federal matching)— Acct. No. 126	39
Governor's office (federal-state coordination)—Acct. No. 125	39, 108
West Virginia Housing development fund—Acct. No. 122	108

FISCAL

Auditor's office (general administration)—Acct. No. 150	39, 90
Auditor's office (social security)—Acct. No. 151	39
Department of finance and administration—Acct. No. 210	41, 91
Sinking fund commission—Acct. No. 170	40
State board of insurance—Acct. No. 225	43
State commissioner of public institutions—Acct. No. 190	41, 90
State tax department—Acct. No. 180	40
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Attorney general—Acct. No. 240	43
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Barboursville state hospital—Acct. No. 424	61
Colin Anderson Center—Acct. No. 419	58, 91
Commission on mental retardation—Acct. No. 411	58
Commission on postmortem examination—Acct. No. 401	55
Denmar state hospital—Acct. No. 432	62
Department of mental health—Acct. No. 410	57, 91, 108
Department of veterans affairs—Acct. No. 404	56

Department of veterans affairs (patriotic exercises)—Acct. No. 403	55
Department of welfare—Acct. No. 405	56
Department of welfare (food stamp and government donated food)—Acct. No. 407	57
Department of welfare (medical programs)—Acct. No. 408	57
Fairmont emergency hospital—Acct. No. 425	61
Guthrie Center—Acct. No. 418	58
Hopemont state hospital—Acct. No. 430	62
Huntington state hospital—Acct. No. 422	60, 92
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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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State board of education (rehabilitation division)—Acct. No. 440	63
State commission on aging—Acct. No. 406	56
State health department—Acct. No. 400	54
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JUDICIAL

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Joint expenses—Acct. No. 103	36
Senate—Acct. No. 101	33

MISCELLANEOUS BOARDS AND COMMISSIONS

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Board of chiropractic examiners—Acct. No. 588	73
Board of embalmers and funeral directors—Acct. No. 593	73
Board of examiners for practical nurses—Acct. No. 587	73
Board of land surveyors—Acct. No. 585	72
Board of law examiners—Acct. No. 597	74
Board of osteopathy—Acct. No. 591	73
Board of pharmacy—Acct. No. 590	73
Board of professional foresters—Acct. No. 586	73
Board of registration for professional engineers—Acct. No. 594	74
Board of sanitarians—Acct. No. 599	75
Human rights commission—Acct. No. 598	74
State veterinary board—Acct. No. 596	74
West Virginia public employees insurance board—Acct. No. 615	75
West Virginia public employees retirement board—Acct. No. 614	75

PROTECTION

Adjutant general (state militia)—Acct. No. 580	72, 93
Department of civil and defense mobilization—Acct. No. 581	72
Department of public safety—Acct. No. 570	71
Insurance commissioner—Acct. No. 616	76

§2. Appropriations from other funds.

PAYABLE FROM SPECIAL REVENUE FUND

Auditor's office (land department operating fund)—Acct. No. 812	80
Department of agriculture—Acct. No. 818	82
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Department of finance and administration (information system services division fund)—Acct. No. 8151-01	81
Department of natural resources—Acct. No. 830	84
Department of public safety (inspection fees)—Acct. No. 835	85
Public service commission—Acct. No. 828	83
Public service commission (gas pipeline division)—Acct. No. 8285	83
Public service commission (motor carrier division)— Acct. No. 829	84
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- \$3. Supplemental and deficiency appropriations.
- \$4. Appropriations from surplus revenue.
- \$5. Awards for claims against the state.
- \$6. Legislative findings of fact claims.
- \$7. Reappropriations.
- \$8. Appropriations from revenue sharing trust funds.
- \$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.
- \$14. Appropriations to pay cost of publication of delinquent corporations.
- \$15. Appropriations for local governments.
- \$16. Total appropriations.
- \$17. General school fund.

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

LEGISLATIVE

1—*Senate*

Acct. No. 101

Fiscal Year
1973-74

1	Compensation of Members	\$ 155,000
2	Compensation and per diem of officers and employees	300,000
3	Expenses of Members	113,500
4	Current Expenses and Contingent Fund	200,000
5	To pay cost of printing the 1973 edition of	
6	Blue Book	55,000

7 The distribution of which shall be by the office of the Clerk
 8 of the Senate and shall include seventy-five copies for each
 9 member of the Legislature and two copies to each classified
 10 and approved High and Junior High school and one to each
 11 Elementary school within the state.

12 The appropriations for the Senate for the fiscal year 1972-73
13 are to remain in full force and effect, and are hereby reap-
14 propriated to June 30, 1974.

15 Any balances so reappropriated may be transferred and
16 credited to the 1973-74 accounts.

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

21 The Clerk of the Senate with approval of the President is
22 authorized to draw his requisitions upon the Auditor, payable
23 out of the Current Expenses and Contingent Fund of the
24 Senate, for any bills for supplies and services that may have
25 been incurred by the Senate and not included in the ap-
26 propriation bill, for supplies and services incurred in prepara-
27 tion for the opening, the conduct of the business and after
28 adjournment of any regular or extraordinary session, and for
29 the necessary operation of the Senate offices, the requisition for
30 same to be accompanied by the bills to be filed with the
31 Auditor.

32 The President of the Senate, upon recommendation of the
33 Clerk of the Senate, shall have authority to employ such staff
34 personnel during any session of the Legislature as shall be
35 needed in addition to staff personnel authorized by Senate
36 resolution adopted during any such session. The Clerk of the
37 Senate, with the approval of the President of the Senate, shall
38 have authority to employ such staff personnel between sessions
39 of the Legislature as shall be needed, the compensation of all
40 staff personnel during and between sessions of the Legislature,
41 notwithstanding any such Senate resolution, to be fixed by the
42 Clerk of the Senate upon approval of the President of the
43 Senate. The Clerk is hereby authorized to draw his requisitions
44 for the payment of all such staff personnel upon the State
45 Auditor, payable out of the appropriation for Current Expenses
46 and Contingent Fund of the Senate for such services.

47 For duties imposed by law and by the Senate, the Clerk of
48 the Senate shall be paid a monthly salary of twenty-five
49 hundred dollars, payable from the amount appropriated for
50 Compensation and per diem of officers and employees.

2—House of Delegates

Acct. No. 102

Fiscal Year
1972-73

1 Current Expenses and Contingent Fund\$ 25,000

Fiscal Year
1973-74

2 Compensation of Members\$ 420,000

3 Compensation and per diem of officers and
employees 300,000

4 Expenses of Members 300,000

5 Current Expenses and Contingent Fund 275,000

6 Total\$ 1,295,000

7 The appropriations for the House of Delegates for the
8 fiscal year 1972-73 are to remain in full force and effect,
9 and are hereby reappropriated to June 30, 1974.

10 Any balances so reappropriated may be transferred and
11 credited to the 1973-74 accounts.

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

16 The Clerk of the House of Delegates, with approval of
17 the Speaker, is authorized to draw his requisitions upon the
18 Auditor, payable out of the contingent fund of the House
19 of Delegates, for any bills for supplies and services that may
20 have been incurred by the House of Delegates, and not in-
21 cluded in the appropriation bill, for bills for services and
22 supplies incurred in preparation for the opening of the session
23 and after adjournment, and for the necessary operation of
24 the House of Delegates' offices, the requisition for the same
25 to be accompanied by bills to be filed with the Auditor.

26 For duties imposed by law and by the House of Delegates,
27 including salary allowed by law as keeper of the rolls, the
28 Clerk of the House of Delegates shall be paid a monthly
29 salary as provided in House Resolution No. 3, adopted Jan-
30 uary 10, 1973, payable from the per diem of officers and

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

34 The Speaker of the House of Delegates, upon recommenda-
 35 tion of the Chairman of the Finance Committee, shall have
 36 authority to employ such staff personnel during and between
 37 sessions of the Legislature as shall be needed, and the Clerk
 38 of the House is hereby authorized to draw requisitions upon
 39 the State Auditor, payable out of the appropriation for Con-
 40 tingent 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

6 The appropriations for Joint Expenses for the fiscal year
 7 1972-73, are to remain in full force and effect and are hereby
 8 reappropriated to June 30, 1974. Any balances so reappro-
 9 priated may be transferred and credited to the 1973-74
 10 accounts.

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

4—Supreme Court of Appeals

Acct. No. 110

28.

1 Salaries of Judges\$ 175,000

2 Other Personal Services 263,377

3 Current Expenses 50,750

4	Equipment	505,500
5	Total	\$ 994,627

(Line 4 reduced from \$505,500 to \$130,500 and in line 5, total reduced from \$994,627 to \$619,627. Governor's action invalidated by the Court.)

5—Judicial—Auditor's Office

Acct. No. 111

1	Salaries of Judges	\$ 867,000
2	Other Personal Services	183,400
3	Current Expenses	45,400
4	Judges Retirement System	450,000
5	Criminal Charges	640,000
6	Total	\$ 2,185,800

7 This appropriation shall be administered by the State Audi-
 8 tor who shall draw his requisition for warrants in payments
 9 of salaries in the form of payrolls, making deductions there-
 10 from as required by law, for taxes and other items. The ap-
 11 propriation for Judges Retirement System is to be transferred
 12 to the Judges Retirement Fund, in accordance with the law
 13 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

1	Personal Services	\$ 75,521
2	Current Expenses	10,750
3	Equipment	50,000
4	Total	\$ 136,271

(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

1	To pay expenses of Members of the Council	\$ 12,000
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EXECUTIVE

8—Governor's Office

Acct. No. 120

1	Salary of Governor	\$ 35,000
2	Other Personal Services	181,730
3	Current Expenses	60,000
4	Equipment	15,000
5	Total	\$ 291,730

6 Any unexpended balance remaining at the close of the fis-
7 cal year 1972-73 from the appropriation "Publication of Gov-
8 ernor's Papers and Inaugural Expense" is hereby reappro-
9 priated for expenditure during the fiscal year 1973-74.

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

9—Governor's Office—Custodial Fund

Acct. No. 123

1	Total	\$ 75,000
2	To be used for current general expenses, including compen-	
3	sation of employees, household maintenance, cost of official	
4	functions, and any additional household expenses occasioned	
5	by such official functions.	

10—Governor's Office—Civil Contingent Fund

Acct. No. 124

1	Total	\$ 300,000
2	Of this appropriation there may be expended, at the discre-	
3	tion of the governor, an amount not to exceed \$1,000.00 as	
4	West Virginia's contribution to the Interstate Oil Compact	
5	Commission.	

6 Any unexpended balance remaining in this appropriation at
7 the close of the fiscal year 1972-73 is hereby reappropriated
8 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
3 close of the fiscal year 1972-73 is hereby reappropriated for
4 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
3 appropriation may be transferred to any department for such
4 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
2 social security\$ 5,100,000

3 The above appropriation is intended to cover the state's
4 share of social security costs for those spending units operat-
5 ing from General Revenue Fund. The State Department of
6 Highways, Department of Motor Vehicles, Workmen's Com-
7 pensation Commission, Public Service Commission, and other
8 departments operating from Special Revenue Fund and/or
9 Federal Funds shall pay their proportionate share of the

- 10 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 reapprop-
 13 priated for expenditure during the fiscal year 1973-74.

15—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer	\$ 22,500
2	Other Personal Services	202,585
3	Current Expenses	40,900
4	Equipment	27,500
5	Board of Investments	3,000
6	Total	\$ 296,485

(\$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

1	School Building Sinking Fund	\$ 0,000,000
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(Amount of \$4,750,000 for School Building Sinking Fund and qualifying paragraph following deleted.)

17—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services	\$ 39,052
2	Current Expenses	3,300
3	Equipment	1,500
4	Total	\$ 43,852

18—*State Tax Department*

Acct. No. 180

1	Personal Services	\$ 2,499,680
2	Current Expenses	1,807,512
3	Equipment	53,400

4	Circuit Breaker Reimbursement	162,350
5	Total	\$ 4,522,942
6	The above appropriation "Circuit Breaker Reimbursement"	
7	is to be used in accordance with Engrossed House Bill No.	
8	751, 1972 Regular Session of the Legislature.	

19—*State Tax Department—
Property Appraisal*

Acct. No. 185

1	Personal Services	\$ 920,275
2	Other Expenses	735,690
3	Reimbursement to Counties	80,000
4	Total	\$ 1,735,965
5	Any balance remaining in the "Property Appraisal Account"	
6	at the close of the fiscal year 1972-73 is hereby reappropriat-	
7	ed for expenditure during the fiscal year 1973-74.	

20—*State Commissioner of Public Institutions*

Acct. No. 190

1	Salary of Commissioner	\$ 20,000
2	Salaries of Board Members—Board of Pro-	
3	bation and Parole	40,500
4	Other Personal Services	\$ 535,040
19	Current Expenses	157,400
20	Equipment	4,000
21	Total	\$ 756,940

(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*

Acct. No. 210

1	Personal Services	\$ 1,026,980
2	Current Expenses	538,160

3	Repairs and Alterations	65,000
4	Equipment	20,530
5	Postage	330,000
6	Records Management	52,000
7	Office of State Emergency Planning	25,000
8	State Agency Surplus Property	55,000
9	Transportation Division—Vehicles	50,000
10	Fire Service Fee	73,965
		<hr/>
11	Total	\$ 2,236,635

12 The Workmen's Compensation Commission, Department of
 13 Welfare, Public Service Commission, Department of Natural
 14 Resources, Department of Motor Vehicles, State Department
 15 of Highways, State Health Department and State Tax Depart-
 16 ment—Income Tax Division shall reimburse the Postage ap-
 17 propriation of the Department of Finance and Administration
 18 monthly for all meter service. Any spending unit operating
 19 from Special Revenue or receiving reimbursement for postage
 20 costs from the Federal Government shall refund to the Postage
 21 account of the Department of Finance and Administration
 22 such amounts. Should this appropriation for Postage be in-
 23 sufficient to meet the mailing requirements of the State
 24 spending units as set out above, any excess postage meter
 25 service requirements shall be a proper charge against the
 26 units, and each spending unit shall refund to the Postage
 27 appropriation of the Department of Finance and Administra-
 28 tion any amounts required for that Department for postage in
 29 excess of this appropriation.

30 Any unexpended balance remaining in the "Postage Ac-
 31 count" at the close of the fiscal year 1972-73 is hereby
 32 reappropriated for expenditure during the fiscal year 1973-74.

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

38 State Department of Highways shall reimburse the appro-
 39 priation of the Department of Finance and Administration
 40 monthly for all actual expenses incurred pursuant to the
 41 provisions of Chapter 17, Article 2A, Section 13 of the

42 Code of West Virginia.

43 There also is appropriated for the State Agency for Surplus
44 Property all sums of money collected by that agency from the
45 sale of surplus state property which has been declared ex-
46 pendable by the director of the Purchasing Division, and a
47 special account created for expenditure for the purchase of
48 operating equipment.

22—*State Board of Insurance*

Acct. No. 225

1	Personal Services	\$ 22,920
2	Current Expenses	10,585
3	Equipment	150
4	Self-Insurance Fund	200,000
5	Combined Insurance Premiums	1,100,000
6	Total	\$ 1,333,655

7 The above appropriation on line 5 is for the purpose of
8 paying premiums for fire, automobile and bonds for the var-
9 ious state agencies. Should this appropriation be insufficient
10 to meet the premium requirements of the state spending units,
11 any excess premium requirements shall be a proper charge
12 against the units and each spending unit shall reimburse to
13 the Board of Insurance any amounts required for that depart-
14 ment for premiums in excess of this appropriation.

15 Any unexpended balance remaining in the appropriation
16 for "Self-Insurance Fund" at the close of the fiscal year
17 1972-73 is hereby reappropriated for expenditure during the
18 fiscal year 1973-74.

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

LEGAL

23—*Attorney General*

Acct. No. 240

1	Salary of Attorney General	\$ 22,500
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2	Other Personal Services	719,349
3	Current Expenses	91,150
4	Equipment	16,000
5	Consumer Protection	00,000
8	To protect the resources or tax structure of the	
9	State in controversies or legal proceedings affect-	
10	ing same	3,250
11	Total	\$ 852,249
12	When legal counsel or secretarial help is appointed by the	
13	Attorney General, for any state spending unit, this account	
14	shall be reimbursed from such unit's appropriated account in	
15	an amount agreed upon by the Attorney General and the	
16	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 Uni-	
3	form State Laws.	

INCORPORATING AND RECORDING

25—Secretary of State

Acct. No. 250

1	Salary of Secretary of State	\$ 22,500
2	Other Personal Services	128,300
3	Current Expenses	40,455
4	Equipment	6,000
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.)

EDUCATIONAL

26—*State Department of Education*

Acct. No. 277

1	Teacher Education Program	\$ 125,000
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27—*West Virginia Board of Regents (Control)*

Acct. No. 279

1	Personal Services	\$56,335,725
2	Current Expenses	7,186,372
3	Repairs and Alterations	2,366,742
4	Equipment	3,000,000
5	Oak Wilt Research	10,500
6	Veterinary Tuition	163,000
7	Optometry Tuition	12,500
8	Educational T.V.	686,576
9	Bureau for Coal Research	325,500
10	Forestry Products	131,500
11	Regional Research Institute	87,600
12	Agriculture Experiment Station—Intensive	
13	Horticulture Demonstration	27,700
14	Agriculture Experiment Station—Intensive Agricul-	
15	ture-Demonstration Trial	30,000
16	Center for Economic Action	48,750
17	Community & Development Research	24,500
18	Individual Accreditation	200,000
19	New Programs	300,000
20	Unclassified	350,000
21	Title I—Matching Funds	130,000
22	Awareness Program	50,000
23	Scholarship Program	500,000
24	Facilities and Scholarship Administration	50,964
25	Total	\$72,017,929

(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

1	Personal Services	\$ 323,972
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2	Current Expenses	103,835
3	Equipment	3,600
		<hr/>
4	Total	\$ 431,407

29—*West Virginia University—Medical School*

Acct. No. 285

1	Personal Services	\$ 3,516,098
2	Current Expenses	000,000
3	Repairs & Alterations	000,000
4	Equipment	000,000
5	Intern & Residency Support Programs	300,000
		<hr/>
6	Total	\$ 3,816,098

- 7 To be transferred to the West Virginia University—Medical
8 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*

Acct. No. 286

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

- 12 The above appropriation includes the State Board of Edu-
13 cation and their executive offices.

- 14 Any part or all of the appropriation for "National Defense
15 Education Act" may be transferred to a Special Revenue Fund
16 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

1	Personal Services	\$ 98,843
2	Current Expenses	25,575
3	Aid to Counties—Includes hot lunches and can-	
4	ning for hot lunches	750,000
5	Total	\$ 874,418

32—*State Board of Education—Vocational Division*

Acct. No. 289

1	Personal Services	\$ 137,912
2	Current Expenses	50,855
3	Equipment	3,575
4	Vocational Aid	400,000
5	Adult Basic Education	250,000
6	Total	\$ 842,342

33—*Educational Broadcasting Authority*

Acct. No. 291

1	Personal Services	\$ 44,150
2	Current Expenses	29,500
3	Equipment	2,000
4	Regional ETV	1,198,288
5	Total	\$ 1,273,938

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

34—*State Board of Education—Vocational Division*

Acct. No. 293

1	To implement Vocational Education Act	
2	of 1963 P.L. 88-210	\$ 4,000,000
3	Manpower Development Training Act	100,000
4	Total	<u>\$ 4,100,000</u>

35—*State Board of Education—Vocational Division*

Acct. No. 294

1	Total	\$ 170,000
2	Any unexpended balance remaining in the appropriation	
3	“Aid to Counties” at the close of the fiscal year 1972-73 is	
4	hereby reappropriated for expenditure during the fiscal year	
5	1973-74.	

36—*State Department of Education—State Aid to Schools*

Acct. No. 295

1	State Aid to Schools	\$166,866,052
2	Total	<u>\$166,866,052</u>

(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

3 contributions of members 3,525,000

4 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 expen-
9 diture during the fiscal year 1973-74.

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

Acct. No. 336

1	Personal Services	\$	70,800
2	Current Expenses		13,000
3	Repairs and Alterations		18,600
4	Equipment		18,300
<hr/>			
5	Total	\$	120,700

42—*Department of Archives and History*

Acct. No. 340

1	Personal Services	\$	111,468
2	Current Expenses		51,650
3	Equipment		40,955
<hr/>			
4	Total	\$	204,073

43—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$	417,480
2	Current Expenses		147,650
3	Repairs and Alterations		3,500
4	Equipment		5,000
5	Books and Periodicals		53,169
6	Grants-in-Aid		410,000
<hr/>			
7	Total	\$	1,036,799

8 Any unexpended balance remaining in the appropriation
 9 "Library Matching Fund" at the close of the fiscal year 1972-
 10 73 is hereby reappropriated for expenditure during the fiscal
 11 year 1973-74.

12 The amounts appropriated are intended to fund this ac-
 13 count in the absence of receipt of any federal funds; however,

14 should any federal funds be made available and be received
 15 for expenditure in connection with the said account, or any
 16 item or items thereof, then such account or item or items
 17 thereof shall be reduced accordingly; except to the extent
 18 such account or item or items thereof must be maintained to
 19 qualify for receipt of such federal funds.

CHARITIES AND CORRECTION

44—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services (Regular) _____	\$ 659,960
23	Subtotal _____	\$ 659,960
24	Personal Services (Anthony Correctional Center) \$	238,710
39	Subtotal _____	\$ 238,710
40	Current Expenses (Regular)—	
41	Subtotal _____	208,300
42	Current Expenses (Anthony	
43	Correctional Center)—	
44	Subtotal _____	94,150
45	Total _____	302,450
46	Repairs and Alterations (Regular)—	
47	Subtotal _____	63,650
48	Repairs and Alterations (Anthony	
49	Correctional Center)—	
50	Subtotal _____	14,550
51	Total _____	78,200
52	Equipment (Regular)—	
53	Subtotal _____	30,700
54	Equipment (Anthony Correctional	
55	Center)—Subtotal _____	14,000
56	Total _____	44,700
57	Total _____	\$ 1,324,020

(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)*

Acct. No. 371

1	Personal Services	\$ 224,360
13	Current Expenses	111,650
14	Repairs and Alterations	15,300
15	Equipment	21,500
		<hr/>
16	Total	\$ 372,810

(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*

Acct. No. 372

1	Personal Services	\$ 351,415
16	Current Expenses	125,300
17	Repairs and Alterations	37,900
18	Equipment	27,800
19	Vocational Training	5,000
		<hr/>
20	Total	\$ 547,415

(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)*

Acct. No. 373

1	Personal Services	\$ 223,360
12	Current Expenses	122,500
13	Repairs and Alterations	24,450
14	Equipment	20,000
		<hr/>
15	Total	\$ 390,310

(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

1	Personal Services	\$ 103,170
13	Current Expenses	56,435
14	Repairs and Alterations	20,050
15	Equipment	10,800
16	Total	<u>\$ 190,455</u>

(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

1	Personal Services	\$ 1,591,400
19	Current Expenses	794,600
20	Repairs and Alterations	157,300
21	Equipment	143,000
22	Total	<u>\$ 2,686,300</u>

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

29 Any or all of the accounts "Repairs to Roof and Replace-
30 ment of Windows and Sash (Security Windows);" "Replace-
31 ment of Sanitary System (Sewer) and Construction of Boiler
32 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

1	Personal Services	\$ 1,110,120
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54 APPROPRIATIONS [Ch. 10]

21	Current Expenses	324,372
22	Repairs and Alterations	65,900
23	Equipment	19,000
		<hr/>
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
		<hr/>
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
		<hr/>
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

3	Equipment	35,415
4	Emergency Medical Services	45,000
5	Cancer Control and Treatment	230,000
6	Local Health Services	1,500,000
7	Dental Clinics	120,172
8	Heart Disease Control	125,000
9	Maternal and Child Healthmobile Medical	
10	Examination Clinic	325,000
11	Home Health Services	41,000
12	Mobile Chest X-Ray & Diagnostic Services	
13	for Tuberculosis Control	80,000
14	Hospitals and Medical Facilities Construction	
15	Program	17,500
16	Special Project for Eradication of Tubercu-	
17	losis	244,000
18	Environmental Health Services	123,335
19	Nursing Home Inspection Unit	80,000
20	Biologicals for Immunization and Venereal	
21	Disease	70,000
22	Early Childhood Development Program	185,746
23	Total	\$ 4,507,046

54—Commission on Postmortem Examination

Acct. No. 401

- 1 Total \$ 000,000
- 2 Any unexpended balance remaining in the appropriation
- 3 "Commission on postmortem Examination" at the close of
- 4 the fiscal year 1972-73 is hereby reappropriated for expendi-
- 5 ture during the fiscal year 1973-74.

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

55—Department of Veterans Affairs

Acct. No. 403

- 1 In aid of Veterans Day Patriotic Exercises \$ 3,000
- 2 To be expended subject to the approval of the Department
- 3 of Veterans Affairs upon presentation of satisfactory plans by

- 4 the Grafton G.A.R. Post, American Legion, Veterans of For-
 5 eign Wars and Sons of Veterans.

56—*Department of Veterans Affairs*

Acct. No. 404

1	Personal Services	\$ 321,240
2	Current Expenses	70,800
3	Equipment	5,100
4	To provide Educational Opportunities for Chil-	
5	dren of War Veterans as provided by chapter	
6	thirty-nine, acts of the Legislature, one thou-	
7	sand nine hundred forty-three	15,000
8	Total	\$ 412,140

- 9 Any unexpended balance remaining in the appropriation
 10 "To Provide Educational Opportunities for Children of War
 11 Veterans" at the close of the fiscal year 1972-73 is hereby
 12 reappropriated for expenditure during the fiscal year 1973-74.

57—*Department of Welfare*

Acct. No. 405

1	Personal Services	\$ 4,053,188
2	Current Expenses	2,271,506
3	Equipment	58,820
4	Public Assistance Grants (Classified Aid)	15,000,000
5	Child Welfare Services	4,827,263
6	Emergency Assistance Program	1,550,000
7	Social Security Matching Fund	404,100
8	Total	\$28,164,877

58—*State Commission on Aging*

Acct. No. 406

1	Personal Services	\$ 46,697
2	Current Expenses	36,300
3	Programs for Elderly	250,000
4	Total	\$ 332,997

*59—Department of Welfare—Food Stamp and
Government Donated Food*

Acct. No. 407

1	Personal Services	\$ 1,262,872
2	Current Expenses	475,434
3	Equipment	6,000
4	Total	<u>\$ 1,744,306</u>

60—Department of Welfare—Medical Programs

Acct. No. 408

1	Personal Services	\$ 1,395,345
2	Current Expenses	281,660
3	Equipment	15,667
4	Direct Aid (Medical)	13,171,849
5	Total	<u>\$14,864,521</u>

61—Department of Mental Health

Acct. No. 410

3	Director	\$ 25,000
1	Personal Services	848,906
	Subtotal	<u>\$ 873,906</u>
62	Less Federal Funds	116,000
	Subtotal—State Funds	<u>757,906</u>
65	Current Expenses	204,870
66	Equipment	13,000
67	Research and Training	10,000
68	Civil Service Costs	80,000
69	Division of Health Education	20,000
70	Community Mental Retardation Program	500,000
71	Alcohol and Drug Abuse Program	425,000
72	Community Mental Health Programs	<u>952,000</u>
73	Total	<u>\$ 2,962,776</u>
74	Any unexpended balance remaining in the account "Mental	
75	Health Center-Princeton" at the close of the fiscal year 1972-	

76 73 is hereby reappropriated for expenditure during the fiscal
77 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

1 Total\$ 60,000

63—*Roney's Point Branch Hospital*

Acct. No. 417

1	Personal Services	\$ 173,100
2	Current Expenses	52,500
3	Repairs and Alterations	20,000
4	Equipment	3,750
5	Total	\$ 249,350

6 The above appropriation for current expenses includes \$15,-
7 731 for the purchase of food and/or food products and such
8 appropriation shall not be used for any other purpose.

64—*Guthrie Center*

Acct. No. 418

1	Personal Services	\$ 448,928
36	Current Expenses	182,951
37	Repairs and Alterations	42,600
38	Equipment	29,800
39	Total	\$ 704,279

40 The above appropriation for current expenses includes \$60,-
41 000 for the purchase of food and/or food products and
42 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

1 Personal Services \$ 3,049,605

36	Current Expenses	469,095
37	Repairs and Alterations	81,400
38	Equipment	102,916
39	Total	<u>\$ 3,703,016</u>

40 The above appropriation for current expenses includes
41 \$182,500 for the purchase of food and/or food products and
42 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.)

66—*Weston State Hospital*

Acct. No. 420

1	Personal Services	\$ 4,116,939
40	Current Expenses	1,299,530
41	Repairs and Alterations	136,500
42	Equipment	109,000
43	Psychiatric Training Center	
44	for Student Nurses	250,000
45	Total	<u>\$ 5,911,969</u>

46 The above appropriation for current expenses includes
47 \$650,000 for the purchase of food and/or food products and
48 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.)

67—*Spencer State Hospital*

Acct. No. 421

1	Personal Services	\$ 2,400,974
39	Current Expenses	753,150
40	Repairs and Alterations	74,500
41	Equipment	59,700
42	Total	<u>\$ 3,288,324</u>

43 Any unexpended balance remaining in "Boiler Plant" at the
44 close of fiscal year 1972-73, is hereby reappropriated for ex-
45 penditure during fiscal year 1973-74.

46 The above appropriation for current expenses includes
 47 \$295,000 for the purchase of food and/or food products and
 48 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

1	Personal Services	\$ 2,828,774
49	Current Expenses	894,175
50	Repairs and Alterations	127,975
51	Equipment	69,100
52	Student Nurse Affiliation Program	41,000
		<hr/>
53	Total	\$ 3,961,024

54 Any unexpended balance remaining in the appropriation
 55 "Boiler Plant—Replacement of Existing Boiler" at the close
 56 of the fiscal year 1972-73 is hereby reappropriated for ex-
 57 penditure during the fiscal year 1973-74.

58 The above appropriation for current expenses includes
 59 \$375,000 for the purchase of food and/or food products and
 60 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

1	Personal Services	\$ 1,420,962
37	Current Expenses	383,905
38	Repairs and Alterations	93,900
39	Equipment	48,900
		<hr/>
40	Total	\$ 1,947,667

41 Any unexpended balance remaining in the appropriation—
 42 "Renovation Classroom Building, Construct Ward Building," at
 43 the close of the fiscal year 1972-73 is hereby reappropriated
 44 for expenditure during the fiscal year 1973-74.

45 The above appropriation for current expenses includes
46 \$140,000 for the purchase of food and/or food products
47 and such appropriation shall not be used for any other
48 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

1	Personal Services	\$ 809,539
22	Current Expenses	197,000
23	Repairs and Alterations	48,650
24	Equipment	16,050
		<hr/>
25	Total	\$ 1,071,239

26 The above appropriation for current expenses includes
27 \$82,300 for the purchase of food and/or food products and
28 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

1	Personal Services	\$ 437,800
12	Current Expenses	145,140
13	Repairs and Alterations	22,700
14	Equipment	17,600
		<hr/>
15	Total	\$ 623,240

(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

1	Personal Services	\$ 647,220
15	Current Expenses	258,100
16	Repairs and Alterations	71,000

17	Equipment	65,300
18	Total	\$ 1,041,620

(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

1	Personal Services	\$ 2,120,315
22	Current Expenses	435,106
23	Repairs and Alterations	31,700
24	Equipment	50,750
25	Total	\$ 2,637,871

(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

1	Personal Services	\$ 2,025,210
27	Current Expenses	583,605
28	Repairs and Alterations	39,600
29	Equipment	83,700
30	Total	\$ 2,732,115

(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

1	Personal Services	\$ 1,535,155
21	Current Expenses	383,000
22	Repairs and Alterations	35,700
23	Equipment	90,995
24	Total	\$ 2,044,850

(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

Acct. No. 440

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

BUSINESS AND INDUSTRIAL RELATIONS

*77—Bureau of Labor and Department of
Weights and Measures*

Acct. No. 450

1	Personal Services	\$ 627,500
2	Current Expenses	219,880
3	Equipment	12,350
4	Total	\$ 859,730

78—Department of Mines

Acct. No. 460

1	Personal Services	\$ 1,701,367
2	Current Expenses	339,310
3	Equipment	50,500
4	Total	\$ 2,091,177

79—Department of Commerce

Acct. No. 465

1	Personal Services	\$ 517,981
2	Current Expenses	1,143,992

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

25 The above appropriations, Mountain State Forest Festival,
 26 Alpine Festival, White Water Weekend, Oil and Gas Festival,
 27 West Virginia Water Festival, Calhoun County Wood Festival,
 28 Cherry River Festival, New Martinsville Regatta, Mothers
 29 Day Founder's Festival, Braxton County Regatta, Mountain
 30 Heritage Arts and Crafts Fair, Wellsburg July 4th Celebration,
 31 Sternwheel Regatta, Sistersville Outboard Regatta, and West
 32 Virginia Historical Drama Association shall be expended only
 33 upon authorization of the Commerce Commissioner and in ac-
 34 cordance with the provisions of Chapter 5A of the Code of
 35 West Virginia.

36 All Federal moneys received as reimbursements to the De-
 37 partment of Commerce, for moneys expended from the General
 38 Revenue fund for Arts and Humanities are hereby reappropri-
 39 ated for the purpose as originally made, including Personal
 40 Services, Current Expenses and Equipment.

41 Any unexpended balance remaining in the appropriation
42 "Independence Hall, Wheeling, West Virginia" at the close of
43 the fiscal year 1972-73 is hereby reappropriated for expendi-
44 ture during the fiscal year 1973-74.

45 Any unexpended balance remaining in the account "Na-
46 tional Youth Science Camp" at the close of the fiscal year
47 1972-73 is hereby reappropriated for expenditure during the
48 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
2 Basin Interstate Commission\$ 12,450

84—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

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

85—*Southern Regional Education Board*

Acct. No. 475

- | | | |
|---|--|-----------|
| 1 | West Virginia's contribution to Southern Re- | |
| 2 | gional Education Board _____ | \$ 75,000 |
| 3 | To be expended upon requisition of the Governor. | |

86—*West Virginia Air Pollution Commission*

Acct. No. 476

- | | | |
|---|-------------------------|------------|
| 1 | Personal Services _____ | \$ 351,745 |
| 2 | Current Expenses _____ | 113,200 |
| 3 | Equipment _____ | 8,880 |
| 4 | Total _____ | \$ 473,825 |

87—*Interstate Education Compact*

Acct. No. 477

- | | | |
|---|--|----------|
| 1 | West Virginia's contribution to Interstate | |
| 2 | Education Compact _____ | \$ 9,500 |

88—*Antiquities Commission*

Acct. No. 478

- | | | |
|---|-------------------------|-----------|
| 1 | Personal Services _____ | \$ 20,724 |
| 2 | Current Expenses _____ | 6,916 |
| 3 | Equipment _____ | 1,500 |
| 4 | Total _____ | \$ 29,140 |

89—*Department of Banking*

Acct. No. 480

- | | | |
|---|-------------------------|------------|
| 1 | Personal Services _____ | \$ 187,400 |
| 2 | Current Expenses _____ | 67,300 |
| 3 | Equipment _____ | 3,912 |
| 4 | Total _____ | \$ 258,612 |

90—*West Virginia State Aeronautics Commission*

Acct. No. 485

1	Personal Services _____	\$ 29,973
2	Current Expenses _____	20,405
3	Equipment _____	2,000
4	Aerial Markers _____	1,200
5	Civil Air Patrol Expenses _____	17,000
6	Airport Matching Fund _____	900,000
7	Total _____	\$ 970,578
8	Any unexpended balance remaining in the appropriation	
9	"Airport Matching Fund" at the close of the fiscal year 1972-	
10	73 is hereby reappropriated for expenditure during fiscal year	
11	1973-74.	

91—*West Virginia Nonintoxicating Beer Commissioner*

Acct. No. 490

1	Personal Services _____	\$ 188,015
2	Current Expenses _____	70,000
3	Equipment _____	3,000
4	Total _____	\$ 261,015

92—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services _____	\$ 282,900
2	Current Expenses _____	38,230
3	Equipment _____	2,500
4	Total _____	\$ 323,630

AGRICULTURE

93—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner _____	\$ 22,500
---	------------------------------	-----------

2	Other Personal Services	913,489
3	Current Expenses	505,726
4	Equipment	26,672
5	Marijuana and Multiflora Rose Eradication	
6	Program	60,000
7	Total	\$ 1,528,387

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

11 Any unexpended balance remaining in "Eradication Pro-
12 gram" and "Laboratory Facility" at the close of fiscal year
13 1972-73, is hereby reappropriated for expenditure during
14 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 Pro-
6 gram at the end of the fiscal year 1972-73 is hereby reap-
7 propriated 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	
3	to Special Revenue Fund for the purpose of matching Federal	
4	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
3 to Special Revenue Fund for the purpose of matching Federal
4 Funds for the above-named program.

5 Any unexpended balance remaining in the appropriation
6 "Meat Inspection" at the close of the fiscal year 1972-73 is
7 hereby reappropriated for expenditure during the fiscal year
8 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

1	Personal Services	\$ 377,492
2	Current Expenses	127,750
3	Repairs and Alterations	8,000
4	Equipment	53,975
5	Cooperative Mapping and Water Studies	
6	Program	193,801
7	Coal Quality and Reserve Study	100,000
8	Total	\$ 861,018

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

100—*Department of Natural Resources*

Acct. No. 565

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

- 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 Con-
 96 servation Officers," subsistence shall be paid at the rate of
 97 seven dollars and fifty cents per calendar day to the chief con-
 98 servation officer and each full-time uniformed conservation
 99 officer, under his direct supervision, whose primary duties and
 100 responsibilities are law enforcement.
- 101 Any or all funds appropriated for "Clarke-McNary Fire
 102 Prevention" may be transferred to Special Funds to match and
 103 aid Federal Funds.
- 104 Any unexpended balance remaining in the appropriations
 105 "Capital Improvements, State Parks, Cacapon State Park Golf
 106 Course", "Grave Creek Mound Park, Panther State Forest,
 107 Piney Creek Watershed, Land Purchase and Development of
 108 Sandstone Falls, Purchase of Land at Pipestem State Park, and
 109 Land Purchase and Upgrading Facilities at Laurel Lake" at
 110 the close of the fiscal year 1972-73 is hereby reappropriated
 111 for expenditure during the fiscal year 1973-74.
- 112 Any or all of the appropriation "Capital Improvements,
 113 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
 2 "Public Land Corporation" at the close of the fiscal year 1972-
 3 73 is hereby reappropriated for expenditure during the fiscal
 4 year 1973-74.

PROTECTION

102—Department of Public Safety

Acct. No. 570

- 1 Personal Services _____ \$ 5,580,852
 2 Current Expenses _____ 2,296,519

3	Repairs and Alterations	137,000
4	Equipment	787,978
5	Emergency Fund	5,000
		<hr/>
6	Total	\$ 8,807,349

103—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services	\$ 115,295
2	Current Expenses	229,410
3	Repairs and Alterations	24,500
4	Equipment	7,200
5	Compensation of Commanding Officers, Cleri-	
6	cal Allowances and Uniform Allowances	95,960
7	Property Maintenance	284,700
8	State Armory Board	1,083,709
		<hr/>
9	Total	\$ 1,840,774

104—*Department of Civil and Defense Mobilization*

Acct. No. 581

1	Personal Services	\$ 51,680
2	Current Expenses	17,090
3	Equipment	2,400
		<hr/>
4	Total	\$ 71,170

105—*West Virginia State Board of Land Surveyors*

Acct. No. 585

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

106—*State Board of Professional Foresters*

Acct. No. 586

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

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

Acct. No. 587

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

108—*State Board of Chiropractic Examiners*

Acct. No. 588

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

109—*State Board of Pharmacy*

Acct. No. 590

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

110—*State Board of Osteopathy*

Acct. No. 591

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

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
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2	Current Expenses	66,295
3	Equipment	3,235
4	Total	\$ 222,052

117—*West Virginia State Board of Sanitarians*

Acct. No. 599

1	To pay the per diem of members and other	
2	general expenses	\$ 800
3	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

4 The above appropriation is intended to cover the state's
 5 share of the West Virginia Public Employees Retirement cost
 6 in accordance with Chapter 5, Article 10 of the Code of West
 7 Virginia for those departments operating from General Reve-
 8 nue Fund. The State Department of Highways, Department
 9 of Motor Vehicles, State Tax Department—Gasoline Tax
 10 Division, Workmen's Compensation Commission, Public Ser-
 11 vice Commission, and other departments operating from
 12 Special Revenue Funds and/or Federal Funds shall pay
 13 their proportionate share of the retirement costs for their
 14 respective divisions. When specific appropriations are not
 15 made such payments may be made from the balances in the
 16 various Special Revenue Funds in excess of specific appro-
 17 priations.

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

119—*West Virginia Public Employees Insurance Board*

Acct. No. 615

1	Expense Fund	\$ 60,000
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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 Any or all of the above appropriation may be transferred
 18 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

1 **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

2	Federal-Aid Construction—ABC Program	25,000,000
3	Appalachian Program	100,000,000
4	Interstate Maintenance	4,000,000
5	Maintenance—Expressway, Trunkline	
6	and Feeder	26,000,000
7	Maintenance—State Local Service	32,000,000
8	Nonfederal Aid Construction	20,000,000
9	Emergency Road Operations	8,000,000
10	Scenic Highway	2,400,000
11	Forest Highway	600,000
12	General Operations	23,000,000
13	Equipment Purchases	1,000,000
14	Inventory Purchases	1,000,000
15	Debt Service	49,500,000
16	Total	\$431,500,000

17 It is the intent to appropriate and make available for ex-
 18 penditure, the balances and all revenues and income of the
 19 state road fund, including the proceeds from the sale of bonds,
 20 for the maintenance, construction and re-construction of state
 21 roads and for other purposes in accordance with the pro-
 22 visions of Chapter 17, Code of West Virginia, one thousand
 23 nine hundred thirty-one, as amended.

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

27 The State Commissioner of Highways shall have the au-
 28 thority to operate revolving funds within the state road fund
 29 for the operation and purchase of various types of equipment
 30 used directly and indirectly in the construction and mainten-
 31 ance of roads and for the purchase of inventories and materials
 32 and supplies: *Provided, however,* That the operation of such
 33 revolving funds shall not cause expenditures in excess of the
 34 foregoing appropriations.

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

40 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

1	Personal Services	\$ 950,838
2	Current Expenses	1,066,140
3	Equipment	30,000
4	Purchase of License Plates	285,000
5	Social Security Matching Fund	64,000
6	Public Employees Retirement Matching Fund	109,000
7	Public Employees Health Insurance	32,000
8	Total	\$ 2,536,978

123—*State Tax Department—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 290,230
2	Current Expenses	118,307
3	Equipment	4,620
4	Social Security Matching Fund	17,758
5	Public Employees Health Insurance	14,100
6	Total	\$ 445,015

124—*Department of Education—Veterans Education*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 110,179
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2 Other Expenses 27,600

3 Total\$ 137,779

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

6 Federal funds in excess of the amounts hereby appropriated
7 may be made available by budget amendment upon request of
8 the State Superintendent of Schools and approval of the
9 Governor for any emergency which might arise in the operation
10 of this division during the fiscal year.

125—*Treasurer's Office*

Acct. No. 800

TO BE PAID FROM SPECIAL REVENUE FUND

1 Abandoned and Unclaimed Property—Trust
2 and Expense Fund\$ 28,120

126—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services\$ 75,609
2 Current Expenses 20,530
3 Equipment 500
4 Social Security Matching Fund 4,081
5 Public Employees Retirement Matching Fund ... 6,585
6 Public Employees Health Insurance 1,470
7 Total\$ 108,775

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

127—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1 Medical Expenses\$ 5,000

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

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

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

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

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	27,090
2	Current Expenses		16,000
3	Microfilm Program		5,000
4	Public Employees Health Insurance		900
5	Total	\$	48,990

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

9 Special funds in excess of the amount herein appropriated
 10 may be made available by budget amendment upon request of
 11 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

4	Social Security Matching Fund	13,100
5	Public Employees Retirement Matching Fund ..	21,425
6	Public Employees Health Insurance	12,540
		<hr/>
7	Total	\$ 282,610

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

11 The above appropriation includes salaries and operating ex-
12 penses.

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

16 Special funds in excess of the amounts hereby appropriated
17 may be made available by budget amendment upon request
18 of the Department of Finance and Administration and ap-
19 proval 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
		<hr/>
7	Total	\$ 4,920,182

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

131—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 232,343
2	Current Expenses	35,190
3	Equipment	12,000
4	Social Security Matching Fund	14,000
5	Public Employees Retirement Matching Fund	23,000
6	Public Employees Health Insurance	5,000
		<hr/>
7	Total	\$ 321,533

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

132—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 76,885
2	Current Expenses	37,700
3	Equipment	1,000
4	Social Security Matching Fund	4,512
5	Public Employees Retirement Matching Fund	7,648
6	Public Employees Health Insurance	1,650
		<hr/>
7	Total	\$ 129,395

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

133—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners	\$ 48,000
2	Other Personal Services	946,400
3	Current Expenses	222,850
4	Equipment	17,085
5	Social Security Matching Fund	45,700
6	Public Employees Retirement Matching Fund ..	88,600
7	Public Employees Health Insurance	22,750
8	Total	\$ 1,391,385

9 The total amount of this appropriation shall be paid from
 10 Special Revenue Fund out of collections for special license
 11 fees from public service corporations as provided by law.
 12 Out of the above appropriation \$5,000.00 may be transferred
 13 to the State Water Resources Commission of the Department
 14 of Natural Resources for use in cooperation with the U. S.
 15 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

1	Personal Services	\$ 76,812
2	Current Expenses	39,100
3	Equipment	5,000
4	Social Security Matching Fund	3,600
5	Public Employees Retirement Matching Fund	7,400
6	Public Employees Health Insurance	1,800
7	Total	\$ 133,712

8 The total amount of this appropriation shall be paid from
 9 Special Revenue Fund out of receipts collected for or by the

- 10 Public Service Commission pursuant to and in the exercise
 11 of regulatory authority over pipeline companies.

135—*Public Service Commission—Motor Carrier Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 351,756
2	Current Expenses	115,500
3	Equipment	5,060
4	Social Security Matching Fund	21,500
5	Public Employees Retirement Matching Fund	37,950
6	Public Employees Health Insurance	10,750
7	Total	\$ 542,516

- 8 The total amount of this appropriation shall be paid from
 9 Special Revenue Fund out of receipts collected for or by the
 10 Public Service Commission pursuant to and in the exer-
 11 cise of regulatory authority over motor carriers as authorized
 12 by law.

136—*Department of Natural Resources*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 1,643,698
2	Current Expenses	474,729
3	Repairs and Alterations	126,252
4	Equipment	207,034
5	Social Security Matching Fund	92,190
6	Public Employees Health Insurance	60,000
7	Land Purchase and Buildings	312,100
8	Public Employees Retirement Matching Fund	161,333
9	Total	\$ 3,077,336

10 The total amount of this appropriation shall be paid from
 11 Special Revenue Fund out of fees collected by the Depart-
 12 ment of Natural Resources. Expenditures shall be limited to
 13 the amounts appropriated except for Federal Funds received
 14 and Special Funds collected at state parks. Special Funds in
 15 excess of the amounts hereby appropriated may be made
 16 available by budget amendment upon request of the Depart-
 17 ment 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

1	Personal Services	\$ 183,433
2	Current Expenses	108,125
3	Repairs and Alterations	7,100
4	Equipment	16,000
5	Social Security Matching Fund	1,622
6	Public Employees Health Insurance	7,500
7	Total	\$ 323,780

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

11 Special Funds in excess of the amounts hereby appropriated
 12 may be made available by budget amendment upon request
 13 of the Department of Public Safety and approval of the
 14 Governor for the purpose of repairs to, or construction of
 15 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

1	Salary of Commissioner	\$ 20,000
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2	Other Personal Services	4,946,125
3	Current Expenses	2,099,000
4	Repairs and Alterations	30,500
5	Equipment	103,500
6	Social Security Matching Fund	287,250
7	Public Employees Retirement Matching Fund	472,000
8	Public Employees Health Insurance	240,000
9	Automation and Conversion of A.B.C. State	
10	Stores	869,020
11	Total	\$ 9,067,395

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

14 The above appropriation includes the salaries of store per-
 15 sonnel, store inspectors, store operating expenses and equip-
 16 ment, and salaries, expenses and equipment of administration
 17 offices.

18 There is hereby appropriated from liquor revenues, in addi-
 19 tion to the above appropriation, the necessary amount for the
 20 purchase of liquor, as provided by law.

139—*West Virginia Civil Service System*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 294,359
2	Current Expenses	127,650
3	Social Security Matching Fund	17,863
4	Public Employees Retirement Matching Fund	30,630
5	Public Employees Health Insurance	10,400
6	Total	\$ 480,902

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

10 The Governor is hereby authorized to make available by

- 11 budget amendment, upon request of the Civil Service Com-
 12 mission, 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

2 The total amount of this appropriation shall be paid from
 3 the nonrevolving Capital Improvement Fund created by the
 4 1959 Legislature, as amended.

5 Any unexpended balances remaining in the appropriations,
 6 "Miscellaneous Small Projects, Utilities, Roads and Parking,
 7 Creative Arts, and the Medical Center — Repairs and Altera-
 8 tions" at the close of the fiscal year 1972-73 are hereby
 9 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 Facili-	
4	ties Master Planning, Phase 3 of 3	200,000
5	Shepherd College, Academic Facilities Develop-	
6	ment, Phase 1 of 3	1,200,000
7	West Liberty State College, Science Facility Devel-	
8	opment	2,000,000
9	Fairmont State College, Administration Building	
10	Alterations, Phase 2 of 2	134,000
11	Glenville State College, Verona Maple Hall Al-	
12	terations, Phase 2 of 2	428,000
13	Shepherd College, Gymnasium Addition, Phase 2	
14	of 2	163,000

15	Marshall University, Academic Facilities Develop-	
16	ment, Phase 2 of 4	1,000,000
17	Parkersburg Community College, Learning Re-	
18	sources Center and Technical Instructional Fa-	
19	cility, Phase 2 of 2	315,000
20	Glenville State College, Outdoor Athletic Facili-	
21	ties, Phase 2 of 2	193,000
22	Fairmont State College, Field House Develop-	
23	ment, Phase 1 of 2	225,000
24	Fairmont State College, Rough Grading, Roads,	
25	Parking and Field Development	180,000
26	Shepherd College, Outdoor Athletic Facilities ---	75,000
27	Shepherd College, Parking	150,000
28	Glenville State College, Locker House Develop-	
29	ment	252,000

30 Total \$ 7,315,000

31 The total amount of this appropriation shall be paid from the
32 Capital Improvement Fund created by the 1971 Legislature.

33 The appropriation is to be paid on a cash basis and made
34 available from date of passage; items are to be started as
35 funds become available and then only in listed order of priority:
36 *Provided, however,* That whenever the amount in the Capital
37 Improvement Fund shall be sufficient to cover all capital
38 expenditures authorized above, then the listed projects shall be
39 considered of equal priority.

40 Any unexpended balances remaining in the 1972-73 year
41 appropriation are hereby reappropriated for expenditure during
42 the fiscal year 1973-74 except the appropriation heretofore
43 authorized by the Legislature for expenditure during the fiscal
44 year 1972-73, set forth in the Budget Bill, Regular Session,
45 1972, Section 2, Appropriation From Other Funds, pages 53
46 and 54, inclusive, Board of Regents—State System Special
47 Capital Improvement Fund, Account Number 8535, lines
48 12 and 13 are hereby voided.

142—Board of Regents—Special Capital Improvement Fund

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service \$ 1,928,078

2 The total amount of this appropriation shall be paid from
3 the nonrevolving Capital Improvement Fund created by the
4 1959 Legislature, as amended.

5 Any unexpended balances remaining in prior years and
6 1972-73 appropriations are hereby reappropriated for ex-
7 penditure during the fiscal year 1973-74 except the appropria-
8 tion heretofore authorized by the Legislature for expenditure
9 during the fiscal year 1971-72, set forth in the Budget Bill,
10 Regular Session, 1971, Section 2, Appropriations From Other
11 Funds, pages 51 through 53, inclusive, Board of Regents—
12 Special Capital Improvement Fund, Account Number 854,
13 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	
6	Community Hospitals	331,700
7	Total	\$22,408,262

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

10 Special funds in excess of the amounts hereby appropriated
11 may be made available by budget amendment upon request
12 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

3	Equipment	27,880
4	Social Security Matching Fund	72,000
5	Public Employees Retirement Matching Fund	130,600
6	Public Employees Health Insurance	38,000
7	U. S. Department of Labor Statistics	35,525
8	Total	\$ 2,202,050

9 There is hereby authorized to be paid out of the above ap-
 10 propriation for current expenses the amount necessary for the
 11 premiums on bonds given by the State Treasurer as bond
 12 custodian for the protection of the Workmen's Compensation
 13 Fund. This sum shall be transferred to the Board of Insurance.

1 **Sec. 3. Supplemental and Deficiency Appropriations.**—From
 2 the State Fund, General Revenue, except as otherwise pro-
 3 vided, there are hereby appropriated the following amounts,
 4 as itemized, for expenditure during the fiscal year one thou-
 5 sand nine hundred seventy-three to supplement the 1972-73
 6 appropriations, and to be available for expenditure upon date
 7 of passage.

145—*Supreme Court of Appeals*

Acct. No. 110

1	Current Expenses	\$ 10,000
2	Equipment	77,000
3	Total	\$ 87,000

146—*State Auditor's Office*

Acct. No. 150

1	Current Expenses	\$ 10,940
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147—*Commissioner of Public Institutions*

Acct. No. 190

1	Current Expenses	\$ 20,000
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148—*Department of Finance & Administration*

Acct. No. 210

1	Current Expenses	\$	17,500
2	Postage		30,000
			<hr/>
3	Total	\$	47,500

149—*Secretary of State*

Acct. No. 250

1	Other Personal Services	\$	7,500
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150—*West Virginia Penitentiary*

Acct. No. 375

1	Current Expenses	\$	60,000
2	Repairs and Alterations		30,000
			<hr/>
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		
3	Mental Retardation Center		50,000
4	To match existing Federal Funds for construc-		
5	tion of a Comprehensive Community Mental		
6	Health Center		200,000
			<hr/>
7	Total	\$	270,000

152—*Colin Anderson Center*

Acct. No. 419

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

Acct. No. 420

1	Current Expenses	\$	54,733
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154—*Spencer State Hospital*

Acct. No. 421

1	Current Expenses	\$	11,000
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155—*Huntington State Hospital*

Acct. No. 422

1	Current Expenses	\$	13,000
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156—*Lakin State Hospital*

Acct. No. 423

1	Current Expenses	\$	10,000
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157—*Pinecrest State Hospital*

Acct. No. 431

1	Repairs and Alterations	\$	85,000
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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 Any unexpended balance remaining in this appropriation at
 7 the close of the fiscal year 1972-73 is hereby reappropriated
 8 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 appro-
6 priation to "French Creek Game Farm Exhibit Trailer" at the
7 close of the fiscal year 1972-73 is hereby reappropriated for
8 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

1 **Sec. 4. Appropriations from Surplus Revenue.**—The follow-
2 ing items are hereby appropriated from the State Fund, General
3 Revenue and are to be available for expenditure during the
4 fiscal year 1973-74, out of surplus funds only, subject to
5 the terms, conditions, and priority schedule set forth in this
6 section.

7 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
 19 accrued as of June 30, 1973.

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

1	Remodel and building addition	
2	to Primary Building	\$ 350,000
3	Remodel to meet State Fire	
4	Marshal's requirements	167,000
5	Complete ground floor new	
6	dormitories	152,000
7	Equipment for new dormitories	100,000
8	Environmental Replacement	
9	Phase 2	750,000
		\$ 1,519,000

Item II. *Colin Anderson Center*

1	New Dormitory	\$ 2,000,000
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Item III. *Department of Finance and Administration*

1	Major Building Repairs	\$ 1,500,000
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Item IV. *Department of Mines*

1	Special Mine Drainage Program	\$ 100,000
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Item V. *Division of Vocational Rehabilitation*

1	Rehabilitation Center Construction	\$ 602,000
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Item VI. *West Virginia Library Commission*

1	Unclassified	\$ 1,250,000
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Item VII. *Department of Commerce*

1	Independence Hall, Wheeling,	
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2	West Virginia _____	\$	100,000	
3	West Virginia's Participation			
4	National Bicentennial _____		00,000	✓
8	Industrial Development			
9	Revolving Fund _____		1,500,000	
10	General Adam Stephen Home _____		50,000	\$ 1,650,000

(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*

1	Wyoming County Airport _____	\$	50,000
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Item IX. *Weston State Hospital*

1	Land acquisition _____	\$	60,000
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Item X. *West Virginia Board of Regents (Control)*

1	Jackson's Mill 4-H Camp		
2	For Repairs and Renovation and the		
3	purchase of Equipment _____	\$	500,000

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

1	Construction of two additional cottages.		
2	Renovation of Main Lodge,		
3	recreational facilities _____	\$	200,000

(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*

1	Park Roads _____	\$	1,115,000
2	A. Panther State Park _____	\$	60,000
3	B. North Bend State Park _____		50,000
4	C. Twin Falls State Park _____		750,000
5	D. Tygart Lake State Park _____		80,000
6	E. Pricketts Fort State Park _____		10,000
7	F. Blackwater Falls State Park _____		100,000
8	G. Kanawha State Forest _____		50,000
9	H. Plum Orchard Lake _____		15,000

Item XIII. *Commissioner of Public Institutions*

1	Total _____	\$	4,330,121
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A. West Virginia Industrial School for Boys

1	New Chapel	\$ 150,000	
2	Exit Lights	7,943	
3	Fire Alarm System	36,519	
4	Enclose Stairwell	7,603	
5	Emergency Lights	7,691	
6	Wire Glass Windows	1,624	
7	Fire Extinguishers	240	
8	Fire Escape	10,707	
9	Transoms	360	
10	Anthony Correctional Center—		
11	Laundry Equipment	11,300	
12	Total		233,987

B. West Virginia Industrial Home for Girls

1	Fire Alarm System	\$ 33,892	
2	Emergency Lights	9,060	
3	Enclose Stairwell	5,572	
4	Fire Escape	16,424	
5	Replace Door Security	2,872	
6	Fire Door	4,833	
7	Exit Lights	4,344	
8	Electrical Repairs	6,300	
9	Water System	45,000	
10	Furnish Sutton Cottage	47,000	
11	Total		175,297

C. West Virginia Penitentiary

1	To complete major renovation ..	\$ 1,100,000	
2	Automatic Sprinkler System ..	30,000	
3	Bathroom Fixtures	35,000	
4	Total		1,165,000

D. Huttonsville Correctional Center

1	Paint and Body Shop	\$ 25,000	
2	Renovate Storage Building to		
3	make Welding Shop	25,000	
4	Pave Roadways	30,000	
5	Total		80,000

E. Andrew S. Rowan Memorial Home

1	Elevator Jefferson Hall	55,000
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F. Fairmont Emergency Hospital

1	Construction	1,000,000
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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 Hos-		
7	pital Building	10,000	
8	Remodeling Nurses' Home to		
9	house Administrative Offices		
10	and two apartments	50,000	
11	Total		1,245,000

H. Hopemont State Hospital

1	Automatic Sprinkler System for		
2	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 con-		
2	densate lines.		
3	New construction	\$ 180,000	
4	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	
4	Equipment	21,000	
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		
2	Building		
3	New construction	\$ 250,000	
4	Architect's Fee	20,000	270,000

E. Colin Anderson Center

1	Install large screens on Crib		
2	Ward Building		27,000

F. Lakin State Hospital

1	Repair erosion damage to the		
2	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*\$ 4,807,500A. *Cass Scenic Railroad*

1	Construct and equip new shop		
2	building	\$ 700,000	
3	Purchase residence and lot	25,000	
4	Land purchase—Bald Knob and		
5	Mill Property	210,000	935,000*

B. *Cacapon State Park*

1	Completion of golf course—		
2	sand, etc.		45,000*

C. *Grandview State Park*

1	Tie-in to public water supply		
2	system	\$ 50,000	
3	Installation of Aerobic sewage		
4	treatment system	75,000	
5	Complete land acquisition and		
6	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		
2	Branch. Bureau of Outdoor		
3	Recreation Reimbursement is		
4	available for development of		
5	new picnic area around dam		50,000

G. Blackwater Falls State Park

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

H. Hawks Nest State Park

1	Construct Campground		175,000*
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I. Pricketts Fort State Park

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

J. Babcock State Park

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

K. Tygart Lake State Park

1	Relocate present trailer park and		
2	camping area from present		
3	location to Henderson Rock		
4	area on Pleasant Creek, and		
5	provide 100 trailer sites, ade-		
6	quate campsites with water,		
7	sewers and a disposal system.	\$	90,000
8	Construct ten additional cabins		

9	on location of present trailer		
10	sites	140,000	
11	Construct an additional twenty		
12	rooms to lodge	140,000	
13	Sewage Facilities, Marina		
14	& Camp Grounds	60,000	
15	Resurface Lodge Parking Lot ..	30,000	460,000
<i>L. Grave Creek Mound State Park</i>			
1	Museum building and inter-		
2	pretation; general develop-		
3	ment and land purchase		350,000
<i>M. Point Pleasant Battle Monument</i>			
1	Lighting and Landscaping	40,000	
<i>N. Chief Logan State Park</i>			
1	Covered picnic shelter	10,000	
<i>O. Beech Fork Lake</i>			
1	Feasibility study	15,000	
<i>P. Department of Natural Resources</i>			
1	Repairs, Replacement of		
2	Equipment and Furnishings		
3	at State Parks & State Forests	400,000	
<i>Q. Panther State Forest</i>			
1	Paving	22,500	
<i>R. Lost River State Park</i>			
1	Park Improvements	75,000	
<i>S. Watters-Smith State Park</i>			
1	Park Improvements	50,000	
<i>T. Moncove Lake</i>			
1	Camping and picnic facilities	50,000	
<i>U. Big Ditch Recreation Area</i>			
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
2 source available, for the purchase of at
3 least one emergency medical service vehicle
4 for each county \$ 1,000,000

1 **Sec. 5. Awards for Claims Against the State.**—From the
2 funds designated there are hereby appropriated for the remain-
3 der of the fiscal year 1972-73 and to remain in effect until June
4 30, 1974, for payment of claims against the state, the follow-
5 ing amounts as itemized.

6 (a) Claims versus the Department of Highways:

7 To be paid from State Road Fund

- 8 (1) Harry N. Walker, d/b/a Gauley
9 Esso Service Center \$ 900.00
10 (2) A. D. and Eulah M. Strader 896.00
11 (3) Monongahela Power Company 148.84
12 (4) Bliss R. Wotring 750.00
13 (5) James B. Frazier 10,000.00
14 (6) Lou Irene Frazier 1,000.00
15 (7) Jamy Lou Frazier, an infant by and
16 through James B. Frazier, her next
17 friend, and James B. Frazier 500.00
18 (8) James B. Frazier, Administrator of
19 Estate of Michael Scott Frazier, deceased .. 10,541.95
20 (9) Joseph C. and Emma Lou Jones 265.54
21 (10) William B. and Helen McClure 137.55
22 (11) Foremost Insurance Co. 550.00
23 (12) Peter Shaffron, Jr. 114.33
24 (13) S. J. Groves & Sons and Turman
25 Construction Co. 38,404.45

26	(14) Virgil Donald Seebaugh	
27	and Ava Marie Seebaugh	750.00
28	(15) W. Va. Welding Supply Company	1,660.00
29	(16) C. P. McDorman	50.00
30	(17) Vergie Warner	100.00
31	(18) Carpenter Addition Water Company	124.74
32	(19) Delbert J. Matheny	200.00
33	(20) Larry L. Betonte and	
34	Judith A. Betonte	700.00
35	(21) Amos Preece	1,200.00
36	(22) Charles Gravely	106.61
37	(23) Oscar Vecellio, Inc.	4,970.48
38	(24) Carl A. Brown	750.00
39	(25) Clarence E. Brown	600.00
40	(26) Marlene J. Downey	100.00
41	(27) Harry Ellison	1,500.00
42	(28) Leo R. Harrah	6,000.00
43	(29) Ralph W. Waugh	700.00
44	(30) Thomas Eugene Carelli and Frank Carelli,	
45	d/b/a the Smoke House	1,300.00
46	(31) Wilson Jacobs and Eugene Jacobs	4,225.00
47	(32) David McClellan	1,700.00
48	(33) B. H. Child & Co., Inc. d/b/a	
49	Fort Pitt Shoe Store	3,700.00
50	(34) Elsie McCall Duncan d/b/a	
51	Mac's Jewelry Store	2,621.30
52	(35) State Farm Insurance Co., Assignee of	
53	Margaret Roeser and Harriet Davidson ..	464.00
54	(36) Thomas C. and Nellie Sheppard, Sr.	2,444.03
55	(37) J. R. Hardy	160.68
56	(38) Cory Auto Parts Co.	10,000.00
57	(39) The Firestone Tire & Rubber Co.	6,000.00
58	(40) Darrell Bailey	437.13
59	(41) State Farm Mutual Automobile Insurance	
60	Co., as subrogee of Diana K. Smith,	
61	its insured	78.80
62	(42) State Farm Mutual Automobile Insurance	
63	Co., as subrogee of Corliss P. McDorman,	
64	its insured	277.81

65	(43) Gertrude A. Myers and Lena M. Brown ----	1,000.00
66	(44) State Farm Mutual Automobile Insurance	
67	Co., as subrogee of Ralph	
68	Henne, its insured -----	36.05
69	(45) State Farm Mutual Automobile Insurance	
70	Co., as subrogee of Robert L.	
71	Hulett, its insured -----	46.35
72	(b) Claims versus the Governor's Office:	
73	To be paid from General Revenue Fund	
74	(1) The Fairmont Times and	
75	West Virginian -----	210.00
76	(c) Claims versus the Board of Regents:	
77	To be paid from General Revenue Fund	
78	(1) Joe L. Smith, Jr., Inc. d/b/a Biggs-	
79	Johnston-Withrow -----	372.98
80	(d) Claims versus the State Tax Department:	
81	To be paid from General Revenue Fund	
82	(1) General Foods Corporation -----	28,590.95
83	(e) Claims versus the Department of	
84	Public Institutions:	
85	To be paid from General Revenue Fund	
86	(1) Harold E. Bondy, M. D. -----	2,000.00
87	(2) Radiological Consultants Association -----	2,815.00
88	(f) Claims versus the Department of	
89	Finance and Administration:	
90	To be paid from General Revenue Fund	
91	(1) City of Charleston -----	91,329.00
92	(g) Claims versus the Department of	
93	Natural Resources:	
94	To be paid from General Revenue Fund	
95	(1) Flossie Grace Pudder -----	8,000.00
96	(2) Robert J. Pudder -----	3,000.00
97	(h) Claims versus the Department of Public Safety:	
98	To be paid from General Revenue Fund	
99	(1) Frank Prozillo -----	155.61
100	(2) Mary Jane Starvaggi -----	25,000.00
101	(3) Wilma Lee Morris -----	1,500.00
102	(i) Claims versus the Adjutant General:	
103	To be paid from General Revenue Fund	

104 (1) Monongahela Power Company _____ 298.43

105 The Legislature finds that the above moral obligations and
106 the appropriations made in satisfaction thereof shall be the full
107 compensation for all claimants, and that prior to the payments
108 to any claimant provided for in this bill, the court of claims
109 shall receive a release from said claimant releasing any and all
110 claims for moral obligations arising from the matters considered
111 by the Legislature in the finding of the moral obligations and
112 the making of the appropriations for said claimant. The court
113 of claims shall deliver all releases obtained from claimants to
114 the department against which the claim was allowed.

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

1 **Sec. 6. Legislative Findings of Fact Claims.**—The Legisla-
2 ture has heretofore made findings of fact that the state has re-
3 ceived the benefit of the commodities and services rendered by
4 certain claimants herein and has considered claims against
5 the state and the department of mental health, an agency
6 thereof, which have arisen due to over-expenditures of de-
7 partmental appropriations by officers of such state spending
8 unit, such claims having been previously considered by the
9 court of claims which also found that the state has received the
10 benefit of the commodities and services rendered by each clai-
11 mant, but were denied by the court of claims on the purely
12 statutory grounds that to allow such claims would be con-
13 doning illegal acts contrary to the laws of the state. The Legis-
14 lature, pursuant to its findings of fact and also by the adop-
15 tion of the findings of fact by the court of claims as its own,
16 and, while not condoning such illegal acts, hereby declares it
17 to be the moral obligation of the state to pay each such claim
18 in the amount specified below, and directs the auditor to is-
19 sue warrants upon receipt of a properly executed requisition

20 supported by an itemized invoice, statement or other satis-
 21 factory document as required by Section 10, Article 3,
 22 Chapter 12 of the Code of West Virginia, one thousand
 23 nine hundred thirty-one, as amended, for the payment thereof
 24 out of any fund appropriated and available for the purpose.

25 (a) Claims versus the Department of Mental Health:

26 To be Paid from General Revenue Fund

27	(1) Amstan Supply Division,		
28	American Standards, Inc. _____	\$	456.00
29	(2) J. S. Latta _____		65.00
30	Total _____	\$	521.00

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

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

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

*Revenue Sharing Trust Fund—
State Department of Highways*

Acct. No. 670

14 Special Bridge Replacement Fund, if there is full compliance
15 with all of the provisions of the first paragraph of this sec-
16 tion _____ \$20,161,258

17 A. Big Creek Bridge No. 23-10-37.72(935), if there is full
18 compliance with all of the provisions of the first paragraph of
19 this section.

20 B. Salt Rock Bridge No. 6-10-1.40(707), if there is full
21 compliance with all of the provisions of the first paragraph of
22 this section.

23 C. Westover Bridge No. 31-19-11.08(1360), if there is full
24 compliance with all of the provisions of the first paragraph of
25 this section.

26 D. Jefferson Street Bridge No. 25-73-8.43(1567), if there
27 is full compliance with all of the provisions of the first para-
28 graph of this section.

29 E. Huntington 3rd Avenue Bridge No. 6-2-0.38(913), if
30 there is full compliance with all of the provisions of the first
31 paragraph of this section.

32 F. Branchland Route 10 Bridge No. 22-10-22.51(798), if
33 there is full compliance with all of the provisions of the first
34 paragraph of this section.

35 G. Clarksburg-Adamston Bridge No. 17-19-16.27(1685), if
36 there is full compliance with all of the provisions of the first
37 paragraph of this section.

38 H. Naugatuck Bridge No. 30-52-8.01(299), if there is full
39 compliance with all of the provisions of the first paragraph of
40 this section.

41 I. Pineville Bridge No. 55-16-11.51(437), if there is full
42 compliance with all of the provisions of the first paragraph of
43 this section.

44 J. Baileysville Bridge No. 55-9-9.08, if there is full com-
45 pliance with all of the provisions of the first paragraph of this
46 section.

47 K. Elmore Bridge No. 55-10-12.37, if there is full com-
48 pliance with all of the provisions of the first paragraph of this
49 section.

50 L. Ansted Bridge No. 10-60-19.84(937), if there is full
51 compliance with all of the provisions of the first paragraph of
52 this section.

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

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

59 O. Bridgeway Bridge No. 48-26-0.06, if there is full com-
60 pliance with all of the provisions of the first paragraph of this
61 section.

62 Maintenance for State Local Service Roads, if there is full
63 compliance with all of the provisions of the first paragraph
64 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
2 is full compliance with all of the provisions of the first para-
3 graph 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 com-
2 pliance with all of the provisions of the first paragraph of this
3 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
2 with all of the provisions of the first paragraph of this sec-
3 tion _____ \$ 1,000,000

*Revenue Sharing Trust Fund—
Department of Natural Resources*

Acct. No. 565

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

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

1 **Sec. 9. Special Revenue Appropriations.**—There is here-
2 by appropriated for expenditure during the fiscal year one
3 thousand nine hundred seventy-four appropriations made by
4 general law from special revenue which are not paid into
5 the state fund as general revenue under the provisions of
6 Chapter 12, Article 2, Section 2 of the Code of West Virginia,
7 one thousand nine hundred thirty-one: *Provided, however,*
8 That none of the moneys so appropriated by this section shall
9 be available for expenditure except in compliance with and
10 in conformity to the provisions of Chapter 12, Articles 2 and
11 3, and Chapter 5A, Article 2 of the Code of West Virginia,
12 unless the spending unit has filed with the state director of
13 the budget, the state auditor and the legislative auditor prior
14 to the beginning of each fiscal year:

15 (a) An estimate of the amount and sources of all revenues
16 accruing to such fund;

17 (b) A detailed expenditure schedule showing for what
18 purposes the fund is to be expended.

1 **Sec. 10. Specific Funds and Collection Accounts.**—A
2 fund or collection account, which by law is dedicated to a
3 specific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection account,
5 and shall be expended according to the provisions of Chapter
6 12, Article 3 of the Code of West Virginia.

1 **Sec. 11. Appropriation for Refunding Erroneous Pay-**
2 **ments.**—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into

4 which it was paid for refund to the proper person.

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

1 **Sec. 12. Sinking Fund Deficiencies.**—There is hereby
2 appropriated to the governor a sufficient amount to meet
3 a deficiency that may arise in the funds of the state sink-
4 ing fund commission because of the failure of any state
5 agency for either general obligation or revenue bonds or
6 any local taxing district for general obligation bonds to
7 remit funds necessary for the payment of interest and
8 sinking fund requirements. The governor is authorized to
9 transfer from time to time such amounts to the state sink-
10 ing fund commission as may be necessary for this purpose.

11 The state sinking fund commission shall reimburse the
12 State of West Virginia through the governor from the first
13 remittance collected from any state agency or local taxing
14 district for which the governor advanced funds, with interest
15 at the rate carried by the bonds for which the advance was
16 made.

1 **Sec. 13. Appropriations from Taxes and License Fees.**—
2 There is hereby appropriated from the soft drink tax reve-
3 nues for administration and enforcement of the law relating to
4 said tax, a sum not to exceed two and one-half percent of
5 the total revenues collected. All such salaries and expenses,
6 authorized by law as aforesaid, shall be paid by the tax
7 commissioner through the state treasury out of gross collec-
8 tions.

9 There is hereby appropriated from the cigarette tax
10 revenues for administration and enforcement of the law
11 relating to said tax, a sum not to exceed one and one-half
12 percent of the total revenues collected. All such salaries
13 and expenses, authorized by law as aforesaid, shall be
14 paid by the tax commissioner through the state treasury out
15 of gross collections.

1 **Sec. 14. Appropriations to Pay Costs of Publication of**
2 **Delinquent Corporations.**—There is hereby appropriated out
3 of the state fund, general revenue, out of funds not otherwise
4 appropriated to be paid upon requisition of the auditor
5 and/or the governor, as the case may be, a sum sufficient to
6 pay the cost of publication of delinquent corporations as
7 provided by Chapter 11, Article 12, Sections 84 and 86 of
8 the Code of West Virginia.

1 **Sec. 15. Appropriations for Local Governments.**—There
2 is hereby appropriated for payment to counties, districts, and
3 municipal corporations such amounts as will be necessary to
4 pay taxes due county, district, and municipal corporations and
5 which have been paid into the treasury:

- 6 (a) For the redemption of lands;
7 (b) By public service corporations;
8 (c) For tax forfeitures.

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

1 **Sec. 17. General School Fund.**—The balance of the pro-
2 ceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for ex-
4 penditure in accordance with Chapter 18, Article 9A, Section
5 16 of the Code of West Virginia.

TITLE 3. ADMINISTRATION.

§1. Appropriations conditional.

§2. Constitutionality.

1 **Section 1. Appropriations Conditional.**—The expenditure
2 of the appropriations made by this act, except those appropria-
3 tions made to the legislative and judicial branches of the state
4 government, are conditioned upon the compliance by the spend-
5 ing unit with the requirements of Chapter 5A, Article 2 of
6 the Code of West Virginia.

7 Where former spending units have been absorbed by or
8 combined with other spending units by acts of this Legisla-
9 ture, it is the intent of this act that reappropriation shall be

10 to the succeeding or later spending unit created unless other-
11 wise indicated.

1 **Sec. 2. Constitutionality.**—If any part of this act is de-
2 clared unconstitutional by a court of competent jurisdiction,
3 its decision shall not affect any portion of this act which re-
4 mains, but the remaining portion shall be in full force and
5 effect as if the portion declared unconstitutional had never
6 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.

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

3 (a) The term "auctioneer" means and includes a person
4 who sells goods or real estate at public auction for another on
5 commission or for other compensation. The term "auctioneer"
6 shall not include (1) persons conducting sales at auctions con-
7 ducted by or under the direction of any public authority or
8 pursuant to any judicial order or direction or to any sale re-
9 quired by law to be at auction, (2) the owner of any real or
10 personal property when personally sold at auction by such
11 owner and such owner has not personally conducted an auction
12 within the previous twelve-month period, (3) persons con-
13 ducting sales pursuant to a deed of trust or other security agree-
14 ment, (4) attorneys at law licensed to practice in this state, (5)
15 fiduciaries of estates when selling real or personal property of
16 such estate, and (6) persons conducting sales on behalf of
17 charitable, religious, fraternal or other nonprofit organizations:
18 *Provided*, That nothing contained in this article shall exempt
19 persons conducting sales at public markets from the provisions
20 of article two-a, chapter nineteen where the sale is confined
21 solely to livestock, poultry and other agriculture and horti-
22 culture products.

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

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

§19-2C-2. License required.

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

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

1 Any person who wishes to conduct an auction as an auc-
2 tioneer may apply therefor on forms prescribed by the com-

3 commissioner and containing such information as the commissioner
4 may by rule or regulation require. A nonreturnable applica-
5 tion fee of fifteen dollars shall accompany each application
6 as well as an annual license fee of fifteen dollars. Such
7 applicant shall in addition file with his application a bond as
8 required in section four of this article.

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

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

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

§19-2C-4. Bond required.

1 Every person applying for a license as an auctioneer or
2 continuing to act as a licensed auctioneer shall file with the
3 commissioner and maintain in full effect a bond with corporate
4 surety satisfactory to the commissioner and in the form as
5 prescribed by the commissioner, in the penalty of five thousand
6 dollars. Such bond shall be conditioned upon the faithful
7 compliance by the auctioneer with the provisions of this article
8 and the payment of all required taxes, fees and penalties
9 imposed by this state and its political subdivisions as well as
10 the payment by any auctioneer of any final judgment obtained
11 for damages arising out of his conduct or duties as an auc-
12 tioneer. 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.

1 Each person seeking a license hereunder shall submit satis-
2 factory evidence to the commissioner showing:
3 (a) Either that

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

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

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

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

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

18 (c) Such other information as the commissioner by reason-
19 able rule and regulation may prescribe.

20 The commissioner shall promulgate such reasonable rules
21 and regulations as he shall deem necessary to carry out the
22 intent and the administration and enforcement of this article,
23 which said rules and regulations shall be promulgated in ac-
24 cordance with the applicable provisions of chapter twenty-
25 nine-a of this code as if the same were set forth herein in ex-
26 tenso.

27 Each licensee shall prominently display such license at all
28 sales conducted by or participated in by such licensee and shall
29 keep complete and accurate records of all transactions engaged
30 in, which records shall be open to inspection by the commis-
31 sioner or his authorized representative.

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

§19-2C-6. Trainee permit.

1 Any person may apply for and receive from the commis-
2 sioner a trainee permit upon the payment of a permit fee of
3 ten dollars and upon supplying such information as the com-
4 missioner may require. Such permits shall expire on the thir-
5 tieth day of June of each year but shall be renewable upon the
6 payment of the annual fee of ten dollars. A trainee permit shall

7 entitle the holder thereof to assist in or conduct a public auc-
8 tion under the immediate supervision of a licensed auctioneer.

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

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

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

1 Any person, firm, association or corporation violating any
2 of the provisions of this article, or of the rules and regulations
3 adopted pursuant to the provisions thereof, shall be guilty of a
4 misdemeanor, and, upon conviction thereof, shall be fined not
5 less than fifty dollars nor more than two hundred dollars for
6 the first offense, and not less than four hundred dollars nor
7 more than one thousand dollars for the second and subsequent
8 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.

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

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

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

19 (d) The commissioner of banking may maintain an action
20 for the recovery of all such fees, costs and expenses in any
21 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 incorpora-
2 tors, a majority of whom shall be residents of the state of West
3 Virginia. Such banking institution shall have as a part of its
4 corporate name or title one or more of the following words
5 indicative of the business which it is authorized to conduct,
6 namely, "bank," "banking company," "banking association,"
7 "trust company," "banking and trust company" or "bank and
8 trust company."

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

15 (1) The name of the proposed bank;

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

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

21 (4) The name, residence and occupation of each incorpora-
22 tor, and the amount of capital stock subscribed and paid for
23 by each;

24 (5) The names of the persons who are to serve as officers
25 and directors of the banking institution and the official posi-
26 tion proposed to be held by each; and

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

28 The agreement of incorporation shall be signed and acknowl-
29 edged by each of the incorporators and, when filed with the
30 board, shall be accompanied by the statutory corporation char-
31 ter fees, and an examination and investigation fee of one thou-
32 sand dollars payable to the board. When transmitting the agree-

33 ment to the board, the incorporators shall designate by name
34 and give the address of the attorney, agent or other responsible
35 party with whom the board may communicate, on whom the
36 board may call for further information, and to whom the
37 board may officially report as to action on the agreement so
38 filed with him. The agreement shall constitute and may be
39 considered and treated by the board as an application for the
40 board's approval to incorporate and organize a banking insti-
41 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 investments, 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

12. Public Moneys and Securities.

33. Insurance.**44. Administration of Estates and Trusts.****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
2 provided by law as to the securities in which funds may be
3 invested, funds made available for investment for periods in
4 excess of one year may be invested by the board, without
5 the approval of any other state agency or official other than
6 as required in section six of this article, in the following
7 classes of securities, and not otherwise:

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

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

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

31 (d) Securities issued, assumed or unconditionally guaran-
32 teed by the "International Bank for Reconstruction and

33 Development," the "Asian Development Bank" or "Tennes-
34 see Valley Authority."

35 (e) Any fixed interest bond, note or debenture of any
36 corporation organized and operating within the United
37 States: *Provided*, That such corporation shall have a mini-
38 mum net worth of fifteen million dollars and its securities or
39 its parent corporation's securities are listed on one or more
40 of the national stock exchanges: *Provided, however*, That
41 (1) such corporation has earned a profit in eight of the
42 preceding ten fiscal years as reflected in its statements, and
43 (2) such corporation has not defaulted in the payment of
44 principal or interest on any of its outstanding funded
45 indebtedness during its preceding ten fiscal years, and (3)
46 the bonds, notes or debentures of such corporation to be
47 purchased are rated "AA" or the equivalent thereof or
48 better than "AA" or the equivalent thereof by at least two or
49 more nationally recognized rating services, such as "Stan-
50 dard and Poor's," "Dun & Bradstreet" or "Moody's."

51 (f) Any security that is secured by a first lien deed of
52 trust or mortgage on real property situate within this state,
53 and that is either (1) insured by the federal housing
54 administration pursuant to provisions of the "National
55 Housing Act," as amended or supplemented from time to
56 time, or (2) guaranteed by the veterans administration
57 pursuant to provisions of Title 38, United States Code,
58 relating to veteran's benefits, as amended or supplemented
59 from time to time: *Provided*, That the board shall not
60 purchase any such security from anyone other than a
61 federal housing administration approved mortgagee. To
62 facilitate and encourage the offering of such securities to
63 the board for its investment therein, the board shall have
64 the power and authority to make to any federal housing
65 administration approved mortgagee, at any time, an
66 advance written commitment and obligation, binding upon
67 the board and its funds, for the future purchase of such
68 securities in such amount or amounts, at such price or
69 prices, and at such future time or times as the board may in
70 its discretion deem to be for the best interest of the fund,
71 and all purchases of such securities shall be made pursuant

72 to such a commitment and obligation: *Provided, however,*
73 That the board shall make no commitment and obligation
74 to purchase any such securities except in specified amounts
75 of two hundred fifty thousand dollars or more as the aggregate
76 of the unpaid principal balances owing on such
77 securities at the time of purchase thereof. No such commitment
78 and obligation shall be valid or binding for more
79 than eighteen months after the date thereof. To facilitate
80 preservation of the value of such securities and of the real
81 property securing the same, the board shall have the further
82 power and authority to make with any federal housing
83 administration approved mortgagee from whom such a
84 security is purchased a contract under which the mortgagee
85 shall be authorized, empowered and obligated to service
86 a loan represented by the security, and to pay such
87 mortgagee for its service a monthly fee not in excess of
88 the rate of one twelfth of one half of one per centum
89 per annum of the unpaid principal balance of the loan
90 represented by the security.

91 (g) Promissory notes secured by federal loan insurance on
92 loans made to students pursuing programs of higher education
93 or programs of vocational education pursuant to Title
94 IV, Part "B" of the "Higher Education Act of 1965," as
95 heretofore and hereafter amended: *Provided, That* there
96 shall be no investment in any such promissory notes
97 executed by nonresidents of the state of West Virginia
98 unless such nonresidents are enrolled in good standing in a
99 West Virginia institution of higher education or qualified
100 vocational school or have made application to and have
101 been accepted by such institution or vocational school:
102 *Provided, however, That* there shall be no investment in
103 any such promissory notes executed pursuant to loans made
104 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.

1 Subject to the limits set forth in sections five and six
2 of this article, an insurer may invest in shares of insured

3 state chartered building and loan associations and federal
4 savings and loan associations, if such shares are insured by
5 the federal savings and loan insurance corporation and may
6 invest in obligations issued or guaranteed by the "Inter-
7 national Bank for Reconstruction and Development" or by
8 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.

1 Any executor, administrator, guardian, curator, committee,
2 trustee or other fiduciary whose duty it may be to loan or
3 invest money entrusted to him as such, may, without any
4 order of any court, invest the same or any part thereof in any of
5 the following securities, and without liability for any loss
6 resulting from investments therein: *Provided*, That such fi-
7 duciary shall exercise the judgment and care under the
8 circumstances then prevailing which men of prudence, dis-
9 cretion and intelligence exercise in the management of their
10 own affairs, not in regard to speculation, but in regard to
11 the permanent disposition of their funds, considering the
12 probable income as well as the probable safety of their
13 capital:

14 (a) In bonds or interest-bearing notes or obligations of
15 the United States, or those for which the faith of the United
16 States is distinctly pledged to provide for the payment of the
17 principal and interest thereof, including, but not by way of
18 limitation, bonds or debentures issued under the "Federal
19 Farm Loan Act," debentures issued by "Banks for Coopera-
20 tives" under the "Farm Credit Act of One Thousand Nine
21 Hundred Thirty-Three," as amended, debentures issued by
22 the federal national mortgage association, securities issued
23 by the federal home loan bank system; and in bonds,
24 interest-bearing notes and obligations issued, guaranteed or
25 assumed by the "International Bank for Reconstruction and
26 Development" or by the "Inter-American Development
27 Bank" or by the "Asian Development Bank";

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

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

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

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

59 (f) In savings accounts and time deposits of bank or
60 trust companies to the extent that such deposits are insured
61 by the federal deposit insurance corporation, or by any
62 other similar federal instrumentality that may be hereafter
63 created, provided there shall be such an instrumentality in
64 existence and available for the purpose, or by bonds of
65 solvent surety companies: *Provided*, That the rate of inter-

66 est upon such savings accounts or time deposits shall not
67 be less than the rate paid other depositors in such bank
68 or trust company;

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

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

92 (1) No investment shall be made pursuant to the pro-
93 visions of this subdivision (h) which, at the time such
94 investment shall be made, will cause the aggregate market
95 value thereof to exceed fifty percent of the aggregate mar-
96 ket value at that time of all the property of the fund
97 held by such fiduciary. Notwithstanding the aforesaid
98 percentage limitation the cash proceeds of the sale of
99 securities received or purchased by a fiduciary and made
100 eligible by this subdivision (h) may be reinvested in any
101 securities of the type described in this subdivision (h).

102 (2) No bonds, debentures, notes, equipment trust obli-
103 gations or other evidence of indebtedness of such corpora-

104 tions shall be purchased under authority of this sub-
105 division (h) unless such obligations, if other than issues
106 of a common carrier subject to the provisions of section
107 twenty-a of the "Interstate Commerce Act," as amended,
108 shall be obligations issued, guaranteed or assumed by
109 corporations which have any securities currently registered
110 with the securities and exchange commission.

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

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

137 This section shall not apply where the instrument creat-
138 ing the trust, or the last will and testament of any
139 testator, or any court having jurisdiction of the matter,
140 specially directs in what securities the trust funds shall be
141 invested, and every such court is hereby given power
142 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-1. Definitions.

§35-5A-2. Objects and purposes.

§35-5A-3. Establishment of permanent endowment care funds.

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

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

§35-5A-6. Cemeteries exempted.

§35-5A-7. Inconsistent provisions.

§35-5A-8. Penalties for violation.

§35-5A-1. Definitions.

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

4 (a) "Person" means any corporation, company, partner-
5 ship, individual, association or other entity owning or operating
6 a cemetery for the disposition of human remains.

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

13 (c) "Interment" means the disposition of human remains
14 by earth burial, entombment or inurnment.

15 (d) "Burial right" means the right of earth interment.

16 (e) "Entombment right" means the right of entombment in
17 a mausoleum.

18 (f) "Columbarium right" means the right of inurnment in
19 a columbarium for cremated remains.

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

§35-5A-2. Objects and purposes.

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

§35-5A-3. Establishment of permanent endowment care funds.

1 No person desiring to organize, develop and operate a per-
2 petual care cemetery in West Virginia after the first day of
3 July, one thousand nine hundred seventy-three, shall offer to
4 sell or sell any burial lot, burial right, entombment right or

5 columbarium right in such cemetery, without first establishing
6 a permanent endowment trust fund, segregated from all other
7 assets, and placing therein a minimum of ten thousand dol-
8 lars in cash, or in bonds of the United States government or
9 of the state of West Virginia.

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

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

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

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

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

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

6 The trustee shall invest such permanent endowment care
7 funds for the purpose of providing an income to be used for the

8 maintenance, improvement and preservation of the grounds,
9 lots, buildings, equipment, records, statuary, and other real and
10 personal property of the cemetery, and shall acquire, invest,
11 reinvest, exchange, retain, sell and manage all property now
12 or hereafter coming into such trustee's care or control.

13 The trustee shall exercise the judgment and care under the
14 circumstances then prevailing, which men of prudence, dis-
15 cretion and intelligence, exercise in the management of their
16 own affairs, not in regard to speculation, but in regard to the
17 permanent disposition of their funds, considering the probable
18 income as well as the probable safety of their capital.

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

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

32 The trustee shall pay over to the cemetery all income
33 derived from the permanent endowment care fund semi-
34 annually to be expended only for the maintenance, improve-
35 ment and preservation of the grounds, lots, buildings, equip-
36 ment, records, statuary and other real and personal property
37 of the cemetery.

§35-5A-6. Cemeteries exempted.

1 This article does not apply to any private or family ceme-
2 tery wherein lots or spaces are not offered for public sale or to
3 any cemetery which is owned and operated entirely and ex-
4 clusively by churches, religious societies, established fraternal
5 organizations, municipalities or other subdivisions of the state
6 or a national cemetery.

§35-5A-7. Inconsistent provisions.

1 The provisions and requirements of this article shall take

- 2 precedence over and shall supersede any other provisions of
- 3 this code which may be inconsistent therewith.

§35-5A-8. Penalties for violation.

- 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 children; 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.

§49-2-16. State responsibility for child care.

- 1 The state department of welfare is hereby authorized and
- 2 empowered to provide care, support and protective services

3 for children who are handicapped by dependency, neglect,
4 illegitimate birth, mental or physical disability, or who for
5 other reasons are in need of public service. Such department
6 is also hereby authorized and empowered in its discretion to
7 accept children for care from their parent or parents,
8 guardian or relatives and to accept the custody of children
9 committed to its care by courts exercising juvenile juris-
10 diction. The state department of welfare or any county
11 office of such department is also hereby authorized and em-
12 powered in its discretion to accept temporary custody of
13 children for care from any police officer in an emergency
14 situation until a proper order of a court exercising juvenile
15 jurisdiction can be entered awarding temporary custody to
16 such department, but such temporary custody prior to the
17 entry of such court order shall not be for longer than
18 fifteen days.

19 The state department of welfare shall provide care in
20 special boarding homes for children needing detention
21 pending disposition by a court having juvenile jurisdiction
22 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
2 into the temporary rules of the civil service commission and
3 shall continue in effect until the director of personnel
4 prepares and submits to the civil service commission new
5 rules for the classified service.

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

10 (1) For the preparation, maintenance and revision of a
11 position classification plan for all positions in the classified
12 service, based upon similarity of duties performed and
13 responsibilities assumed, so that the same qualifications may
14 reasonably be required for and the same schedule of pay
15 may be equitably applied to all positions in the same class.
16 After such classification has been approved by the commis-
17 sion, the director shall allocate the position of every em-
18 ployee in the classified service to one of the classes in the
19 plan. Any employee affected by the allocation of a position
20 to a class shall, after filing with the director of personnel
21 a written request for reconsideration thereof in such manner
22 and form as the director may prescribe, be given a reason-
23 able opportunity to be heard thereon by the director. The
24 interested appointing authority shall be given like oppor-
25 tunity to be heard.

26 (2) For a pay plan for all employees in the classified
27 service, after consultation with appointing authorities and
28 the state fiscal officers, and after a public hearing held by
29 the commission. Such pay plan shall become effective only
30 after it has been approved by the governor after submission
31 to him by the commission. Amendments to the pay plan
32 may be made in the same manner. Each employee shall be

33 paid at one of the rates set forth in the pay plan for the
34 class of position in which he is employed. The principle
35 of equal pay for equal work in the several agencies of the
36 state government shall be followed in the pay plan as
37 established hereby.

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

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

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

69 (5) For the establishment of eligible lists for appoint-
70 ment and promotion, upon which lists shall be placed the
71 names of successful candidates in the order of their relative

72 excellence in the respective examinations. Eligibility for
73 appointment from any such list shall continue not longer
74 than three years. An appointing authority must make his
75 selection from the top five names on the appropriate lists
76 of eligibles.

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

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

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

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

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

106 (11) For discharge or reduction in rank or grade only
107 for cause of employees in the classified service. Discharge
108 or reduction of these employees shall take place only after
109 the person to be discharged or reduced has been presented
110 with the reasons for such discharge or reduction stated in

111 writing, and has been allowed a reasonable time to reply
112 thereto in writing, or upon request to appear personally
113 and reply to the head of the department or his deputy.
114 The statement of reasons and the reply shall be filed as a
115 public record with the director. Notwithstanding the fore-
116 going provisions of this subdivision, no permanent employee
117 shall be discharged from the classified service for ab-
118 senteeism upon using all entitlement to annual leave and
119 sick leave when such use has been due to illness or injury
120 as verified by a physician's certification or for other exten-
121 uating circumstances beyond the employee's control unless
122 his disability is of such a nature as to permanently incapaci-
123 tate him from the performance of the duties of his position.
124 Upon exhaustion of annual leave and sick leave credits for
125 the reasons specified herein and with certification by a
126 physician that the employee is unable to perform his duties,
127 a permanent employee shall be granted a leave of absence
128 without pay for a period not to exceed six months if such
129 employee is not permanently unable to satisfactorily perform
130 the duties of his position.

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

134 The commission and the director may include in the rules
135 provided for in this article such provisions as are necessary
136 to conform to regulations and standards of any federal
137 agency governing the receipt and use of federal grants-in-
138 aid by any state agency, anything in this article to the
139 contrary notwithstanding. The commission and the director
140 shall see that rules and practices meeting such standards
141 are in effect continuously after the effective date of this
142 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.

1 The Legislature has considered the findings of fact and
2 recommendations reported to it by the court of claims con-
3 cerning various claims against the state and agencies thereof,
4 and in respect to each of the following claims the Legislature
5 adopts those findings of fact as its own, and hereby declares
6 it to be the moral obligation of the state to pay each
7 such claim in the amount specified below, and directs the
8 auditor to issue warrants for the payment thereof out
9 of any fund appropriated and available for the purpose.

10 (a) **Claims versus the Department of Highways:**

11 To be paid from State Road Fund

12	(1) Harry N. Walker d/b/a Gauley Esso	
13	Service Center	\$ 900.00
14	(2) A. D. and Eulah M. Strader	896.00
15	(3) Monongahela Power Company	148.84
16	(4) Bliss R. Watring	750.00
17	(5) James B. Frazier	10,000.00
18	(6) Lou Irene Frazier	1,000.00
19	(7) Jammy Lou Frazier, an infant by and	
20	through James B. Frazier, her next friend,	
21	and James B. Frazier	500.00
22	(8) James B. Frazier, Administrator of Estate	
23	of Michael Scott Frazier, deceased	10,541.95
24	(9) Joseph C. and Emma Lou Jones	265.54
25	(10) William B. and Helen McClure	137.55
26	(11) Foremost Insurance Company	550.00
27	(12) Peter Shaffron, Jr.	114.33
28	(13) S. J. Groves & Sons and Turman Con-	
29	struction Company	38,404.45

30	(14) Virgil Donald Seebaugh and Ava Marie	
31	Seebaugh _____	750.00
32	(15) W. Va. Welding Supply Company _____	1,660.00
33	(16) C. P. McDorman _____	50.00
34	(17) Vergie Warner _____	100.00
35	(18) Carpenter Addition Water Company _____	124.74
36	(19) Delbert J. Matheny _____	200.00
37	(20) Larry L. Betonte and Judith A.	
38	Betonte _____	700.00
39	(21) Amos Preece _____	1,200.00
40	(22) Charles Gravely _____	106.61
41	(23) Oscar Vecellio, Inc. _____	4,970.48
42	(24) Carl A. Brown _____	750.00
43	(25) Clarence E. Brown _____	600.00
44	(26) Marlene J. Downey _____	100.00
45	(27) Harry Ellison _____	1,500.00
46	(28) Leo R. Harrah _____	6,000.00
47	(29) Ralph W. Waugh _____	700.00
48	(30) Thomas Eugene Carelli and Frank	
49	Carelli, d/b/a the Smoke House _____	1,300.00
50	(31) Wilson Jacobs and Eugene Jacobs _____	4,225.00
51	(32) David McClellan _____	1,700.00
52	(33) B. H. Child & Co., Inc. d/b/a Fort	
53	Pitt Shoe Store _____	3,700.00
54	(34) Elsie McCall Duncan d/b/a Mac's	
55	Jewelry Store _____	2,621.30
56	(35) State Farm Insurance Co., Assignee	
57	of Margaret Roeser and Harriet	
58	Davidson _____	464.00
59	(36) Thomas C. and Nellie Sheppard, Sr. _____	2,444.03
60	(37) J. R. Hardy _____	160.68
61	(38) Cory Auto Parts Company _____	10,000.00
62	(39) The Firestone Tire & Rubber	
63	Company _____	6,000.00
64	(40) Darrell Bailey _____	437.13
65	(41) State Farm Mutual Automobile Insurance	
66	Company, as subrogee of Diana K. Smith,	
67	its insured _____	78.80
63	(42) State Farm Mutual Automobile Insurance	

69	Company, as subrogee of Corliss P.	
70	McDorman, its insured _____	277.81
71	(43) Gertrude A. Myers and Lena M.	
72	Brown _____	1,000.00
73	(44) State Farm Mutual Automobile Insurance	
74	Company, as subrogee of Ralph Henne,	
75	its insured _____	36.05
76	(45) State Farm Mutual Automobile Insurance	
77	Company, as subrogee of Robert L. Hulett,	
78	its insured _____	46.35
79	(b) Claims versus the Governor's Office:	
80	To be paid from General Revenue Fund	
81	(1) The Fairmont Times and	
82	West Virginian _____	210.00
83	(c) Claims versus the Board of Regents:	
84	To be paid from General Revenue Fund	
85	(1) Joe L. Smith, Jr., Inc. d/b/a Biggs-	
86	Johnston-Withrow _____	372.98
87	(d) Claims versus the State Tax Department:	
88	To be paid from General Revenue Fund	
89	(1) General Foods Corporation _____	28,590.95
90	(e) Claims versus the Department of Public	
91	Institutions:	
92	To be paid from General Revenue Fund	
93	(1) Harold E. Bondy, M. D. _____	2,000.00
94	(2) Radiological Consultants Association ____	2,815.00
95	(f) Claims versus the Department of Finance	
96	and Administration:	
97	To be paid from General Revenue Fund	
98	(1) City of Charleston _____	91,329.00
99	(g) Claims versus the Department of Natural	
100	Resources:	
101	To be paid from General Revenue Fund	
102	(1) Flossie Grace Pudder _____	8,000.00
103	(2) Robert J. Pudder _____	3,000.00

104 (h) **Claims versus the Department of Public Safety:**

105 To be paid from General Revenue Fund

106 (1) Frank Prozillo 155.61

107 (2) Mary Jane Starvaggi 25,000.00

108 (3) Wilma Lee Morris 1,500.00

109 (i) **Claims versus the Adjutant General:**

110 To be paid from General Revenue Fund

111 (1) Monongahela Power Company 298.43

112 The Legislature finds that the above moral obligations and
113 the appropriations made in satisfaction thereof shall be the full
114 compensation for all claimants, and that prior to the payments
115 to any claimant provided for in this bill, the court of claims
116 shall receive a release from said claimant releasing any and all
117 claims for moral obligations arising from the matters consid-
118 ered by the Legislature in the finding of the moral obligations
119 and the making of the appropriations for said claimant. The
120 court of claims shall deliver all releases obtained from claim-
121 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.

1 The Legislature has heretofore made findings of fact that
2 the state has received the benefit of the commodities and
3 services rendered by certain claimants herein and has con-
4 sidered claims against the state and the department of

5 mental health, an agency thereof, which have arisen due to
6 over-expenditures of departmental appropriations by officers
7 of such state spending unit, such claims having been pre-
8 viously considered by the court of claims which also found
9 that the state has received the benefit of the commodities
10 and services rendered by each claimant, but were denied
11 by the court of claims on the purely statutory grounds that
12 to allow such claims would be condoning illegal acts contrary
13 to the laws of the state. The Legislature, pursuant to its
14 findings of fact and also by the adoption of the findings
15 of fact by the court of claims as its own, and, while
16 not condoning such illegal acts, hereby declares it to be the
17 moral obligation of the state to pay each such claim in
18 the amount specified below, and directs the auditor to issue
19 warrants upon receipt of a properly executed requisition
20 supported by an itemized invoice, statement or other satis-
21 factory document as required by section ten, article three,
22 chapter twelve of the code of West Virginia, one thousand
23 nine hundred thirty-one, as amended, for the payment thereof
24 out of any fund appropriated and available for the purpose.

25 (a) Claims against the Department of Mental Health:

26 To be paid from General Revenue Fund

27 (1) Amstan Supply Division, American

28 Standards, Inc. _____\$ 456.00

29 (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 thousand 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

21 claim or account; or (4) directly or indirectly engaged in
22 the business of soliciting, or who holds himself out as
23 engaged in the business of soliciting, debts of any kind
24 owed or due, or asserted to be owed or due, to any
25 solicited person, firm, corporation or association for fee,
26 commission or other compensation.

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

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

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

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

54 (f) "Trust account" means a special account established
55 by a collection agency with a banking institution in this
56 state, wherein funds collected on behalf of a customer shall
57 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

34 condition of the bond shall not exceed the sum of such
35 bond.

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

40 The license of any licensee shall be void upon termi-
41 nation of the bond of the surety company, unless, prior
42 to such termination, a new bond has been filed with the
43 commissioner.

44 Should the license of any surety company to transact
45 business in this state be terminated, all bonds given pur-
46 suant to this article upon which such company is surety
47 shall thereupon be suspended, and the commissioner shall
48 immediately notify each affected licensee of such suspension
49 and require that a new bond be filed. This notice shall be
50 by registered or certified mail, return receipt requested,
51 and shall be addressed to the licensee at his or its principal
52 place of business as shown by the commissioner's records.
53 The failure of any licensee to file a bond with new or addi-
54 tional surety within thirty days after being advised in writing
55 by the commissioner of the necessity to do so shall be cause
56 for the commissioner to revoke the license.

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

66 No collection agency, nor any employee thereof, shall
67 intentionally make a false entry in any such collection
68 agency record nor intentionally mutilate, destroy or other-
69 wise dispose of any such record within the time limits pro-
70 vided in this section. Such records shall at all times be
71 open for inspection by the commissioner, or his duly appointed
72 representative.

73 No licensee shall commingle the money of collection agency
74 customers with other moneys, but shall maintain a separate
75 trust account in a bank for customers' funds.

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

§47-16-5. Penalty; civil liability.

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

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

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.

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

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

10 (2) Coordinate and cooperate in training programs con-
11 cerning controlled substance law enforcement at local and
12 state levels;

13 (3) Cooperate with the bureau by establishing a cen-
14 tralized unit to accept, catalogue, file, and collect statistics,
15 including records of drug dependent persons and other con-
16 trolled substance law offenders within the state, and make the
17 information available for federal, state, and local law en-
18 forcement purposes. They shall not furnish the name or
19 identity of a patient or research subject whose identity could
20 not be obtained under subsection (c); and

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

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

29 (c) A practitioner engaged in medical practice or research
30 is not required or compelled to furnish the name or identity of
31 a patient or research subject to the state board of pharmacy or
32 to the appropriate department, board, or agency by which he is

33 licensed or registered, as specified in section three hundred one,
34 nor may he be compelled in any state or local civil, criminal,
35 administrative, legislative, or other proceedings to furnish the
36 name or identity of an individual that the practitioner is ob-
37 ligated to keep confidential.

38 (d) No mental health organization or hospital shall be com-
39 pelled in any state or local civil, criminal, administrative,
40 legislative or other proceeding to furnish the name or identity
41 of any person voluntarily requesting treatment for or rehabilita-
42 tion from addiction to or dependency upon the use of a con-
43 trolled substance as defined in article one of this chapter.

44 (e) Notwithstanding any other provision of law, any
45 licensed physician or competent medically trained person under
46 his direction may examine, diagnose, and treat any minor at his
47 or her request for any addiction to or dependency upon the
48 use of a controlled substance as defined in article one of this
49 chapter without the knowledge or consent of the minor's
50 parent or guardian. Such physician and such other persons
51 shall not incur any civil or criminal liability in connection there-
52 with 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, chap-
ter 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:

ARTICLE 1. PROVISIONS RELATING TO CORPORATIONS GENERALLY.**§31-1-11. Amendment of charter.**

1 Every corporation of this state heretofore or hereafter in-
2 corporated may, from time to time and in the manner
3 herein provided, when and as desired, amend its charter
4 by addition to its corporate powers and purposes, or
5 diminution thereof, or both; or by substitution of other
6 powers and purposes, in whole or in part, for those set
7 forth in its charter; or by increasing or decreasing its autho-
8 rized capital stock or classifying or reclassifying the same,
9 by changing the number, par value, designations, pre-
10 ferences or relative, participating, optional or other special
11 rights of the shares, or the qualifications, limitations or re-
12 strictions of such rights, or by changing shares with par
13 value into shares without par value or shares without par
14 value into shares with par value either with or without in-
15 creasing or decreasing the number of shares; or by chang-
16 ing its corporate name, or by making any other change or
17 alteration in its charter that may be desired; and any or all
18 such changes or alterations may be affected by one amend-
19 ment: *Provided*, That any nonprofit joint stock company
20 heretofore incorporated pursuant to statutes then existing
21 may amend or restate its charter to make same a nonstock,
22 nonprofit corporation with such structure and member-
23 ship as is permitted by the provisions of section four-a of
24 this article, when provision is made at the time of amend-
25 ment or restatement for the surrender and cancellation of
26 all of the outstanding stock of such nonprofit joint stock
27 company: *Provided, however*, That every charter as so
28 amended, changed, altered or restated, whether affected
29 under the first sentence of this section or the immediately
30 preceding proviso, shall contain only such provisions as it
31 would be lawful and proper to have in an original agree-
32 ment of incorporation made at the time of making such
33 amendment or restatement.

34 Whenever issued shares having par value are changed
35 into the same or a greater or less number of shares with-
36 out par value, whether of the same or of a different class

37 or classes of stock, the aggregate amount of the capital of
38 the corporation represented by such shares without par
39 value shall be the same as the aggregate amount of capi-
40 tal represented by the shares so changed; and whenever
41 issued shares without par value are changed into other
42 shares without par value to a greater or lesser number,
43 whether of the same or of a different class or classes, the
44 amount of capital represented by the new shares in the
45 aggregate shall be the same as the aggregate amount of
46 capital represented by the shares so changed; and the
47 amendment of the charter of the corporation effecting any
48 such change shall set forth that the capital of the corpora-
49 tion will not be reduced under or by reason of such
50 amendment.

CHAPTER 23

(Com. Sub. for Senate Bill No. 438—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[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, designated sections twenty-a and twenty-b, all relating to the West Virginia housing development fund; relating to legislative findings 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 residential 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; providing 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; establishing a special fund in the state treasury under the supervision 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 payments therefrom; relating to such special fund generally; providing 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.
- §31-18-3. Definitions.
- §31-18-6. Corporate powers.
- §31-18-8. Notes and bonds as negotiable instruments.
- §31-18-11. Authorizing resolutions.
- §31-18-12. Validity of any pledge, mortgage, deed of trust or security instrument.
- §31-18-20a. Land development fund.
- §31-18-20b. Mortgage finance bond insurance 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
2 result of public actions involving highways, public facilities,
3 flood control projects and urban renewal activities, and as a
4 result of the spread of slum conditions and blight to for-
5 merly sound urban and rural neighborhoods, there exists in the
6 state of West Virginia a serious shortage of sanitary, decent
7 and safe residential housing available at low prices or rentals
8 to persons and families of low and moderate income. This
9 shortage is severe in certain urban areas of the state, is
10 especially critical in the rural areas of West Virginia, and is
11 inimical to the health, welfare and prosperity of all residents
12 of the state and to the sound growth of West Virginia com-
13 munities.

14 (b) The Legislature hereby finds and declares further that
15 private enterprise and investment have not been able to
16 produce, without assistance, the needed construction of san-
17 itary, decent and safe residential housing at low prices or
18 rentals which persons and families of low and moderate in-
19 come can afford, to provide sufficient long-term mortgage
20 financing for residential housing for occupancy by persons
21 and families of low and moderate income or to achieve the
22 urgently needed rehabilitation of much of the present low
23 and moderate income housing stock. It is imperative that
24 the supply of residential housing for persons and families
25 displaced by public actions or natural disaster be increased;
26 that private enterprise and investment be encouraged both
27 to sponsor land development for residential housing for such
28 persons and families and to sponsor, build and rehabilitate
29 residential housing for such persons and families; and that
30 private financing be supplemented by financing as in this
31 article provided, to help prevent the recurrence of slum con-
32 ditions and blight and assist in their permanent elimination
33 throughout West Virginia.

34 (c) The Legislature hereby finds and declares further
35 that experience has demonstrated that concentration in res-
36 idential housing developments, or residential housing areas,
37 of only persons and families who, without some form of
38 private or public assistance, do not have incomes sufficient
39 to afford sanitary, decent and safe residential housing, fre-
40 quently does not eliminate, or avoid, undesirable social
41 conditions and frequently does not permanently eliminate,
42 or avoid, slum conditions, and that in such instances oc-
43 cupancy of some of the residential housing units in such
44 residential housing developments, or residential housing
45 areas, by persons and families of higher income is desir-
46 able and beneficial in achieving the stated public purposes
47 for enacting this legislation.

48 (d) The Legislature hereby finds and declares further that
49 depressed economic conditions in this state and a related
50 lack of employment and business opportunities caused
51 thousands of people to leave this state to find employment
52 elsewhere; that such depressed economic conditions and re-
53 lated exodus of population adversely affected the property
54 tax base of this state, adversely affected the excise tax
55 base of this state, diminished the manpower resources of
56 this state necessary for modern mining, industrial and com-
57 mercial operations and development in this state, caused
58 the population of this state to include a disproportionately
59 high number of elderly, disabled and economically disad-
60 vantaged persons, resulted in the spread of slum conditions
61 and blight to formerly sound urban and rural neighborhoods,
62 retarded, and continue to retard, the repair and improve-
63 ment of existing residential housing and the construction of
64 new residential housing, adversely affected, and continue to
65 adversely affect, land development, including the exten-
66 sion and construction of water systems, nonpollutnig sewer
67 systems, other utility facilities and off-highway streets and
68 roads essential to new industrial, commercial and residen-
69 tial housing development, critically restricted, and continue
70 to critically restrict, the construction of public housing for
71 occupancy by persons and families at the lowest level of the
72 low and moderate income segment of the population of this
73 state, critically restricted, and continue to critically restrict,

74 the opportunities of persons and families at all levels of
75 the low and moderate income segment of the population of
76 this state for improved residential housing, either newly
77 constructed or which would normally become available to
78 them when vacated by persons and families of higher in-
79 come occupying newly constructed residential housing, and
80 critically restricted, and continue to critically restrict, the
81 construction of new residential housing, including, but not
82 limited to, nursing homes and intermediate care facilities,
83 of design and location suitable for occupancy by disabled
84 and by elderly persons; that as a result of public actions
85 involving highways, public facilities, flood control projects
86 and urban renewal activities undertaken as a part of the
87 programs of this state to improve economic conditions and
88 increase employment opportunities in this state with a view
89 to improving the health, welfare and prosperity of residents
90 of this state and reversing the outward movement of popu-
91 lation in this state, extensive areas which are suitable for
92 industrial, commercial and residential housing uses have
93 been, or in the near future will be, opened up for develop-
94 ment for such purposes but in many instances will be
95 without the land development, including water and non-
96 polluting sewer systems, other utility facilities and off-
97 highway street and road improvements essential to use of
98 the same for such purposes; that as a result of the unique
99 physical, economic, demographic and other characteristics
100 of this state, including its rugged mountainous terrain,
101 scarcity of land at low or moderate cost suitable for residen-
102 tial housing, low population density and cultural prefer-
103 ences which are not suited for the denser, larger-scale
104 housing projects typical of more urban areas and high costs
105 of land development and housing construction, the dif-
106 ficulties of providing land development, including water and
107 nonpolluting sewer systems, other utility facilities and off-
108 highway streets and roads, and of providing residential
109 housing, are unusually severe within this state and have
110 restricted and continue to restrict, land development and
111 housing construction needed for the people of the state;
112 that as a direct consequence of the foregoing there exists
113 in this state a serious shortage of sanitary, decent and safe
114 residential housing available for occupancy by persons and

115 families of all but the highest income levels and there exists
116 in this state a serious shortage of water and nonpolluting
117 sewer systems, other utility facilities and off-highway street
118 and road developments essential to utilization of land for
119 industrial, commercial and residential housing purposes
120 which, due to public actions involving highways, public
121 facilities, flood control projects and urban renewal activi-
122 ties, is, or will soon become, available for needed indus-
123 trial, commercial and residential housing purposes; that
124 these shortages are severe in certain urban areas of this
125 state, are especially critical in rural areas of this state
126 and are inimical to the present and future health, welfare
127 and prosperity of all residents of this state and to the
128 sound growth and development of communities in this
129 state; and that unless promptly remedied these shortages
130 will continue to seriously retard the sound economic growth
131 and development of this state, the related property tax
132 and excise tax bases of this state and the availability in
133 this state of manpower resources essential to modern
134 mining, industrial and commercial operations and develop-
135 ment which are essential to the health, welfare and pros-
136 perity of this state and its residents.

137 (e) The Legislature hereby finds and declares further
138 that private enterprise and investment have not been able
139 to produce, or provide mortgage financing for, sufficient
140 new sanitary, decent and safe residential housing at prices
141 or rentals low enough to enable sufficient persons and
142 families having incomes at or immediately above the higher
143 level of the low and moderate income segment of the
144 population of this state to occupy the same and thereby
145 provide opportunities for persons and families of lesser in-
146 come to occupy existing sanitary, decent and safe resi-
147 dential housing thereby vacated, have not been able to pro-
148 duce, or provide mortgage financing for, sufficient new
149 residential housing essential to retain and attract quali-
150 fied manpower resources in and to many areas of this state
151 where such resources are, or shortly will be, critically needed
152 for existing, expanding and new mining, industrial and
153 commercial operations and development, have not been
154 able to produce, or provide mortgage financing for, suf-
155 ficient new residential housing, including, but not limited

156 to, nursing homes and intermediate care facilities, of de-
157 sign and location suitable for occupancy by elderly and by
158 disabled persons, have not been able to finance sufficient
159 land development, including extensions or construction of
160 water and nonpolluting sewer systems, other utility facili-
161 ties and off-highway streets and roads, essential to utiliza-
162 tion of undeveloped areas of this state for industrial, com-
163 mercial and residential housing purposes, and have not
164 been able to achieve urgently needed rehabilitation of much
165 of the present housing stock of this state; that it is im-
166 perative that the supply of residential housing necessary
167 to retain and attract qualified manpower resources in and
168 to many areas of this state where such resources are, or
169 shortly will be, critically needed for existing, expanding
170 and new mining, industrial and commercial operations and
171 developments be provided, that sufficient new residential
172 housing, including, without limitation, nursing homes and
173 intermediate care facilities, designed and located so as to
174 be suitable for occupancy by elderly persons and by dis-
175 abled persons be provided, that needed public housing for
176 occupancy by persons and families at the lowest level of
177 the low and moderate income segment of the population
178 of this state be provided, that land development, includ-
179 ing water and nonpolluting sewer systems and other utili-
180 ties and off-highway streets and roads in this state neces-
181 sary or desirable for new commercial, industrial and
182 residential housing uses be provided, and that the existing
183 political subdivisions of this state, and private enterprise
184 and investment resources in this state, be encouraged to
185 sponsor and finance land development, including water and
186 nonpolluting sewer systems, other utilities and off-highway
187 streets and roads, and to finance, construct and rehabilitate
188 such residential housing; and that it is necessary that such
189 efforts be supplemented by this state as in this article
190 provided.

191 (f) The Legislature hereby finds and declares further that
192 political subdivisions in West Virginia which are presently
193 authorized and empowered by law to acquire, construct,
194 operate and manage public housing projects have not been
195 able to acquire and construct, even with available federal
196 and state assistance, public housing projects sufficient to

197 fulfill the needs for sanitary, decent and safe residential
198 housing for occupancy by persons and families at the
199 lowest level of the low and moderate income segment of
200 the population of this state who have been entitled to
201 occupy public housing in many smaller municipalities in
202 West Virginia and especially in the rural areas of West
203 Virginia; that the primary cause of such shortage of
204 needed public housing projects is the inability of such
205 political subdivisions to remedy such shortages because the
206 number of units of public housing needed within its ter-
207 ritorial jurisdiction is not sufficient to generate, and justify
208 the expenditure of, adequate funds to provide the requi-
209 site arranging of financing for, and planning, development,
210 acquisition, construction, operation and management of
211 such public housing; and that the acquisition, construction,
212 planning, development, financing and management of pub-
213 lic housing projects in this state by a governmental in-
214 strumentality and public body corporate with statewide
215 jurisdiction as authorized herein will permit or facilitate the
216 arranging of financing for, and planning, development,
217 acquisition, construction, operation or management of pub-
218 lic housing units, even though such units are included in
219 several projects each of which contains a relatively small
220 number of such units, sufficient in the aggregate to gener-
221 ate, and justify the expenditure of, sufficient funds to
222 provide the requisite arranging of financing for, and plan-
223 ning, development, acquisition, construction, operation and
224 management of such public housing, thereby providing
225 the means to alleviate the existing shortages of public
226 housing in many municipalities in West Virginia and in
227 the rural areas of West Virginia.

228 (g) The Legislature hereby finds and declares further
229 that its intention by enacting this legislation is to provide
230 for the continuation of the West Virginia housing develop-
231 ment fund, the corporate purpose of which is to provide
232 financing for development costs and land development to
233 public and private sponsors of land development in this
234 state; further to provide federally insured construction
235 loans to public and private sponsors of land development
236 or to public and private sponsors of residential housing
237 for occupancy by eligible persons and families; further to

238 provide uninsured construction loans to public and private
239 sponsors of land development or to public and private
240 sponsors of residential housing for occupancy by eligible
241 persons and families or to eligible persons and families
242 who may construct such housing; further to provide long-
243 term federally insured mortgage loans to public and pri-
244 vate sponsors of residential housing for occupancy by eli-
245 gible persons and families and to eligible persons and
246 families who may purchase or construct such housing;
247 further to provide long-term uninsured mortgage loans
248 to public and private sponsors of residential housing for
249 occupancy by eligible persons and families and to eligible
250 persons and families who may purchase or construct such
251 housing; further to provide technical, consultative and pro-
252 ject assistance service to public and private sponsors of
253 such land development or residential housing; further to
254 increase the construction of residential housing for oc-
255 cupancy by eligible persons and families through partici-
256 pating in the making of, or the making of, loans to
257 mortgagees approved by the housing development fund,
258 and taking as collateral security therefor, or purchasing,
259 or investing in long-term federal mortgages or federally
260 insured mortgages, or uninsured mortgages, on residential
261 housing constructed in this state, thereby increasing the
262 supply of funds for long-term mortgage financing of resi-
263 dential housing for occupancy by eligible persons and
264 families and freeing funds for use in short-term construc-
265 tion financing of residential housing for occupancy by
266 eligible persons and families; further to plan, develop,
267 finance, acquire, construct, mortgage or otherwise encum-
268 ber, operate, manage, sell, lease or otherwise dispose of
269 public housing projects; and finally to assist in coordinat-
270 ing federal, state, regional and local public and private
271 efforts and resources to otherwise increase the supply
272 of such residential housing.

273 (h) The Legislature hereby finds and declares further
274 that in accomplishing this purpose, the West Virginia
275 housing development fund, heretofore created and estab-
276 lished by this article, is acting in all respects for the bene-
277 fit of the people of the state of West Virginia to serve
278 a public purpose in improving and otherwise promoting

279 their health, welfare and prosperity, and that the West
280 Virginia housing development fund, heretofore created and
281 established, is empowered, hereby, to act on behalf of
282 the state of West Virginia and its people in serving this
283 public purpose for the benefit of the general public.

§31-18-3. Definitions.

1 As used in this article, unless the context otherwise re-
2 quires:

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

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

14 (a) Payments for options to purchase properties on the
15 proposed residential housing site, deposits on contracts of
16 purchase, or, with prior approval of the housing develop-
17 ment fund, payments for the purchase of such properties;

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

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

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

24 (e) Necessary application and other fees;

25 (3) "Eligible persons and families" means:

26 (a) Persons and families of low and moderate income;
27 or

28 (b) Persons or families of higher income to the extent
29 the housing development fund shall find and determine,
30 by resolution, that construction of new or rehabilitated
31 residential housing for occupancy by them will cause to be
32 vacated existing sanitary, decent and safe residential hous-

33 ing available at prices or rentals which persons and fami-
34 lies of low and moderate income can afford; or

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

40 (d) Persons and families for whom, as found and deter-
41 mined by the housing development fund by resolution, con-
42 struction of new or rehabilitated residential housing in
43 some designated area or areas of the state is necessary
44 for the purpose of retaining in, or attracting to, such area
45 or areas qualified manpower resources essential to modern
46 mining, industrial and commercial operations and develop-
47 ment in such area or areas;

48 (4) "Federally insured construction loan" means a con-
49 struction loan for land development for residential housing
50 or for residential housing which is either secured by a
51 federally insured mortgage or a federal mortgage, or which
52 is insured by the United States or an instrumentality there-
53 of, or a commitment by the United States or an instrumen-
54 tality thereof to insure such a loan;

55 (5) "Federally insured mortgage" means a mortgage
56 loan for land development for residential housing or for
57 residential housing insured or guaranteed by the United
58 States or an instrumentality thereof, or a commitment by
59 the United States or an instrumentality thereof to insure
60 such a mortgage;

61 (6) "Federal mortgage" means a mortgage loan for
62 land development for residential housing or for residential
63 housing made by the United States or an instrumentality
64 thereof, or a commitment by the United States or an in-
65 strumentality thereof to make such a mortgage loan;

66 (7) "Housing development fund" means the West Vir-
67 ginia housing development fund heretofore created and es-
68 tablished by section four of this article;

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

72 ments, including waterlines and water supply installations,
73 sewer lines and sewage disposal installations, steam, gas
74 and electric lines and installations, roads, streets, curbs,
75 gutters, sidewalks, whether on or off the site, which the
76 housing development fund deems necessary or desirable to
77 prepare such land for residential housing construction
78 within this state;

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

83 (10) "Minimum bond insurance requirement" means, as
84 of any particular date of computation, an amount of money
85 equal to the greatest of the respective amounts, for the then
86 current or any future calendar year, of annual debt service
87 of the housing development fund on all outstanding mort-
88 gage finance bonds, such annual debt service for any calen-
89 dar year being the amount of money equal to the aggre-
90 gate of (a) all interest payable during such calendar year
91 on such mortgage finance bonds on said date of com-
92 putation, plus (b) the principal amount of such mortgage
93 finance bonds outstanding which matures during such cal-
94 endar year, other than mortgage finance bonds for which
95 annual sinking fund payments have been or are to be made
96 in accordance with the resolution authorizing such bonds,
97 plus (c) the amount of all annual sinking fund payments
98 payable during such calendar year with respect to any such
99 mortgage finance bonds, all calculated on the assumption
100 that bonds will after said date of computation cease to be
101 outstanding by reason, but only by reason, of the payment
102 of bonds when due, and the payment when due and ap-
103 plication in accordance with the resolution authorizing such
104 bonds of all such sinking fund payments payable at or
105 after said date of computation;

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

111 (12) "Mortgage finance bond insurance fund" means

112 the special trust fund created and established in the state
113 treasury in accordance with section twenty-b of this article;

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

118 (14) "Persons and families of low and moderate income"
119 means persons and families, irrespective of race, creed, na-
120 tional origin or sex, determined by the housing develop-
121 ment fund to require such assistance as is made available
122 by this article on account of personal or family income
123 not sufficient to afford sanitary, decent and safe housing,
124 and to be eligible or potentially eligible to occupy resi-
125 dential housing constructed and financed, wholly or in
126 part, with federally insured construction loans, federally
127 insured mortgages, federal mortgages or with other public
128 or private assistance, or with uninsured construction loans,
129 or uninsured mortgage loans, and in making such deter-
130 mination the fund shall take into account the following: (a)
131 The amount of the total income of such persons and
132 families available for housing needs, (b) the size of the
133 family, (c) the cost and condition of housing facilities
134 available, (d) the eligibility of such persons and families
135 for federal housing assistance of any type predicated upon
136 low or moderate income basis, and (e) the ability of such
137 persons and families to compete successfully in the normal
138 housing market and to pay the amounts at which private
139 enterprise is providing sanitary, decent and safe housing:
140 *Provided*, That to the extent found and determined by the
141 housing development fund, by resolution, to be necessary
142 or appropriate for the purposes of eliminating undesirable
143 social conditions and permanently eliminating slum condi-
144 tions, the income limitation requirements of this article
145 may be waived as to any persons or families who are
146 eligible to occupy residential housing constructed in whole,
147 or in part, with federally insured construction loans,
148 federally insured mortgages or federal mortgages under
149 housing assistance or mortgage insurance programs of the
150 United States, or an instrumentality thereof, predicated
151 upon any low or moderate income basis;

152 (15) "Residential housing" means a specific work or im-
153 provement within this state undertaken primarily to provide
154 dwelling accommodations, including the acquisition, con-
155 struction or rehabilitation of land, buildings and improve-
156 ments thereto, for residential housing, including, but not
157 limited to nursing homes and intermediate care facilities,
158 and such other nonhousing facilities as may be incidental
159 or appurtenant thereto;

160 (16) "Special bond insurance commitment fee" means
161 a fee in the amount of one per centum of the total princi-
162 pal amount of each loan which is to be temporarily or
163 permanently financed from the proceeds of mortgage
164 finance bonds, other than a federally insured construction
165 loan, a federally insured mortgage or a federal mortgage,
166 or an amount equal to an equivalent discount on each loan
167 purchased or invested in by the housing development
168 fund from the proceeds of mortgage finance bonds, other
169 than a federally insured construction loan, a federally in-
170 sured mortgage or a federal mortgage, and which may be
171 payable from the proceeds of such bonds or any other
172 source available to the housing development fund for
173 such use: *Provided, however,* That if the period of time
174 between the first disbursement of proceeds of such loan
175 and the date upon which it is specified that the first
176 repayment of principal of such a loan shall be payable
177 exceeds twelve months, an additional amount computed on
178 the basis of one twelfth of one per centum per month on
179 the total principal amount of such loan over the number
180 of months of such period of time in excess of twelve
181 months shall be included in such fee;

182 (17) "Special bond insurance premium" means (i) a
183 fee at the rate of one half of one percent per annum on
184 the outstanding principal balance which the housing de-
185 velopment fund shall charge the borrower of a mortgage
186 loan, or of a loan secured by a mortgage, financed from
187 the proceeds of mortgage finance bonds, other than a fed-
188 erally insured construction loan, a federally insured mort-
189 gage or a federal mortgage, which shall accrue from a date
190 which is one month prior to the date on which the first
191 installment payment of principal of such a loan is payable

192 and which shall be payable thereafter in monthly install-
193 ments on the same day of each successive month that in-
194 stallment payments of principal of such a loan are payable,
195 and (ii) with respect to any loan, other than a federally
196 insured construction loan, a federally insured mortgage
197 or a federal mortgage, purchased, or invested in with such
198 proceeds, an equivalent amount which the housing develop-
199 ment fund shall set aside from payments it receives on
200 such loan or from any other source available to the housing
201 development fund for such use;

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

208 (19) "Uninsured construction loan" means a construc-
209 tion loan for land development or for residential housing
210 which is not secured by either a federally insured mortgage
211 or a federal mortgage, and which is not insured by the
212 United States or an instrumentality thereof, and as to
213 which there is no commitment by the United States or an
214 instrumentality thereof to provide insurance;

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

§31-18-6. Corporate powers.

1 The housing development fund is hereby granted, has and
2 may exercise all powers necessary or appropriate to carry
3 out and effectuate its corporate purpose including, but
4 not limited to the following:

5 (1) To make or participate in the making of federally
6 insured construction loans to sponsors of land development
7 for residential housing for occupancy by eligible persons
8 and families or to sponsors of residential housing for oc-
9 cupancy by eligible persons and families. Such loans shall

10 be made only upon determination by the housing develop-
11 ment fund that construction loans are not otherwise avail-
12 able, wholly or in part, from private lenders upon reason-
13 ably equivalent terms and conditions;

14 (2) To make temporary loans, with or without interest,
15 but with such security for repayment as the housing
16 development fund determines reasonably necessary and
17 practicable, from the operating loan fund, if created, establish-
18 ed, organized and operated in accordance with the pro-
19 visions of section nineteen of this article, to defray
20 development costs to sponsors of land development for
21 residential housing for occupancy by persons and families
22 of low and moderate income or residential housing con-
23 struction for occupancy by persons and families of low
24 and moderate income which is eligible or potentially
25 eligible for federally insured construction loans, federally
26 insured mortgages, federal mortgages, or uninsured con-
27 struction loans or uninsured mortgage loans;

28 (3) To make or participate in the making of long-term
29 federally insured mortgage loans to sponsors of residential
30 housing for occupancy by eligible persons and families, or to
31 eligible persons and families, who may purchase or construct
32 such residential housing. Such loans shall be made only upon
33 determination by the housing development fund that long-term
34 mortgage loans are not otherwise available, wholly or in
35 part, from private lenders upon reasonably equivalent terms
36 and conditions;

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

40 (5) To make and execute contracts, releases, compromises,
41 compositions and other instruments necessary or convenient
42 for the exercise of its powers, or to carry out its corporate
43 purpose;

44 (6) To collect reasonable fees and charges in connection
45 with making and servicing its loans, notes, bonds, obligations,
46 commitments and other evidences of indebtedness, and in
47 connection with providing technical, consultative and project
48 assistance services. Such fees and charges shall be
49 limited to the amounts required to pay the costs of the

50 housing development fund, including operating and administra-
51 tive expenses, and reasonable allowances for losses which
52 may be incurred;

53 (7) To invest any funds not required for immediate dis-
54 bursement in any of the following securities:

55 (i) Direct obligations of or obligations guaranteed by the
56 United States of America;

57 (ii) Bonds, debentures, notes or other evidences of in-
58 debtedness issued by any of the following agencies: Banks for
59 cooperatives; federal intermediate credit banks; federal home
60 loan bank system; Export-Import Bank of the United States;
61 federal land banks; the Federal National Mortgage Associa-
62 tion or the Government National Mortgage Association;

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

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

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

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

84 (vii) Any fixed interest bond, note or debenture of any
85 corporation organized and operating within the United States:
86 *Provided, however*, That such corporation shall have a mini-
87 mum net worth of fifteen million dollars and its securities
88 or its parent corporation's securities are listed on one or

- 89 more of the national stock exchanges: *And provided further,*
90 That (1) such corporation has earned a profit in eight of
91 the preceding ten fiscal years as reflected in its statements,
92 and (2) such corporation has not defaulted in the payment
93 of principal or interest on any of its outstanding funded
94 indebtedness during its preceding ten fiscal years, and (3)
95 the bonds, notes or debentures of such corporation to be
96 purchased are rated "AA" or the equivalent thereof or
97 better than "AA" or the equivalent thereof by at least two
98 or more nationally recognized rating services such as Standard
99 and Poor's, Dun & Bradstreet or Moody's;
- 100 (8) To sue and be sued;
- 101 (9) To have a seal and alter the same at will;
- 102 (10) To make, and from time to time, amend and repeal
103 bylaws and rules and regulations not inconsistent with the
104 provisions of this article;
- 105 (11) To appoint such officers, employees and consultants
106 as it deems advisable and to fix their compensation and
107 prescribe their duties;
- 108 (12) To acquire, hold and dispose of personal property
109 for its corporate purposes;
- 110 (13) To enter into agreements or other transactions with
111 any federal or state agency, any person and any domestic or
112 foreign partnership, corporation, association or organization;
- 113 (14) To acquire real property, or an interest therein, in
114 its own name, by purchase or foreclosure, where such
115 acquisition is necessary or appropriate to protect any loan
116 in which the housing development fund has an interest and
117 to sell, transfer and convey any such property to a buyer
118 and, in the event such sale, transfer or conveyance cannot
119 be effected with reasonable promptness or at a reasonable
120 price, to lease such property to a tenant;
- 121 (15) To sell, at public or private sale, any mortgage
122 or other negotiable instrument or obligation securing a con-
123 struction, land development, mortgage or temporary loan;
- 124 (16) To procure insurance against any loss in connection
125 with its property in such amounts, and from such insurers,
126 as may be necessary or desirable;
- 127 (17) To consent, whenever it deems it necessary or de-

128 sirable in the fulfillment of its corporate purpose, to the
129 modification of the rate of interest, time of payment or any
130 installment of principal or interest, or any other terms, of
131 mortgage loan, mortgage loan commitment, construction loan,
132 temporary loan, contract or agreement of any kind to which
133 the housing development fund is a party;

134 (18) To make and publish rules and regulations respecting
135 its federally insured mortgage lending, uninsured mortgage
136 lending, construction lending and lending to defray develop-
137 ment costs and any such other rules and regulations as are
138 necessary to effectuate its corporate purpose;

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

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

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

158 (22) To provide technical services to assist in the planning,
159 processing, design, construction or rehabilitation of residential
160 housing for occupancy by eligible persons and families or
161 land development for residential housing for occupancy by
162 eligible persons and families;

163 (23) To provide consultative project assistance services for
164 residential housing for occupancy by eligible persons and
165 families and for land development for residential housing
166 for occupancy by eligible persons and families and for the

167 residents thereof with respect to management, training and
168 social services;

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

172 (25) With the proceeds from the issuance of notes or
173 bonds of the housing development fund, including, but not
174 limited to, mortgage finance bonds, or with other funds
175 available to the housing development fund for such purpose,
176 to participate in the making of or to make loans to mort-
177 gagees approved by the housing development fund and take
178 such collateral security therefor as is approved by the
179 housing development fund and to invest in, purchase, acquire,
180 sell or participate in the sale of, or take assignments of,
181 notes and mortgages, evidencing loans for the construction,
182 rehabilitation, purchase or refinancing of residential housing
183 in this state: *Provided*, That the housing development fund
184 shall obtain such written assurances as shall be satis-
185 factory to it that the proceeds of such loans, invest-
186 ments or purchases will be used, as nearly as practicable,
187 for the making of or investment in long-term federally
188 insured mortgage loans or federally insured construc-
189 tion loans, uninsured mortgage loans, or uninsured con-
190 struction loans, for residential housing for occupancy
191 by eligible persons and families in this state or that
192 other moneys in an amount approximately equal to
193 such proceeds shall be committed and used for such purpose;

194 (26) To make or participate in the making of uninsured
195 construction loans to sponsors of land development for
196 residential housing for occupancy by eligible persons and
197 families or to sponsors of residential housing for occupancy
198 by eligible persons and families, or to eligible persons and
199 families who may construct such housing. Such loans shall
200 be made only upon determination by the housing develop-
201 ment fund that construction loans are not otherwise available,
202 wholly or in part, from private lenders upon reasonably
203 equivalent terms and conditions;

204 (27) To make or participate in the making of long-term
205 uninsured mortgage loans to sponsors of residential housing
206 for occupancy by eligible persons and families, or to eligible

207 persons and families who may purchase or construct such
208 residential housing. Such loans shall be made only upon
209 determination by the housing development fund that
210 long-term mortgage loans are not otherwise available, wholly
211 or in part, from private lenders upon reasonably equivalent
212 terms and conditions;

213 (28) To obtain options to acquire and to acquire real
214 property, or any interest therein, in its own name, by
215 purchase, or lease, or otherwise, which is found by the
216 housing development fund to be suitable, or potentially suit-
217 able, as a site, or as part of a site, for the construction
218 of residential housing; to hold such real property; to make
219 loans to finance the performance of land development
220 activities on or in connection with any such real property
221 or to perform land development activities on or in connection
222 with any such real property; to sponsor the development of
223 residential housing for occupancy by eligible persons and
224 families on such real property; and to sell, transfer and
225 convey, lease or otherwise dispose of such real property,
226 or lots, tracts or parcels of such real property, or residential
227 housing, for such prices, upon such terms, conditions and
228 limitations, and at such time or times as the housing devel-
229 opment fund shall determine, to sponsors of residential
230 housing: *Provided, however,* That if the housing development
231 fund shall determine that any such real property or any
232 lots, tracts or parcels of such real property are not at any
233 time or times needed for present or future residential housing,
234 the housing development fund may sell, transfer and con-
235 vey, lease or otherwise dispose of the same, to such pur-
236 chasers or lessees, for such prices, upon such terms, con-
237 ditions and limitations, and for such uses and purposes as
238 the housing development fund shall determine;

239 (29) To make loans, with or without interest, but with
240 such security for repayment as the housing development fund
241 determines reasonably necessary and practicable from the
242 land development fund, if created, established, organized
243 and operated in accordance with the provisions of section
244 twenty-a of this article, to sponsors of land development,
245 to defray development costs and other costs of land develop-
246 ment; and

247 (30) To exercise all of the rights, powers and authorities
248 of a public housing authority as set forth and provided in
249 article fifteen, chapter sixteen of this code in any area
250 or areas of the state which the housing development fund
251 shall determine by resolution to be necessary or appro-
252 priate.

§31-18-8. Notes and bonds as negotiable instruments.

1 The notes and bonds shall be and hereby are made
2 negotiable instruments under the provisions of article eight,
3 chapter forty-six of this code, subject only to the provisions
4 of the notes or bonds for registration, unless otherwise pro-
5 vided by resolution of the housing development fund.

§31-18-11. Authorizing resolutions.

1 Any resolution or resolutions authorizing any notes or
2 bonds, or any issue thereof, may contain provisions, which
3 shall be a part of the contract with the holders thereof,
4 as to:

5 (1) Pledging all or part of the mortgage or deed of trust
6 payments, charges and other fees made or received by the
7 housing development fund and other moneys received or to
8 be received to secure the payment of the notes or bonds
9 or of any issue thereof, subject to such agreements with
10 bondholders or noteholders as may then exist;

11 (2) Pledging all or any part of the assets of the housing
12 development fund to secure the payment of the notes or
13 bonds or any issue of notes or bonds, subject to such
14 agreements with bondholders or noteholders as may then
15 exist;

16 (3) Pledging as security, or as part of the security, for
17 the payment of any mortgage finance bonds, including, but
18 not limited to mortgage finance bonds issued to pay
19 outstanding notes, amounts payable from the mortgage
20 finance bond insurance fund;

21 (4) The setting aside of reserves or sinking funds and the
22 regulation and disposition thereof;

23 (5) Limitations on the purpose to which the proceeds of
24 sale of notes or bonds may be applied and pledging

25 such proceeds to secure the payments of the notes or
26 bonds or of any issue thereof;

27 (6) Limitations on the issuance of additional notes or
28 bonds; the terms upon which additional notes or bonds may
29 be issued and secured; and the refunding of outstanding
30 or other notes or bonds;

31 (7) The procedure, if any, by which the terms of any con-
32 tract with noteholders or bondholders may be amended or
33 abrogated, the amount of notes or bonds the holders of which
34 must consent thereto, and the manner in which such consent
35 may be given;

36 (8) Limitations on the amount of moneys to be expended
37 by the housing development fund for operating, administrative
38 or other expenses of the housing development fund;

39 (9) Vesting in a trustee or trustees such property, rights,
40 powers and duties of any trustee appointed by the bond-
41 holders pursuant to section sixteen of this article, and limit-
42 ing or abrogating the right of the bondholders to appoint
43 a trustee under section sixteen of this article or limiting
44 the rights, powers and duties of such trustee; and

45 (10) Any other matters, of like or different character,
46 which in any way affect the security or protection of the
47 notes or bonds.

**§31-18-12. Validity of any pledge, mortgage, deed of trust or
security instrument.**

1 It is the intention hereof that any pledge, mortgage, deed
2 of trust or security instrument made by or for the benefit
3 of the housing development fund, including, but not limited
4 to amounts in the mortgage finance bond insurance fund,
5 shall be valid and binding between the parties from the time
6 the pledge, mortgage, deed of trust or security instrument is
7 made; and that the moneys or property so pledged, en-
8 cumbered, mortgaged or entrusted shall immediately be subject
9 to the lien of such pledge, mortgage, deed of trust or security
10 instrument without any physical delivery thereof or further
11 act. The lien of such pledge shall be valid and binding
12 against all parties having claims of any kind in tort, contract,
13 or otherwise, irrespective of whether such parties have notice
14 of the lien of such pledge. Nothing herein shall be construed

15 to prohibit the housing development fund from selling any
16 property subject to any such pledge, mortgage, deed of
17 trust or security instrument. Such property is not to be sold
18 for less than its fair market value.

§31-18-20a. Land development fund.

1 (a) The board of directors of the housing development
2 fund may create and establish a special revolving fund of
3 moneys made available by appropriation, grant, contribution or
4 loan, to be known as the land development fund and to be
5 governed, administered and accounted for by the directors,
6 officers and managerial staff of the housing development
7 fund as a special purpose account separate and distinct from
8 any other moneys, fund or funds owned and managed by
9 the housing development fund.

10 (b) The purpose of the land development fund shall be to
11 provide a source from which the housing development fund
12 may finance development costs and land development in this
13 state by making loans therefrom, with or without interest
14 and with such security for repayment as the housing develop-
15 ment fund deems reasonably necessary and practicable, or by
16 expending moneys therefrom, for development costs and land
17 development in this state.

18 (c) The housing development fund may invest and reinvest
19 all moneys in the land development fund in any investments
20 authorized under section six of this article, pending the
21 disbursement thereof in connection with the financing of
22 development costs and land development in this state.

23 (d) No loans shall be made by the housing development
24 fund from the land development fund except in accordance
25 with a written loan agreement which shall include, but not
26 be limited to, the following terms and conditions:

27 (1) The proceeds of all such loans shall be used only for
28 development costs and land development;

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

31 (3) All repayments shall be made concurrent with receipt
32 by the borrower of the proceeds of a construction loan or
33 mortgage, as the case may be, or at such other times as

34 the housing development fund deems reasonably necessary or
35 practicable; and

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

39 (e) The housing development fund may expend any income
40 from the financing of development costs and land development
41 with moneys in the land development fund, and from invest-
42 ment of such moneys, in payment, or reimbursement, of all
43 expenses of the housing development fund which, as deter-
44 mined in accordance with procedures approved by the board of
45 directors of the housing development fund, are fairly allocable
46 to such financing or its land development activities: *Provided,*
47 That no funds from the land development fund shall be used
48 to carry on propaganda, or otherwise attempt to influence
49 legislation.

§31-18-20b. Mortgage finance bond insurance fund.

1 (a) There is hereby created and established in the state
2 treasury a special trust fund to be designated the "mortgage
3 finance bond insurance fund" into and from which moneys
4 shall be paid as provided in this section. The mortgage
5 finance bond insurance fund shall be under the supervision
6 and control of the state sinking fund commission and all
7 moneys and securities held therein or investments thereof
8 shall be held in trust subject to use and application only as
9 provided herein and in the resolution or resolutions of the
10 housing development fund authorizing the issuance of any
11 mortgage finance bonds, notwithstanding any other provision
12 of law. The mortgage finance bond insurance fund shall be
13 kept separate and apart from all other moneys and funds of
14 the state and the housing development fund is hereby autho-
15 rized to pledge any amount or amounts held therein to the
16 payment of the principal (including annual sinking fund
17 payments) of, and interest on, mortgage finance bonds in the
18 manner and to the extent and on such terms and con-
19 ditions as may be provided by the housing development
20 fund.

21 (b) In addition to any other fees and charges which the
22 housing development fund may charge on loans, it shall
23 charge on all loans or mortgages made or purchased with

24 the proceeds of sale of mortgage finance bonds, except
25 federally insured construction loans, federally insured mort-
26 gages, or federal mortgages, a special bond insurance
27 commitment fee and special bond insurance premiums.
28 The special bond insurance commitment fees and special
29 bond insurance premiums so charged shall be remitted to
30 the state sinking fund commission, promptly after the
31 last day of each calendar quarter, by the housing develop-
32 ment fund, or by any trustee, trustees, agent or agents
33 designated by the housing development fund to receive
34 the same and shall be held, invested and, together with
35 all investment income thereon, reinvested by the state
36 sinking fund commission in investments authorized under
37 section six of this article.

38 (c) Simultaneously with the issuance of any mortgage
39 finance bonds, the housing development fund shall cause
40 to be deposited in the mortgage finance bond insurance fund
41 an amount of the proceeds of sale and delivery of such
42 mortgage finance bonds which together with the sum of
43 the amount then on deposit in the mortgage finance bond
44 insurance fund and in reserves theretofore or then set aside
45 with a trustee or trustees and held pursuant to the resolution
46 or resolutions authorizing the issuance of such bonds only for
47 the payment of designated mortgage finance bonds prior to,
48 or at, their maturity, shall equal the minimum bond insurance
49 requirement. Except as provided in subsection (e) of this
50 section, amounts on deposit in the mortgage finance bond
51 insurance fund which are in excess of the minimum bond
52 insurance requirement may be withdrawn from the mortgage
53 finance bond insurance fund and paid to or upon the order
54 of the housing development fund upon thirty days notice
55 in writing to the state sinking fund commission. For
56 the purposes of determining any amounts held in the
57 mortgage finance bond insurance fund, securities held in
58 or other investments of the mortgage finance bond insur-
59 ance fund shall be valued at par. If, at any time, the hous-
60 ing development fund shall determine that because of
61 defaults or other reasons, the moneys available therefor
62 shall be insufficient to pay the principal (including the
63 annual sinking fund payment) of, and interest on, mort-
64 gage finance bonds becoming due during the next ensuing

65 six month period, the housing development fund shall give
66 written notice to the state sinking fund commission to
67 transfer the amount of moneys required for such payment,
68 on or before the time and to such trustee or paying agent
69 for any of the mortgage finance bonds as shall be speci-
70 fied in such notice, and the state sinking fund commis-
71 sion shall make such transfer.

72 (d) In the event that the sum of the amount held in
73 the mortgage finance bond insurance fund and in reserves
74 set aside with a trustee or trustees and held pursuant to
75 the resolution or resolutions authorizing the issuance of such
76 bonds only for the payment of designated mortgage finance
77 bonds prior to, or at, their maturity, shall be less than the
78 minimum bond insurance requirement, the chairman of
79 the housing development fund shall certify, on or before
80 the first day of December of each year, the amount of
81 such deficiency to the governor of the state, and the
82 governor shall transfer to the state sinking fund commis-
83 sion for deposit in the mortgage finance bond insurance
84 fund from any amounts previously appropriated which
85 are available for such purpose an amount equal to the
86 amount of such deficiency, and if the amount of such de-
87 ficiency shall not be available from such prior appropria-
88 tion or shall not have been so transferred, the governor
89 shall include the amount of such deficiency not so trans-
90 ferred in the budget of his office to be submitted for ap-
91 propriation to the next session of the Legislature, and
92 shall cause any amounts appropriated for such purpose to
93 be transferred to the state sinking fund commission for de-
94 posit in the mortgage finance bond insurance fund: *Pro-*
95 *vided*, That the Legislature shall not be required to make
96 any appropriation so requested, and the amount of such
97 deficiencies shall not constitute a debt or liability of the state.
98 (e) Subject to any agreement or agreements with hold-
99 ers of outstanding notes and bonds of the housing deve-
100 lopment fund, any amount or amounts paid by the state
101 into the mortgage finance bond insurance fund pursuant
102 to this section shall be repaid to the state as, when,
103 and to the extent, amounts held in the mortgage finance
104 bond insurance fund at any time or times after any
105 payment by the state into the mortgage finance bond

106 insurance fund shall exceed the minimum bond insur-
107 ance 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.

1 No part of the funds of the housing development fund,
2 or of the operating loan fund, or of the land development
3 fund, shall inure to the benefit of or be distributable to
4 its directors or officers or other private persons except
5 that the housing development fund shall be authorized
6 and empowered to pay reasonable compensation, other
7 than to the directors, including the chairman, vice chair-
8 man and treasurer of the board of directors and the secre-
9 tary of the board of directors, for services rendered and
10 to make loans and exercise its other powers as previously
11 specified in furtherance of its corporate purpose: *Pro-*
12 *vided*, That no such loans shall be made, and no property
13 shall be purchased or leased from, or sold, leased or
14 otherwise disposed of, to any director or officer of the
15 housing development fund.

§31-18-22. Termination or dissolution.

1 Upon the termination or dissolution, all rights and
2 properties of the housing development fund, including the
3 operating loan fund, the land development fund, and the
4 mortgage finance bond insurance fund, shall pass to and be
5 vested in the state of West Virginia, subject to the rights
6 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.

1 The housing development fund shall cause an annual audit
2 to be made by a resident independent certified public
3 accountant of its books, accounts and records, with
4 respect to its receipts, disbursements, contracts, mortgages,
5 leases, assignments, loans and all other matters relating
6 to its financial operations, including those of the operating
7 loan fund, the land development fund, and the mortgage
8 finance bond insurance fund. The person performing such
9 audit shall furnish copies of the audit report to the
10 commissioner of finance and administration, where they shall

11 be placed on file and made available for inspection by the
12 general public. The person performing such audit shall also
13 furnish copies of the audit report to the speaker of the House
14 of Delegates, the president of the Senate and the majority and
15 minority leaders of both houses.

16 In addition to the foregoing annual audit report, the
17 housing development fund shall also render every six
18 months to the joint committee on government and finance
19 a report setting forth in detail a complete analysis of the
20 activities, indebtedness, receipts and financial affairs of such
21 fund and the operating loan fund, the land development
22 fund, and the mortgage finance bond insurance fund. Upon
23 demand, the housing development fund shall also submit
24 to the joint committee on government and finance or the
25 legislative auditor any other information requested by such
26 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 promulgate 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 regulations; penalties.

1 County courts are hereby authorized to promulgate rules and

2 regulations, in accordance with the provisions of chapter
3 twenty-nine-a of this code, governing (1) the movement,
4 regulation or control of vehicular or pedestrian traffic on
5 property owned by or leased by such county courts,
6 or (2) the regulation or control of vehicular parking on
7 such property. It shall be unlawful for any person to
8 violate any such rule or regulation, if a sign or marker
9 giving reasonable notice of such rule or regulation is conspicu-
10 ously posted or present. The content of any such sign shall be
11 sufficient if it merely gives notice of what is or is not
12 permitted such as "no parking," "no left turn," "twenty miles
13 per hour," etc.

14 It is further hereby provided that any person violating
15 any such rule or regulation shall be guilty of a misdemeanor,
16 and, upon conviction thereof, shall, unless another penalty
17 be otherwise prescribed, be fined not less than five dollars
18 nor more than twenty-five dollars for each offense. Justices
19 of the peace of the county in which the violation occurs
20 shall have jurisdiction of any such offense, and where the
21 violation occurs within the corporate limits of a municipality,
22 the mayor's court or police or municipal court of such munici-
23 pality shall have jurisdiction thereof, concurrent with the
24 justices of the peace of the county in which such municipality
25 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.

1 In addition to the special funds account authorized by the
2 provisions of section nine of this article, each county court is
3 hereby authorized and empowered to create and establish by
4 proper order, a special account for the deposit of funds received
5 from and granted by the United States of America or the state
6 of West Virginia and shall provide for the expenditure and ap-
7 propriation of such funds in accordance with the applicable
8 laws and regulations promulgated by the governmental au-
9 thority making such grants. The funds so received and held
10 in such special account shall not be considered as revenue in
11 determining the amount of real and personal property taxes
12 to be levied for the regular fiscal budget of such county under
13 the provisions of article eight, chapter eleven of this code.

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-19a. Special account for federal and state grants-in-aid authorized.

1 In addition to the special fund account authorized by the
2 provisions of section nineteen of this article, the governing
3 body of every municipality shall have plenary power and

4 authority to establish a special account for the deposit of funds
5 received from and granted by the United States of America
6 or the State of West Virginia and shall provide for the ex-
7 penditure and appropriation of such funds in accordance with
8 the applicable laws and regulations promulgated by the
9 governmental authority making such grants. The funds so
10 received and held in such special account shall not be con-
11 sidered as revenue in determining the amount of real and
12 personal property taxes to be levied for the regular fiscal
13 budget of such municipality under the provisions of article
14 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; appointment of investigators of crime.

1 The prosecuting attorney of any county, with the approval
2 of the county court, or of the governor, or of the court of the
3 county vested with authority to try criminal offenses, or of the
4 judge thereof in vacation, may, within his discretion, offer
5 rewards for the apprehension of persons charged with crime, or
6 may expend money for the detection of crime. Any money

7 expended under this section shall, when approved by the pro-
8 secuting attorney, be paid out of the county fund, in the same
9 manner as other county expenses are paid: *Provided*, That the
10 prosecuting attorneys of the several counties of the state may,
11 with the approval of the county courts of their respective
12 counties, entered of record, appoint to assist them in the
13 discharge of their official duties, trained and qualified full-time
14 or part-time investigators of crime. Such investigators shall
15 accept no other public employment or employment in a private
16 police or investigative capacity during the term of their ap-
17 pointment and shall be paid such salary and expenses as may
18 be fixed by the county court. Such expenses shall be itemized
19 and sworn to by the investigator upon presentation to the
20 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.

1 The county court of every county having a population of
2 thirty thousand or less as determined by the latest official cen-
3 sus available which, as provided in section two-a, article eight
4 of this chapter, has directed the sheriff as jailer to feed priso-

5 ners shall, in addition to his compensation, allow to the sheriff
6 for keeping and feeding each prisoner, other than federal
7 prisoners or prisoners held under civil process as provided by
8 law, two dollars per day for each prisoner.

9 The limitation per day shall not include cost of personal
10 service, bed or bedding, soaps and disinfectants and items of
11 like kind, the cost of all of which shall be paid out of the al-
12 lowance fixed by the county court under the provisions of pre-
13 sent law.

14 All supplies of whatever kind for keeping and feeding priso-
15 ners shall be purchased upon the requisition of the sheriff un-
16 der rules and regulations prescribed by the county court. At
17 the end of each month the sheriff shall file with the county
18 court a detailed statement showing the name of each prisoner,
19 date of commitment and date of discharge, the number of days
20 in jail, and shall also file an itemized statement showing each
21 purchase and the cost thereof for keeping and feeding priso-
22 ners.

23 The county court of every county shall allow the actual and
24 necessary expenses incurred or expended by the sheriff in the
25 discharge of his duties, including, but not limited to those in-
26 curred in arresting, pursuing or transporting persons accused
27 or convicted of crimes and offenses; in the cost of law-enforce-
28 ment and safety equipment; in conveying or transporting a
29 prisoner from and to jail to participate in court proceedings,
30 and in conveying or transferring any person to or from any state
31 institution where he may be committed from his county, where
32 by law the sheriff is authorized to convey or transfer the per-
33 son. The county court shall allow the actual and necessary ex-
34 penses incurred or expended in serving summonses, notices or
35 other official papers in connection with the sheriff's office.

36 Every sheriff shall file monthly, under oath, a full and ac-
37 curate account of all the actual and necessary expenses incur-
38 red by him, his deputies, assistants and employees in the per-
39 formance and discharge of their official duties supported by
40 verified accounts before reimbursement thereof shall be al-
41 lowed by the county court. Reimbursement, properly allowed,
42 shall be made from the general county fund.

CHAPTER 28

(House Bill No. 789—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 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.

- 1 The supreme court of appeals shall consist of five justices,
- 2 elected and qualified according to the constitution and the laws
- 3 of this state, any three of whom shall constitute a quorum.

§51-1-2. Chief justice.

- 1 The court shall designate one of its justices to be chief
- 2 justice of the court for such term as the court may determine
- 3 by order made and entered of record. In the absence of the
- 4 chief justice, any other justice designated by the justices pre-
- 5 sent shall act as chief justice. Any reference in the constitu-
- 6 tion of this state, in this code or elsewhere in law to the presi-
- 7 dent of the West Virginia supreme court of appeals shall
- 8 henceforth be construed to mean the chief justice of such
- 9 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
2 every year at Charleston, in Kanawha county, the first com-
3 mencing on the second Tuesday in January, the second on the
4 first Wednesday in September, and shall continue until the
5 business is dispatched. But when, in the judgment of the court,
6 extraordinary circumstances require, such term or terms may
7 be held at such other place or places within the state as the
8 court may designate, such times and places to be fixed in the
9 manner provided in this article for holding special terms of
10 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

fifty-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

6. General Provisions Respecting Officers.

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.**

1 The salary of each of the justices (judges) of the supreme
2 court of appeals shall be thirty-two thousand five hundred
3 dollars per year.

4 Nothing herein contained shall be construed to permit pay-
5 ment of any compensation in excess of the amount which can
6 be paid state officers under the rules and regulations of the
7 pay board established by the president of the United States
8 by virtue of the authority vested in him by the Economic
9 Stabilization Act of 1970, as from time to time amended.

**ARTICLE 2. CIRCUIT COURTS; CIRCUIT, CRIMINAL AND INTER-
MEDIATE JUDGES.****§51-2-13. Salaries of judges of circuit courts; manner of comput-
ing amount thereof; limitation on such salaries and
on salaries of judges of statutory courts of record.**

1 The salaries of the judges of the various circuit courts shall
2 be paid solely out of the state treasury. No county, county
3 court, board of commissioners or other political subdivision
4 shall supplement or add to such salaries.

5 The annual salary of all circuit judges shall be twenty-six
6 thousand dollars per year, except as follows:

7 (1) For each circuit in which the circuit court serves as an
8 appellate court for a statutory court of record the salary of the
9 circuit judge shall be twenty-six thousand five hundred dollars
10 per year.

11 (2) For each circuit in which the circuit court serves as
12 appellate court for two statutory courts of record the salary of
13 the circuit judge shall be twenty-seven thousand dollars per
14 year.

15 (3) For each circuit in which the circuit court serves as
16 appellate court for three statutory courts of record the salary
17 shall be twenty-seven thousand five hundred dollars per year.

18 (4) For each circuit in which the circuit court serves as
19 appellate court for four statutory courts of record the salary
20 shall be twenty-eight thousand dollars per year.

21 (5) For each circuit in which the circuit court serves as
22 appellate court for five or more statutory courts of record the
23 salary shall be twenty-eight thousand five hundred dollars per
24 year.

25 For the purpose of this section, county courts, justice of the
26 peace courts and administrative boards and agencies exercising
27 limited judicial functions shall not be considered courts of
28 record.

29 When any statutory court of record has more than one
30 judge or one division, each such judge or division shall be
31 treated, considered and counted, for the purpose of this
32 section only, as a separate statutory court of record.

33 For the purpose of this section, in those circuits where there
34 is more than one circuit judge and one or more statutory courts
35 of record, the number of statutory courts of record shall be
36 divided among the circuit judges and their annual salary paid
37 accordingly.

38 No circuit judge shall be paid an annual salary that exceeds
39 the annual salary paid to any one of the judges of the supreme
40 court of appeals.

41 No judges of a statutory court of record in West Virginia
42 shall be paid a salary by the county court of the county in
43 which the statutory court exists in excess of the minimum
44 annual salary paid to a circuit judge as herein provided.

45 Nothing herein contained shall be construed to permit the
46 compensation of any judge in excess of the amount (taking
47 into consideration the compensation he now receives as
48 supplemental compensation from any county, county court,
49 or other political subdivision) which can be paid under the
50 rules and regulations of the pay board established by the
51 President of the United States by virtue of the authority vested
52 in him by the Economic Stabilization Act of 1970, as from
53 time to time amended; nor shall this section be construed to
54 permit the annual salary of a circuit judge to be reduced to
55 a sum below that which he was being paid by the state of
56 West Virginia and any county, county court, or other political
57 subdivision on June thirty, one thousand nine hundred seventy-
58 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 INTER-MEDIATE JUDGES.

§51-2-1b. Second circuit.

- 1 For the county of Marshall, on the second Tuesday in March,
- 2 July and November.
- 3 For the county of Tyler, on the second Tuesday in February,
- 4 June and October.
- 5 For the county of Wetzel, on the second Tuesday in January,
- 6 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 INTER-MEDIATE JUDGES.

§51-2-1e. Fifth circuit.

- 1 For the county of Calhoun, on the first Monday in January,
- 2 May and September.
- 3 For the county of Jackson, on the fourth Monday in Feb-
- 4 ruary, June and October.
- 5 For the county of Roane, on the fourth Monday in January,
- 6 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 INTER-MEDIATE JUDGES.

§51-2-1t. Twentieth circuit.

- 1 For the county of Randolph, on the third Tuesday in Aug-
- 2 ust, January and April.

CHAPTER 34

(Senate Bill No. 73—By Mr. Huffman)

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

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 INTER-MEDIATE JUDGES.

§51-2-12. Compensation of special judge.

1 The judge so elected or agreed upon shall receive for
2 his services, while sitting as such judge, seventy-five
3 dollars per day, to be certified by the court and paid out of
4 the state treasury as to circuit courts and out of the coun-
5 ty treasury as to criminal courts and other courts of record
6 of limited jurisdiction within the county. This and the two
7 next preceding sections shall apply as well to criminal as
8 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.]

AN ACT to amend and reenact section three, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to courts and their officers; clerks of courts; providing for destruction of certain papers in the custody of the clerks of circuit courts.

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
2 shall be preserved therein, subject to the conditions set out
3 herein, until legally delivered out.

4 Notwithstanding any other provision of this code to the
5 contrary, the clerk may destroy all documents, records, instru-
6 ments, books, papers, depositions and transcripts in any action
7 or proceeding in the circuit court or other court of record, or
8 otherwise filed in his office pursuant to law, provided that:

9 (a) Ten years have elapsed since the filing of any paper
10 in such action or proceeding, and that the said action or pro-
11 ceeding is not pending, subject to modification or on appeal
12 in any court, except that depositions, and, when the written
13 consent of the prosecuting attorney is first obtained, transcripts
14 of preliminary hearings in criminal matters may be destroyed
15 when five years have elapsed since their filing in the office
16 of the clerk and the action or proceeding in which they were
17 filed is not pending or on appeal in any court;

18 (b) The clerk maintains for the use of the public a micro-
19 photographic film print or copy of each document, record,
20 instrument, book, paper, deposition or transcript so destroyed,
21 together with an index and a mechanical device by which
22 such film may be conveniently examined; and

23 (c) The clerk promptly seals and stores at least one original
24 negative of each microphotographic film in such manner and
25 place as will reasonably assure its preservation indefinitely
26 against loss, theft, defacement, fire or other destruction.

27 A photographic reproduction of any of the records described
28 in this section, the negative or film of which has been certified
29 by the clerk in charge of such reproduction as being an exact
30 replica of the original, shall be received in evidence in all courts,

31 and in hearings before any officer, board or commission having
32 jurisdiction or authority to conduct such hearings, in like
33 manner as the original.

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
2 of this article and accepts the pay or benefits payable under
3 this article shall not, while receiving said pay or benefits,
4 be permitted to hold any public office or trust for which he
5 receives compensation from the state of West Virginia. If,
6 after retirement under the provisions of this article, he
7 shall be elected or appointed to any public office or trust
8 for which he receives any salary or other compensation from
9 the state of West Virginia, his pay or benefits under this
10 article shall be suspended for such time only as he shall
11 occupy such office or trust.

12 A judge who retires because of disability and accepts the
13 pay or benefits payable under this article because of his
14 disability shall not, while receiving said pay or benefits be-
15 cause of his disability, be permitted to practice law. If, after
16 disability retirement under the provisions of this article and

17 while receiving pay or benefits payable under said article
18 because of his disability, he shall enter the practice of law,
19 his pay or benefits under this article because of his disability
20 shall be suspended for such time only as he shall be en-
21 gaged 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.

1 Each judge of the circuit court shall be allowed an amount
2 not to exceed four hundred and seventy-five dollars per
3 month for the payment of stenographic help necessary in the
4 discharge of the duties of his office, and each judge shall be
5 allowed an amount not to exceed six hundred dollars annually
6 for the procurement of necessary stationery, payment of
7 postage, and necessary supplies for his office. The judge shall
8 be reimbursed for the actual amounts expended by him for
9 stationery, supplies and postage. Payment for stenographic
10 help shall be made directly to the person performing the
11 stenographic work. Such amounts shall be paid monthly out
12 of the state treasury, but not until the judge submits an
13 itemized statement covering the same.
14

- 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. Polen)

[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.

13 The mode of procedure in causes instituted in said court shall
14 be the same as that prescribed for the circuit court in similar
15 causes. The court is authorized and empowered to appoint
16 such additional officers, divorce commissioners, commissioners,
17 special commissioners, jury commissioners and such clerical
18 and secretarial assistants as shall enable said court to discharge
19 all the duties required of it under the provisions of this act
20 and the general laws of the state. Such appointments shall
21 be made by the judge and the appointees shall serve during
22 the pleasure of the judge.

23 The judge of said court shall have power to make and
24 promulgate such rules for the transaction of the business of the
25 court as may be necessary: *Provided*, That all such rules shall
26 be in conformity with the laws of the state of West Virginia
27 and with any rules promulgated by the supreme court of
28 appeals of this state, and such rules shall be filed in the office
29 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.

1 The said court, which is the same court originally estab-
2 lished by chapter eighteen, acts of the Legislature, regular
3 session, one thousand eight hundred ninety-three, but with its
4 name and jurisdiction changed as in this act provided, shall
5 continue to have jurisdiction within the county of Mercer, con-
6 current with the circuit court of said county, of all felonies,
7 misdemeanors and offenses committed or which may be com-
8 mitted within the said county of Mercer, and shall also have,
9 concurrent with the circuit court of said county, jurisdiction,
10 supervision and control by appeal, mandamus, prohibition and
11 certiorari of all proceedings before justices of the peace of said
12 county or the police court, mayor or other constituted tri-
13 bunal, board or commission of any city, town or village in said
14 county. The said court shall likewise have jurisdiction within
15 said county of Mercer, concurrent with the circuit court of said
16 county, of all suits and proceedings in equity, in all actions of
17 ejectment, and in all civil actions or proceedings at law,
18 except where it shall appear from the pleadings that the matter
19 or thing in controversy in any such suit, proceeding or action,
20 exclusive of interest and costs, exceeds in value the sum of
21 one hundred thousand dollars, and all summary proceedings at
22 law and any other manner of action or proceeding at law
23 authorized by the general laws of West Virginia, as well as of
24 appeals from judgments of the justices of said county when such
25 appeals shall lie to the said court in the same manner and under
26 the same regulations as provided in the general laws for
27 appeals from justices. The said court shall likewise have
28 jurisdiction within said county of Mercer, concurrent with
29 the circuit court of said county, of suits for divorce, annulment
30 of marriage and separate maintenance, of bastardy proceedings
31 and actions for maintenance of illegitimate children as pro-
32 vided by the general laws of West Virginia; all matters and
33 causes coming within the purview of section two, article seven,
34 chapter sixty-one of the official code of West Virginia, com-
35 monly known as "license to carry weapons," and of all
36 amendments and reenactments thereto; and the said court
37 shall continue to have jurisdiction within said county of pro-
38 ceedings for adoption and all juvenile and other matters of
39 which the aforesaid criminal court of Mercer county was given
40 jurisdiction by the general laws of West Virginia or of which

41 the court hereby established may be given jurisdiction by such
42 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

7 exercise of its jurisdiction, shall be signed by the clerk
8 thereof to be directed to the sheriffs of the proper counties
9 wherein the same are to be executed in like manner and
10 with the same effect as processes issuing from the circuit
11 court of Raleigh county.

12 The county court of Raleigh county shall allow such clerk
13 a compensation for his services of four hundred dollars per
14 year in addition to the compensation that may be allowed
15 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.

- 1 (a) Burglary shall be a felony and any person convicted
- 2 thereof shall be confined in the penitentiary not less than one
- 3 nor more than fifteen years. If any person shall, in the night-

4 time, break and enter, or enter without breaking, or shall, in
5 the daytime, break and enter, the dwelling house, or an out-
6 house adjoining thereto or occupied therewith, of another, with
7 intent to commit a felony or any larceny therein, he shall be
8 deemed guilty of burglary.

9 (b) If any person shall, in the daytime, enter without
10 breaking a dwelling house, or an outhouse adjoining thereto or
11 occupied therewith, of another, with intent to commit a felony
12 or any larceny therein, he shall be deemed guilty of a felony,
13 and, upon conviction, shall be confined in the penitentiary not
14 less than one nor more than ten years.

15 (c) The term "dwelling house," as used in subsections (a)
16 and (b) of this section, shall include, but not be limited to, a
17 mobile home, house trailer, modular home or self-propelled
18 motor home, used as a dwelling regularly or only from time to
19 time, or any other nonmotive vehicle primarily designed for
20 human habitation and occupancy and used as a dwelling
21 regularly or only from time to time.

CHAPTER 42

(Senate Bill No. 70—By Mr. Brotherton, 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 hundred thirty-one, as amended, relating generally to shoplifting; providing misdemeanor and felony offenses for shoplifting; providing criminal penalties therefor; relating to process in connection 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 shoplifting 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 de-
2 fined in this article, for the first offense, he shall be
3 guilty of a misdemeanor if the value of merchandise is
4 less than fifty dollars, and, upon conviction thereof, shall
5 be punished by imprisonment in the county jail for not
6 more than ninety days or by fine of not more than three
7 hundred dollars, or by both such fine and imprisonment.

8 If any person shall commit an act of shoplifting as de-
9 fined in this article, for the second offense, he shall be
10 guilty of a misdemeanor if the value of merchandise is less
11 than fifty dollars, and, upon conviction thereof, shall be
12 punished by imprisonment in the county jail for a period
13 of not less than thirty days nor more than one hundred
14 eighty days, or by fine of not more than five hundred dollars,
15 or by both such fine and imprisonment.

16 If any person shall commit an act of shoplifting as de-
17 fined in this article, for the third or subsequent offense,
18 he shall be guilty of a felony regardless of the value of
19 merchandise involved in the first two convictions under
20 the provisions of this article, and, upon conviction there-
21 of, shall be punished by imprisonment in the penitentiary
22 for not less than one nor more than ten years.

23 If any person shall commit an act of shoplifting as de-
24 fined in this article, he shall be guilty of a felony if
25 the value of merchandise is fifty dollars, or more, and,
26 upon conviction thereof, shall be punished by imprison-
27 ment in the penitentiary for not less than one nor more
28 than ten years.

29 In all prosecutions under this article, process shall be
30 issued and served in the county or out of the county
31 where prosecution is pending and shall have the same
32 binding force and effect as though the offense being pro-
33 secuted were a felony; and all officers issued and serving
34 such process in or out of the county wherein the pro-
35 secution is pending, and all witnesses from within or with-
36 out the county wherein the prosecution is pending shall be

37 compensated in like manner as though the offense were a
38 felony in grade.

39 Justices of the peace shall have jurisdiction, concurrent
40 with all courts of record having criminal jurisdiction, of the
41 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.

1 No person, not a student in regular attendance, shall loiter
2 in or about any school, school building or school grounds in
3 violation of any posted rules or regulations governing the use
4 of any such school without written permission from the
5 principal.

6 Any person who shall violate the provisions of this section
7 shall be guilty of a misdemeanor, and, upon conviction for the
8 first offense thereof, shall be fined not more than one hundred
9 dollars, or imprisoned in the county jail not more than thirty
10 days, or both such fine and imprisonment. Upon a second or
11 subsequent conviction, any such person shall be fined not more
12 than five hundred dollars, or imprisoned in the county jail not
13 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. Jelliffe)

[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 eight-
2 een years of age, and of the female sixteen years. If, however,
3 the male or female, or both, be under the age of consent as
4 aforesaid, and if a licensed physician shall certify in writing
5 that he has examined said female and found her to be preg-
6 nant, or if such female has previously given birth to a child,
7 and if in either of such events consent be obtained from the
8 parents, parent or guardian in the manner prescribed in section
9 eight of this article, the judge of any court of record of the
10 county, in which county an application for marriage license
11 may otherwise be properly filed as provided in this article, may
12 direct the issuance of a marriage license by the clerk of the
13 county court of such county. In the absence or incapacity to
14 act of the judges of all courts of record of the county in which
15 the application is to be filed, the order may be made and
16 directed to the clerk of the county court of such county by any
17 judge of a court of record in any judicial circuit adjoining the
18 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
2 secure, for each voting precinct in the county, a suitable room
3 or building in which to hold the election, and shall cause the
4 same to be suitably provided with heat, drinking water and
5 light and a sufficient number of booths or compartments, each
6 containing a table, counter or shelf, and furnished with proper
7 supplies for preparing ballots, at or in which voters may con-
8 veniently prepare their ballots, so that in the preparation there-
9 of they may be secure from the observation of others. The
10 number of such booths or compartments shall not be less than
11 two nor more than five. Such room or building shall be
12 located in such precinct: *Provided, however,* That at upon a
13 determination of the county court that a suitable room or
14 building in which to hold the election is not reasonably available
15 in such precinct then the county court may secure a suitable
16 room or building in which to hold the election for such
17 precinct in an adjacent precinct in said county, in a location
18 as near as may be to the territory of the precinct for which
19 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 can-
2 didates for office, caused by the withdrawal, failure to make
3 a nomination for the office at the primary election, or other-
4 wise, it may be filled and the name of the candidate certified
5 by the executive committee of the political party for the
6 political division in which the vacancy occurs. If such vacancy
7 be not filled by the executive committee by the sixty-fifth
8 day next preceding the date of the election, it shall be lawful
9 for the chairman of the political party executive committee
10 for the political division to fill such vacancy, make a certifi-
11 cate thereof, and file the same with the officer with whom
12 the original certificate of nomination was or might have been
13 regularly filed. Such certificate shall be filed not later than
14 the sixtieth day next preceding the date of the election and,
15 when filed, such officer shall proceed therewith in the same
16 manner in all respects as in cases of original nominations.
17 When any such vacancy exists because of failure to make a
18 nomination for the office at the primary election, no nomi-
19 nation for such office shall be deemed filed under provisions
20 of this section until the required filing fee for such office
21 candidacy shall have been paid as provided in section eight
22 of this article.

23 Notwithstanding any provision of this chapter to the con-
24 trary, when a vacancy for office occurs due to the death
25 of the nominee for office, the executive committee of the
26 political party for the political division in which the vacancy
27 occurs may certify a candidate for such vacancy by the
28 fourteenth day next preceding the date of the election, in
29 the manner provided above. In the event such vacancy for
30 office due to death is not filled by the executive committee
31 by the fourteenth day next preceding the date of the election,
32 then the chairman of the executive committee of the political
33 party for the political division in which the vacancy occurs
34 may certify a candidate for such vacancy by the twelfth day
35 next preceding the date of the election, in the manner provided
36 above. When vacancies are filled in the manner provided
37 for in this paragraph, appropriate changes in the ballots shall

38 be made in accordance with the provisions of section ten,
39 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.

1 The commissioners of the county court shall be ex officio
2 a board of canvassers, and, as such, shall keep in a well-
3 bound book, marked "election record," a complete record of
4 all their proceedings in ascertaining and declaring the result
5 of every election in their respective counties. They shall
6 convene as such canvassing board at the courthouse on the
7 fifth day (Sundays excepted) after every election held in
8 their county, or in any district thereof, and the officers
9 in whose custody the ballots, poll books, registration records,
10 tally sheets and certificates have been placed shall lay the
11 same before them for examination. They may, if deemed
12 necessary, require the attendance of any of the commis-
13 sioners, poll clerks or other persons present at the election,
14 to appear and testify respecting the same, and make such
15 other orders as shall seem proper, to procure correct returns
16 and ascertain the true result of the election in their county;

17 but in such case all the questions to the witnesses and all
18 the answers thereto, and evidence, shall be taken down in
19 writing and filed and preserved. All orders made shall be
20 entered upon the record. They may adjourn from time to
21 time, but no longer than absolutely necessary, and, when
22 a majority of the commissioners are not present, their
23 meeting shall stand adjourned until the next day, and so
24 from day to day, until a quorum be present. The board
25 shall proceed to open each sealed package of ballots so
26 laid before them, and, without unfolding them, count the
27 number in each package and enter the same upon their
28 record. The ballots shall then be again sealed up carefully
29 in a new envelope, and each member of the board shall
30 write his name across the place where such envelope is
31 sealed. After canvassing the returns of the election, the
32 board shall publicly declare the results of the election;
33 however, they shall not enter an order certifying such elec-
34 tion results for a period of forty-eight hours after such
35 declaration. Within such forty-eight hour period a candidate
36 voted for at such election may demand the board to open
37 and examine any one or more of the sealed packages of
38 ballots, and recount the same; but in such case they shall
39 seal the same again, along with the envelope above named,
40 and the clerk of the county court and each member of the
41 board shall write his name across the place or places
42 where it is sealed, and endorse in ink, on the outside:
43 "Ballots of the election held at precinct No. _____, in the
44 district of _____, and county of _____, on the
45 _____ day of _____." In computing the afore-
46 said forty-eight hour period as hereinbefore used in this
47 section, Saturdays, Sundays and legal holidays shall be
48 excluded: *Provided*, That at the end of the forty-eight
49 hour period, an order shall be entered certifying all elec-
50 tion results except for those offices in which a recount
51 has been demanded. Every candidate who demands such
52 recount shall be required to furnish bond in a reasonable
53 amount with good sufficient surety to guarantee payment
54 of the costs and the expenses of such recount in the event
55 the result of the election be not changed by such recount;
56 but the amount of such bond shall in no case exceed three
57 hundred dollars. When they have made their certificates

58 and declared the results as hereinafter provided, they shall
59 deposit the sealed packages of ballots, absent voter ballots,
60 registration records, poll books, tally sheets and precinct
61 certificates with the clerks of the county and circuit courts
62 from whom they were received, who shall carefully preserve
63 the same for sixty days, and if there be no contest pend-
64 ing as to any such election, and their further preserva-
65 tion be not required by any order of a court, such ballots,
66 poll books, tally sheets and certificates shall be destroyed
67 by fire or otherwise, without opening the sealed packages
68 of ballots; and if there be such contest pending, then they
69 shall be so destroyed as soon as the contest is ended:
70 *Provided, however,* That the poll books shall be preserved
71 until such time as the clerk of the county court has com-
72 pleted the duties imposed upon him by section three, article
73 two of this chapter. If the result of the election be not
74 changed by such recount, the costs and expenses thereof
75 shall be paid by the party at whose instance the same was
76 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
- 2 office, except candidates for party committeemen and com-

3 mitteewomen, shall keep records of receipts and expenditures
4 which are made for political purposes. All such receipts and
5 expenditures shall be subject to regulation by the provisions
6 of this article. Verified statements of such receipts and
7 expenditures shall be made and filed as public records by
8 all candidates and by their political agents, representatives, or
9 any person acting for and on behalf of any candidate, and by
10 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 thereto 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**

Service Credit Act; White Cane Law; West Virginia Public Employees Insurance Act.

- 7. County Courts and Officers.**
- 11. Taxation.**
- 15. Public Safety.**
- 23. Workmen's Compensation.**
- 29. Miscellaneous Boards and Officers.**

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 SERVICE CREDIT ACT; WHITE CANE LAW; WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

§5-8-6. Records management and preservation advisory committee.

- 1 A records management and preservation advisory committee
- 2 is hereby established to advise the administrator and to
- 3 perform such other duties as this article requires. The records
- 4 management and preservation advisory committee shall be
- 5 composed of the following members: The governor, auditor,
- 6 attorney general, president of the Senate, speaker of the House
- 7 of Delegates, the chief justice of the supreme court of appeals,
- 8 a judge of a circuit court to be appointed by the governor, the
- 9 director of the office of emergency services, or their respective
- 10 designated representatives. The advisory committee shall designate
- 11 one of its members to be chairman, and it shall adopt
- 12 rules for the conduct of its business. The advisory committee
- 13 shall meet whenever called by its chairman or the administrator.
- 14 The members of the advisory committee shall serve without
- 15 compensation but shall be reimbursed for all reasonable

- 16 and necessary expenses actually incurred in the performance of
17 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.

1 It shall be the duty of the county commissioners of each
2 county to visit each quarter and inspect institutions within
3 their county for housing and caring for the poor, to inspect
4 the jails, to arrange for the feeding and care of the prisoners
5 therein, to investigate the conditions of the poor within their
6 county, not housed within such institutions; to visit detention
7 homes for children within their counties, if any; to visit and
8 inspect bridges and bridge approaches under their control; to
9 provide for and have general supervision over the repair and
10 maintenance of the county courthouse, jails, houses for the
11 poor and other county property, so as to prevent the undue
12 deterioration thereof; to supervise and control the maintenance
13 and operation of airport or airports owned or operated by the
14 county court; to supervise and control the purchase, erection
15 and maintenance of airport facilities; to supervise and control
16 the purchase of furniture, fixtures and equipment and janitors'
17 and other supplies for their county; to attend the annual
18 meeting of county assessors and such district meetings as
19 may be called by the state tax commissioner on matters
20 pertaining to the work of the county assessors and the
21 county courts as boards of review and equalization; to
22 review and equalize the assessments made by the assessors;
23 to inspect and review the lists of property, both real and
24 personal, made up by the assessor and his deputies for
25 taxable purposes, and to point out to the assessor any prop-
26 erty, real and personal, which the said assessors of their
27 respective counties may have overlooked or omitted to place
28 on said tax lists; to call to the attention of the assessor all real
29 estate or personal property belonging to churches, lodges,
30 schools or other charitable institutions which may have been
31 overlooked or omitted by the assessor or his deputies in
32 making up his lists of property for entry on the land and
33 personal property books; to supervise the general management

34 of the fiscal affairs and business of each county; and as a
35 further part of their duties they shall be empowered to
36 purchase, lease, rent, control, supervise, inspect, maintain and
37 erect public parks, playgrounds and recreational facilities, to
38 purchase, lease or rent equipment therefor and to employ
39 qualified recreational directors and personnel; to construct
40 new Four-H camps on county property; to operate stone
41 quarries and sand deposits on county-owned or leased prop-
42 erty; to construct buildings for or aid in constructing or
43 equipping buildings for emergency services on sites approved
44 by the office of emergency services; to operate dog pounds
45 for county-municipalities; to purchase, lease, rent, control,
46 supervise, inspect, maintain and erect public markets and to
47 purchase, rent or lease equipment therefor and to employ
48 qualified personnel to operate such public markets; and as
49 a further part of their duties they shall be empowered to
50 purchase, lease, rent, control, supervise, inspect, maintain and
51 erect county mental health clinics and engage in any program
52 designed for the betterment of the mental and physical well-
53 being of the residents of their county and to cooperate with
54 any public or private agency for these purposes; to establish
55 and participate in regional planning and development coun-
56 cils; to establish and participate in county commissions on
57 intergovernmental relations as required by section three-q of
58 this article; to establish and participate in county commissions
59 on crime, delinquency and correction as required by section
60 three-r of this article.

61 Compensation shall be allowed and paid out of the county
62 treasury, in the same manner as salaries are paid, to each
63 county commissioner of each county (except as otherwise
64 provided by law for the county of Ohio) for services per-
65 formed for such county concerning the visiting of the poor,
66 inspection of jails, bridges and bridge approaches and for
67 visiting detention homes for children and for providing for
68 and supervising the repair and maintenance of the county
69 courthouse, jails, houses for the poor and other county
70 property; for supervising and controlling the maintenance and
71 operation of airport or airports owned or operated by the
72 county court and supervising and controlling the purchase,
73 erection and maintenance of airport facilities; for supervising
74 and controlling the purchase of furniture, fixtures and equip-

75 ment and janitors' and other supplies of their county; for
76 attending the annual meeting of assessors and such district
77 meetings as may be called by the state tax commissioner on
78 matters pertaining to the work of assessors and county
79 courts as boards of review and equalization; for reviewing
80 and equalizing the assessments made by the assessors; for
81 inspecting and reviewing the lists of property, both real and
82 personal, made up by the assessor and his deputies for taxable
83 purposes and for pointing out to the assessor any property,
84 real and personal, which the said assessors of their respective
85 counties may have overlooked or omitted to place on said tax
86 lists; for calling to the attention of the assessor all real estate
87 or personal property belonging to churches, lodges, schools or
88 other charitable institutions which may have been overlooked
89 or omitted by the assessor or his deputies in making up his
90 lists of property for entry on the land and personal property
91 books; for purchasing, leasing, renting, controlling, super-
92 vising, inspecting, maintaining and erecting public parks,
93 playgrounds and recreational facilities and the purchasing,
94 leasing or renting the equipment therefor and employing
95 qualified recreational directors and personnel therefor; for
96 constructing new Four-H camps on county property; operating
97 stone quarries and sand deposits on county-owned or leased
98 property, constructing buildings for or aiding in construction
99 or equipping buildings for emergency services on sites ap-
100 proved by the office of emergency services; operating dog
101 pounds for county-municipalities; to purchase, lease, rent,
102 control, supervise, inspect, maintain and erect public markets,
103 and to purchase, rent or lease equipment therefor and to
104 employ qualified personnel to operate such public markets;
105 for constructing fallout shelters and aiding individuals to
106 construct fallout shelters through furnishing available in-
107 formation; for purchasing, leasing, renting, controlling, super-
108 vising, inspecting, maintaining or erecting county mental
109 health clinics or engaging in programs for the betterment of
110 the mental or physical well-being of the residents of their
111 county; for conducting a survey of all abandoned and
112 dilapidated buildings or structures within the county and to
113 prepare an inventory thereof which inventory shall be made
114 available to any agency of state or federal government or to
115 local governmental agencies upon request; for establishing and

116 participating in regional planning and development councils;
117 for establishing and participating in county commissions on
118 intergovernmental relations as required by section three-q of
119 this article; for establishing and participating in county com-
120 missions on crime, delinquency and correction as required
121 by section three-r of this article and for supervising the gen-
122 eral management of the fiscal affairs and business of each
123 county, within their counties, and other business by such
124 commissioners, in addition to compensation for services in
125 court, the sums of money provided in section five-a of this
126 article.

CHAPTER 11. TAXATION.

ARTICLE 14. GASOLINE TAX.

§11-14-5. Exemptions from tax.

1 There shall be exempted from the excise tax on gasoline or
2 special fuel imposed by this article the following:

3 (1) All gallons of gasoline or special fuel exported from
4 this state to any other state or nation.

5 (2) All gallons of gasoline or special fuel sold to and
6 purchased by the United States or any agency thereof when
7 delivered in bulk quantities of five hundred gallons or more.

8 (3) All gallons of gasoline or special fuel sold pursuant to
9 a government contract, in bulk quantities of five hundred
10 gallons or more, for use in conjunction with any municipal,
11 county, state or federal civil defense or emergency service
12 program, or to any person on whom is imposed a requirement
13 to maintain an inventory of gasoline or special fuel for the
14 purpose of any such program: *Provided*, That fueling facilities
15 used for these purposes are not capable of fueling motor
16 vehicles and the person in charge of such program has in his
17 possession a letter of authority from the tax commissioner
18 certifying his right to such exemption.

19 (4) All gallons of gasoline or special fuel imported into
20 this state in the fuel supply tank or tanks of a motor vehicle,
21 other than in the fuel supply tank of a vehicle being hauled.
22 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.

7. Emergency Interim Legislative Succession Act.

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.

3 He shall direct the planning and employment of the military
4 forces of the state in carrying out their state mission, establish
5 unified command of state forces whenever jointly engaged,
6 coordinate the military affairs with the civil defense of the
7 state and organize and coordinate the activities of all civil
8 agencies including local and state police in event of dec-
9 laration of a limited emergency by the governor pursuant
10 to article one-d of this chapter. In time of emergency or
11 disaster, the adjutant general shall coordinate his activities
12 with those of the office of emergency services provided for by
13 article five of this chapter. He shall be custodian of all
14 military records of the state and shall keep the same indexed
15 and available for ready reference. He shall keep an itemized
16 account of all moneys received and dispensed from all sources
17 and shall make an annual report to the governor on the
18 condition of the organized militia, receipts and expenditures
19 and such other matters relating to the military forces of the
20 state and the adjutant general's department as he shall deem
21 expedient.

22 (b) The adjutant general shall be responsible for the
23 organization, administration, training and supply of the or-
24 ganized militia and shall cause to be procured, prepared
25 and issued to the organizations of the organized militia all
26 necessary books and blanks for reports, records, returns and
27 general administration, and shall, at the expense of the
28 state, cause the military laws, military code and rules and
29 regulations in force to be printed, bound in proper form and
30 distributed, one copy to each commissioned officer, and one
31 each to all the circuit, intermediate and criminal court judges,
32 sheriffs and justices of the peace in the state requiring them
33 and shall procure and supply all necessary textbooks of drill
34 and instruction. He shall keep in his office an accurate
35 account of all state and United States property issued to the
36 state. He shall keep on file in his office all official bonds
37 required by this chapter, the reports and returns of troops and
38 military forces of the state and all other writings and papers
39 which are required to be transmitted to and preserved at the
40 general headquarters of the organized militia.

41 (c) The adjutant general shall keep records of all service
42 personnel from the state of West Virginia, commissioned or

43 enlisted, in any of the wars of the United States and of
44 individual claims of citizens of West Virginia for service
45 rendered in such wars. He shall assist all persons residing in
46 this state having claims against the United States for pension,
47 bounty or back pay or such claims as have arisen out of, or
48 by reason of, service in any of said wars. To this end he shall
49 cooperate with the agents or attorneys of such claimants,
50 furnish to claimants only all necessary certificates or certified
51 abstracts from, or copies of, records or documents in his
52 office and shall seek in all practicable ways to secure speedy
53 and just action in all claims now pending or which may
54 hereafter be filed: *Provided*, That any and all of the above
55 services shall be rendered without charge to the claimant. He
56 shall establish and maintain as a part of his office a bureau of
57 records of the services of the West Virginia troops during such
58 wars and shall keep arranged in proper and convenient form
59 all records and papers pertaining thereto.

ARTICLE 5. EMERGENCY SERVICES.

- §15-5-1. Policy and purpose.
- §15-5-2. Definitions.
- §15-5-3. Office of emergency services.
- §15-5-4. Emergency services advisory council.
- §15-5-5. General powers of the governor.
- §15-5-6. Emergency powers of governor.
- §15-5-7. Mobile support units.
- §15-5-8. Local organization for emergency services.
- §15-5-9. Mutual aid agreements.
- §15-5-10. Regional organizations for emergency services.
- §15-5-11. Immunity and exemption; "duly qualified emergency service worker" defined.
- §15-5-12. Liability to sheltered persons.
- §15-5-13. Appropriations; acceptance of services, gifts, grants and loans.
- §15-5-14. Political activity of emergency service organizations.
- §15-5-15. Emergency service personnel.
- §15-5-16. Utilization of existing services and facilities.
- §15-5-17. Enforcement.
- §15-5-18. Arrest by peace officer without warrant.
- §15-5-19. Unorganized militia.
- §15-5-20. Disaster prevention.
- §15-5-21. Communications.
- §15-5-22. Enactment of compact.
- §15-5-23. Severability.

§15-5-1. Policy and purpose.

- 1 In view of the existing and increasing possibility of the

2 occurrence of disasters of unprecedented size and destruc-
3 tiveness resulting from enemy attack, sabotage or other
4 hostile action, or from fire, flood, earthquakes or other
5 natural or man-made causes and in order to insure that
6 preparations of this state will be adequate to deal with such
7 disasters, and generally to provide for the common defense
8 and to protect the public peace, health and safety and to
9 preserve the lives and property of the people of the state, it is
10 hereby found and declared to be necessary: (1) To create a
11 state emergency services agency and to authorize the creation
12 of local and regional organizations for emergency services in
13 the political subdivisions of the state; (2) to confer upon the
14 governor and upon the executive heads of governing bodies of
15 the political subdivisions of the state the emergency powers
16 provided herein; and (3) to provide for the rendering of mutual
17 aid among the political subdivisions of the state and with
18 other states and to cooperate with the federal government
19 with respect to the carrying out of emergency service functions.

20 It is further declared to be the purpose of this article and
21 the policy of the state that all emergency service functions of
22 this state be coordinated to the maximum extent with the
23 comparable functions of the federal government including its
24 various departments and agencies, of other states and localities
25 and of private agencies of every type, so that the most
26 effective preparation and use may be made of the nation's
27 manpower, resources and facilities for dealing with any disaster
28 that may occur.

§15-5-2. Definitions.

1 As used in this article:

- 2 (a) "Emergency services" means the preparation for and the
3 carrying out of all emergency functions, other than functions
4 for which military forces are primarily responsible, to pre-
5 vent, minimize and repair injury and damage resulting from
6 disasters caused by enemy attack, sabotage or other hostile
7 action, or by fire, flood, earthquake, or other natural or man-
8 made causes. These functions include, without limitation, fire-
9 fighting services, police services, medical and health ser-
10 vices, rescue, engineering, air-raid warning services, com-
11 munications, radiological, chemical and other special weap-

12 ons defense, evacuation of persons from stricken areas,
13 emergency welfare services, emergency transportation, existing
14 or properly assigned functions of plant protection, temporary
15 restoration of public utility services and other functions
16 related to civilian protection, together with all other activities
17 necessary or incidental to the preparation for and carrying out
18 of the foregoing functions. Disaster includes the imminent
19 threat of disaster as well as its occurrence and any power or
20 authority exercisable on account of a disaster may be exer-
21 cised during the period when there is an imminent threat
22 thereof.

23 (b) "Local organization for emergency services" means an
24 organization created in accordance with the provisions of this
25 article by state or local authority to perform local emergency
26 service functions.

27 (c) "Mobile support unit" means an organization for
28 emergency services created in accordance with the provisions
29 of this article by state or local authority to be dispatched by
30 the governor to supplement local organizations for emergency
31 services in a stricken area.

32 (d) "Political subdivision" means any county or municipal
33 corporation in this state.

§15-5-3. Office of emergency services.

1 There is hereby created within the office of the governor an
2 office to be known as the office of emergency services. A
3 director of the office of emergency services, hereinafter called
4 the director, shall be appointed by the governor in accordance
5 with the provisions of section two-a, article seven, chapter six
6 of this code. On and after the effective date of this article,
7 the director of civil and defense mobilization referred to in
8 said section two-a shall be known and designated as the direc-
9 tor of emergency services.

10 The director may employ such technical, clerical, steno-
11 graphic and other personnel and fix their compensation
12 and may make such expenditures within the appropriation
13 therefor or from other funds made available to him for the
14 purpose of providing emergency services as may be necessary
15 to carry out the purpose of this article. Employees of the
16 office of emergency services shall be members of the state civil

17 service system and all appointments of the office, except that
18 of director, shall be a part of the classified service under the
19 civil service system.

20 The director and other personnel of the office of emergency
21 services shall be provided with appropriate office space, furni-
22 ture, equipment, supplies, stationery and printing in the
23 same manner as provided for personnel of other state agencies.

24 The director, subject to the direction and control of the
25 governor, shall be executive head of the office of emergency
26 services and shall be responsible to the governor for carrying
27 out the program for emergency services in this state. He shall
28 coordinate the activities of all organizations for emergency
29 services within the state and maintain liaison with and co-
30 operate with emergency service and civil defense agencies
31 and organizations of other states and of the federal govern-
32 ment and shall have such additional authority, duties and
33 responsibilities authorized by this article as may be prescribed
34 by the governor.

35 The director shall have the power to acquire in the name of
36 the state by purchase, lease or gift, real property and rights or
37 easements necessary or convenient to construct thereon the
38 necessary building or buildings for housing an emergency
39 services control center.

40 The office of emergency planning in the department of
41 finance and administration is hereby abolished and its func-
42 tions, personnel and property transferred to the office of
43 emergency services. The department of civil and defense
44 mobilization is hereby abolished and its functions, personnel
45 and property transferred to the office of emergency services.

§15-5-4. Emergency services advisory council.

1 There is hereby created an emergency services advisory
2 council, hereinafter called the council, which shall consist of
3 seven members to be appointed by the governor. The council
4 shall advise the governor and the director on all matters
5 pertaining to emergency services. The governor shall serve as
6 chairman of the council and the members thereof shall serve
7 without compensation but shall be reimbursed for the reason-
8 able and necessary expenses actually incurred in the perfor-
9 mance of their duties.

§15-5-5. General powers of the governor.

1 The governor shall have general direction and control of the
2 office of emergency services and shall be responsible for the
3 carrying out of the provisions of this article and, in the event
4 of disaster beyond local control, may assume direct opera-
5 tional control over all or any part of the emergency service
6 functions within this state.

7 In performing his duties under this article, the governor is
8 authorized to cooperate with the federal government, other
9 states and private agencies in all matters pertaining to the
10 provision of emergency services for this state and the nation.

11 In performing his duties under this article to effect its policy
12 and purpose, the governor is further authorized and empow-
13 ered:

14 (1) To make, amend and rescind the necessary orders, rules
15 and regulations to carry out the provisions of this article
16 within the limits of the authority conferred upon him herein,
17 with due consideration of the plans of the federal government.

18 (2) To prepare a comprehensive plan and program for the
19 provision of emergency services in this state, such plan and
20 program to be integrated into and coordinated with com-
21 parable plans of the federal government and of other states
22 to the fullest possible extent, and to coordinate the pre-
23 paration of such plans and programs by the political sub-
24 divisions of this state, such plans to be integrated into and
25 coordinated with the state plan and program to the fullest
26 possible extent.

27 (3) In accordance with such state plan and program, to
28 procure supplies and equipment, to institute training and
29 public information programs, to take all other preparatory
30 steps including the partial or full mobilization of emergency
31 service organizations in advance of actual disaster and to
32 insure the furnishing of adequately trained and equipped emer-
33 gency service personnel in time of need.

34 (4) To make such studies and surveys of industries, re-
35 sources and facilities in this state as may be necessary to
36 ascertain the capabilities of the state for providing emergency
37 services and to plan for the most efficient emergency use
38 thereof.

39 (5) On behalf of the state, to enter into mutual aid
40 arrangements with other states and to coordinate mutual aid
41 plans between political subdivisions of this state.

42 (6) To delegate any administrative authority vested in him
43 under this article and to provide for the subdelegation of any
44 such authority.

45 (7) To appoint, in cooperation with local authorities, met-
46 ropolitan area directors when practicable.

47 (8) To cooperate with the president and the heads of the
48 armed forces, the civil defense agency of the United States
49 and other appropriate federal officers and agencies and with
50 the officers and agencies of other states in matters pertaining
51 to the civil defense of the state and nation, including the
52 direction and control of (a) blackouts and practice blackouts,
53 air-raid drills, mobilization of emergency service and civil
54 defense forces and other tests and exercises; (b) warnings and
55 signals for drills or attacks and the mechanical devices to be
56 used in connection therewith; (c) the effective screening or
57 extinguishing of all lights and lighting devices and appliances;
58 (d) shutting off water mains, gas mains, electric power con-
59 nections and the suspension of all other utility services; (e)
60 the conduct of civilians and the movement and cessation of
61 movement of pedestrians and vehicular traffic during, prior
62 and subsequent to drills or attack; (f) public meetings or
63 gatherings; and (g) the evacuation and reception of the civilian
64 population.

§15-5-6. Emergency powers of governor.

1 The provisions of this section shall be operative only during
2 the existence of a state of emergency. The existence of a state
3 of emergency may be proclaimed by the governor or by
4 concurrent resolution of the Legislature if the governor in
5 such proclamation, or the Legislature in such resolution, finds
6 that an attack upon the United States has occurred or is
7 anticipated in the immediate future, or that a natural or man-
8 made disaster of major proportions has actually occurred or is
9 imminent within the state, and that the safety and welfare of
10 the inhabitants of this state require an invocation of the
11 provisions of this section. Any such emergency, whether

12 proclaimed by the governor or by the Legislature, shall ter-
13minate upon the proclamation of the termination thereof
14 by the governor, or the passage by the Legislature of a con-
15current resolution terminating such emergency.

16 So long as such state of emergency exists, the governor
17 shall have and may exercise the following additional emergency
18 powers:

19 (a) To enforce all laws, rules and regulations relating to the
20 provision of emergency services and to assume direct opera-
21tional control of any or all emergency service forces and
22 helpers in the state;

23 (b) To sell, lend, lease, give, transfer or deliver materials or
24 perform functions relating to emergency services on such
25 terms and conditions as he shall prescribe and without regard
26 to the limitations of any existing law and to account to the
27 state treasurer for any funds received for such property;

28 (c) To procure materials and facilities for emergency
29 services by purchase, condemnation under the provisions of
30 chapter fifty-four of this code or seizure pending institution of
31 condemnation proceedings within thirty days from the seizing
32 thereof and to construct, lease, transport, store, maintain,
33 renovate or distribute such materials and facilities. Com-
34pensation for property so procured shall be made in the
35 manner provided for in chapter fifty-four of this code;

36 (d) To obtain the services of necessary personnel, required
37 during the emergency, and to compensate them for their
38 services from his contingent funds or such other funds as may
39 be available to him;

40 (e) To provide for and compel the evacuation of all or part
41 of the population from any stricken or threatened area within
42 the state and to take such steps as are necessary for the
43 receipt and care of such evacuees;

44 (f) To control ingress and egress to and from a disaster
45 area, the movement of persons within the area and the occu-
46 pancy of premises therein;

47 (g) To suspend the provisions of any regulatory statute
48 prescribing the procedures for conduct of state business or the
49 orders, rules or regulations of any state agency, if strict

50 compliance therewith would in any way prevent, hinder or
51 delay necessary action in coping with the emergency;

52 (h) To utilize such available resources of the state and of its
53 political subdivisions as are reasonably necessary to cope with
54 the emergency;

55 (i) To suspend or limit the sale, dispensing or trans-
56 portation of alcoholic beverages, firearms, explosives and
57 combustibles;

58 (j) To make provision for the availability and use of tem-
59 porary emergency housing;

60 (k) To perform and exercise such other functions, powers
61 and duties as are necessary to promote and secure the safety
62 and protection of the civilian population.

§15-5-7. Mobile support units.

1 The governor or his duly authorized representative may
2 create and establish such number of mobile support units as
3 are necessary to reinforce emergency service organizations in
4 stricken areas and with due consideration of the plans of the
5 federal government and of other states. He shall appoint a
6 commander for each such unit who shall have primary
7 responsibility for the organization, administration and opera-
8 tion of such unit. A mobile support unit shall be called to
9 duty upon order of the governor and may function in any
10 part of the state or, upon the conditions specified in this
11 section, in other states.

12 Personnel of mobile support units while on duty, whether
13 within or without the state, shall: (1) If they are employees of
14 the state, have the powers, duties, rights, privileges and
15 immunities and receive the compensation incidental to their
16 employment; (2) if they are employees of a political sub-
17 division of the state and whether serving within or without
18 such political subdivision, have the powers, duties, rights,
19 privileges and immunities and receive the compensation
20 incidental to their employment; and (3) if they are not
21 employees of the state or a political subdivision thereof, be
22 entitled to compensation by the state at the same rate as is
23 paid members of circuit court juries and to the same rights
24 and immunities as are provided by law for the employees of

25 this state. All personnel of mobile support units shall, while
26 on duty, be subject to the operational control of the authority
27 in charge of emergency service activities in the area in which
28 they are serving and shall be reimbursed for all necessary
29 travel and subsistence expenses actually incurred.

30 The state shall reimburse a political subdivision for the
31 compensation paid and necessary travel, subsistence and main-
32 tenance expenses actually incurred of employees of such
33 political subdivision while serving as members of a mobile
34 support unit and for all payments for death, disability or
35 injury of such employees incurred in the course of duty and
36 for all losses of or damage to supplies and equipment of such
37 political subdivision resulting from the operation of such
38 mobile support unit.

§15-5-8. Local organization for emergency services.

1 Each political subdivision of this state is hereby authorized
2 and directed to establish a local organization for emergency
3 services in accordance with the state plan and program for the
4 provision of emergency services. Such political subdivision
5 may confer or authorize the conferring upon members of the
6 auxiliary police the powers of peace officers, subject to such
7 restrictions as it may impose.

8 Each local organization for emergency services shall consist
9 of a director and a local emergency services council and such
10 other members as may be required. The director shall be
11 appointed by the executive officer or governing body of the
12 political subdivision to serve at the will and pleasure of the
13 executive officer or governing body and such political sub-
14 divisions are authorized to provide adequate compensation
15 for him. The local council shall consist of five members,
16 appointed by the executive officer or governing body of the
17 political subdivision: *Provided*, That not more than three
18 members thereof shall be members of the same political party.
19 Council members shall serve a term of years staggered to
20 provide continuity of service in accordance with local needs,
21 without compensation, but shall be reimbursed for the reason-
22 able and necessary expenses actually incurred in the perfor-
23 mance of their duties.

24 The executive officer or governing body of the political

25 subdivision shall have general direction and control of the
26 local emergency services organization and shall be responsible
27 for carrying out the provisions of this article. The director,
28 subject to the direction and control of such executive officer
29 or governing body, shall be executive head of the local
30 emergency services organization and shall be directly re-
31 sponsible to the executive officer or governing body for the
32 organization, administration and operation of the local emer-
33 gency services program. The local council shall advise the
34 director on all matters pertaining to emergency services. Each
35 local organization shall perform emergency service functions
36 within the territorial limits of the political subdivisions within
37 which it is organized and, in addition, conduct such functions
38 outside of such territorial limits as may be required pursuant
39 to the provisions of sections nine and ten of this article.

40 In carrying out the provisions of this article each political
41 subdivision in which any disaster as described in section one
42 of this article occurs shall have the power to enter into
43 contracts and incur obligations necessary to combat such
44 disaster, protect the health and safety of persons and property
45 and provide emergency assistance to the victims of such
46 disaster. Each political subdivision is authorized to exercise its
47 powers under this section in light of the exigencies of extreme
48 emergency situations without regard to time-consuming pro-
49 cedures and formalities prescribed by law (excepting man-
50 datory constitutional requirements) pertaining to the perfor-
51 mance of public work, entry into contracts, incurring of ob-
52 ligations, employment of temporary workers, rental of equip-
53 ment, purchase of supplies and materials, levying of taxes
54 and appropriation and expenditure of public funds.

§15-5-9. Mutual aid agreements.

1 The director of each local organization for emergency
2 services may, in collaborating with other public and private
3 agencies within this state, develop or cause to be developed
4 mutual aid agreements for reciprocal aid and assistance in
5 case of disaster too great to be dealt with unassisted. Such
6 agreements shall be made in conformity with the state plan
7 and program for emergency services and, in time of emer-

8 gency, it shall be the duty of each local organization to
9 render assistance in accordance therewith.

10 The director of each local organization may, subject to the
11 approval of the governor, enter into mutual aid agreements
12 with emergency service and civil defense agencies or or-
13 ganizations in other states for reciprocal aid and assistance
14 in case of disaster too great to be dealt with unassisted.

§15-5-10. Regional organizations for emergency services.

1 Regional organizations for emergency services may be
2 established in the discretion of the governor for any com-
3 bination of political subdivisions. Each such organization
4 shall be directed by the council which shall consist of the local
5 directors, hereinbefore provided for in section eight of this
6 article, of emergency services of the political subdivisions
7 included in the region for which the organization is estab-
8 lished. The local directors of emergency services shall
9 designate the chairman, who may be one of the local direc-
10 tors, a private citizen or a local official, and may appoint
11 committees representing different groups of interested citizens
12 to assist them in the discharge of their duties. Members of
13 such committees shall not be entitled to compensation for
14 their services. The regional organizations and their members
15 shall, in accordance with the state plan and program for
16 emergency services, engage in such activities and perform such
17 functions and duties as will further the provision of emergency
18 services for the region and state. The emergency service or-
19 ganizations shall coordinate their activities with those of the
20 regional planning and development councils in this state, and
21 each local political subdivision included in the region shall
22 pay its proportionate share of the ordinary expenses of such
23 activities.

24 Any such organization may, within the limits of the funds
25 made available for the purpose by the local political sub-
26 divisions included in the region or by the state, employ
27 necessary personnel and fix their compensation, if any. Any
28 such regional organization may be dissolved, reorganized or
29 rearranged by the governor whenever in his discretion such
30 action is necessary.

§15-5-11. Immunity and exemption; "duly qualified emergency service worker" defined.

1 (a) All functions hereunder and all other activities re-
2 lating to emergency services are hereby declared to be gov-
3 ernmental functions. Neither the state nor any political
4 subdivision nor any agency of the state or political subdivi-
5 sion nor, except in cases of willful misconduct, any duly
6 qualified emergency service worker complying with or reason-
7 ably attempting to comply with this article or any order, rule,
8 regulation or ordinance promulgated pursuant to this article,
9 shall be liable for the death of or injury to any person or
10 for damage to any property as a result of such activity. This
11 section shall not affect the right of any person to receive
12 benefits or compensation to which he would otherwise be
13 entitled under this article, chapter twenty-three of this code,
14 any act of Congress or any other law.

15 (b) Any requirement for a license to practice any pro-
16 fessional, mechanical or other skill shall not apply to an
17 authorized emergency service worker who shall, in the course
18 of performing his duties, practice such skill during an emer-
19 gency.

20 (c) As used in this section, "duly qualified emergency
21 service worker" means:

22 (1) Any duly qualified full or part-time paid, volunteer or
23 auxiliary employee of this state, or any other state, territory,
24 possession or the District of Columbia, of the federal gov-
25 ernment, of any neighboring country or political subdivi-
26 sion thereof or of any agency or organization performing
27 emergency services in this state subject to the order or control
28 of or pursuant to the request of the state or any political
29 subdivision thereof.

30 (2) Duly qualified instructors and properly supervised
31 students in recognized educational programs where emer-
32 gency services are taught. A recognized educational program
33 shall include any program in an educational institution exist-
34 ing under the laws of this state and such other educational
35 programs as shall be established by the office of emergency
36 services or otherwise under this article.

37 (d) A duly qualified emergency service worker performing

38 his duty in this state pursuant to any lawful agreement,
39 compact or arrangement for mutual aid and assistance to
40 which the state or a political subdivision is a party shall
41 possess the same powers, duties, immunities and privileges
42 he would possess if performing the same duties in his own
43 state, province or political subdivision thereof.

§15-5-12. Liability to sheltered persons.

1 Any person owning or controlling real estate or other
2 premises who voluntarily and without compensation grants a
3 license or privilege or otherwise permits the designation or
4 use of the whole or any part of such real estate or premises
5 for the purpose of sheltering persons during an actual, im-
6 pending, mock or practice emergency shall, together with his
7 successors in interest, if any, not be civilly liable for negli-
8 gently causing the death of or injury to any sheltered person
9 on or about such real estate or premises or for loss of or
10 damage to the property of any such sheltered person.

§15-5-13. Appropriations; acceptance of services, gifts, grants and loans.

1 Each political subdivision shall have the power to make
2 appropriations in the manner provided by law for making ap-
3 propriations for the ordinary expenses of such political sub-
4 division for the payment of expenses of its local organiza-
5 tion for emergency services or of its proportionate share
6 of expenses of a regional organization for emergency services,
7 or both.

8 Whenever the federal government or any agency or officer
9 thereof shall offer to the state, or through the state to any
10 political subdivision thereof, services, equipment, supplies,
11 materials or funds by way of gift, grant or loan, for pur-
12 poses relating to emergency services, the state, acting through
13 the governor, or such political subdivision, acting with the
14 consent of the governor and through its executive officer
15 or governing body, may accept such offer and upon such
16 acceptance the governor of the state or executive officer or
17 governing body of such political subdivision may autho-
18 rize any officer of the state or of the political subdivision,
19 as the case may be, to receive such services, equipment,

20 supplies, materials or funds on behalf of the state or such
21 political subdivision and subject to the terms of the offer
22 and the rules and regulations, if any, of the agency making
23 the offer.

24 Whenever any person, firm or corporation shall offer to
25 the state or to any political subdivision thereof, services,
26 equipment, supplies, materials or funds by way of gift, grant
27 or loan, for purposes relating to emergency services, the
28 state, acting through the governor, or such political subdivi-
29 sion, acting through its executive officer or governing body,
30 may accept such offer and upon such acceptance the governor
31 of the state or executive officer or governing body of such
32 political subdivision may authorize any officer of the state
33 or of the political subdivision, as the case may be, to re-
34 ceive such services, equipment, supplies, materials or funds
35 on behalf of the state or such political subdivision and sub-
36 ject to the terms of the offer.

§15-5-14. Political activity of emergency service organizations.

1 No organization for emergency services established under
2 the authority of this article shall participate in any form
3 of political activity, nor shall it be employed directly or
4 indirectly for political purposes.

§15-5-15. Emergency service personnel.

1 No person shall be employed or associated in any capacity
2 in any emergency service organization established under this
3 article who advocates or has advocated a change by force or
4 violence in the constitutional form of the government of the
5 United States or this state or the overthrow of any govern-
6 ment in the United States by force or violence or who has
7 been convicted of or is under indictment or information charg-
8 ing any subversive act against the United States. Each per-
9 son who is appointed to serve in an organization for emer-
10 gency services shall, before entering upon his duties, take an
11 oath, in writing, before a person authorized to administer
12 oaths in this state, which shall be substantially as follows:

13 "I, _____, do solemnly swear or affirm that I
14 will support and defend the Constitution of the United States
15 and the Constitution of West Virginia, against all enemies,

16 foreign and domestic; that I will bear true faith and alle-
17 giance to the same; that I take this obligation freely, without
18 any mental reservation or purpose of evasion and that I will
19 well and faithfully discharge the duties upon which I am about
20 to enter.

21 "And I do further swear or affirm that I do not advocate,
22 nor am I a member of any political party or organization
23 that advocates, the overthrow of the government of the
24 United States or this state by force or violence and that
25 during such time as I am a member of the (name of organiza-
26 tion) I will not advocate or become a member of any political
27 party or organization that advocates the overthrow of the
28 government of the United States or this state by force or
29 violence."

§15-5-16. Utilization of existing services and facilities.

1 In carrying out the provisions of this article, the gover-
2 nor, the chairmen of the regional councils and the executive
3 officers or governing bodies of the political subdivisions of
4 the state are directed to utilize the services, equipment,
5 supplies and facilities of existing departments, offices and
6 agencies of the state and of the political subdivisions to the
7 maximum extent practicable, and the officers and personnel
8 of all such departments, offices and agencies are directed
9 to cooperate with and extend such services and facilities
10 to the governor and to emergency service organizations of
11 the state upon request.

§15-5-17. Enforcement.

1 It shall be the duty of every organization for emergency
2 services established pursuant to this article and of the
3 officers thereof to execute and enforce such orders, rules
4 and regulations as may be made by the governor under
5 this article. Each such organization shall have at its office
6 available for public inspection all such orders, rules and
7 regulations of the governor.

§15-5-18. Arrest by peace officer without warrant.

1 A peace officer, when in uniform or displaying a badge
2 or other insignia of authority, may arrest without a warrant

3 any person violating or attempting to violate in such officer's
4 presence any order, rule or regulation made pursuant to this
5 article. This authority shall be limited to arrest for viola-
6 tions of those orders, rules and regulations which affect
7 the public generally.

§15-5-19. Unorganized militia.

1 The unorganized militia shall, at the call of the governor,
2 be available for duty with the emergency service forces of
3 this state. For purposes of this article, the unorganized
4 militia shall consist of all able-bodied men and women
5 between the ages of sixteen and fifty.

§15-5-20. Disaster prevention.

1 (a) In addition to disaster prevention measures as included
2 in the state, local, regional and interjurisdictional disaster
3 plans, the governor shall consider on a continuing basis steps
4 that could be taken to prevent or reduce the harmful conse-
5 quences of disasters. At his direction, and pursuant to any
6 other authority and competence they have, state agencies,
7 including, but not limited to, those charged with responsibili-
8 ties in connection with flood plain management, stream en-
9 croachment and flow regulation, weather modification, fire
10 prevention and control, air quality, public works, land use
11 and land-use planning and construction standards, shall make
12 studies of disaster prevention-related matters. The governor,
13 from time to time, shall make such recommendation to the
14 Legislature, political subdivisions and other appropriate public
15 and private entities as may facilitate measures for prevention
16 or reduction of the harmful consequences of disasters.

17 (b) At the request of and in conjunction with the office
18 of emergency services, any state department may keep land
19 use and construction of structures and other facilities under
20 continuing study and identify areas which are particularly
21 susceptible to severe land shifting, subsidence, flooding or
22 other catastrophic occurrences. Such studies shall concen-
23 trate on means of reducing or avoiding the dangers caused
24 by such occurrences and the consequences thereof.

§15-5-21. Communications.

1 The office of emergency services shall ascertain what means

2 exist for rapid and efficient communication in times of
3 disaster. The office shall consider the desirability of supple-
4 menting such communication resources or of integrating them
5 into a comprehensive state or federal-state telecommunica-
6 tions or other communications system or network. In study-
7 ing the character and feasibility of any system or its several
8 parts, the office shall evaluate the possibility of multipurpose
9 use thereof for various state, regional and local governmental
10 purposes. The office shall make recommendations to the gov-
11 ernor as appropriate.

§15-5-22. Enactment of compact.

1 (a) The "Interstate Civil Defense and Disaster Compact"
2 is hereby approved, ratified, adopted, enacted into law and
3 entered into by the state of West Virginia with all other
4 jurisdictions legally joining therein in accordance with its
5 terms, in a form substantially as follows:

6 INTERSTATE CIVIL DEFENSE AND
7 DISASTER COMPACT

8 Article I.

9 The purpose of this compact is to provide mutual aid
10 among the states in meeting any emergency or disaster from
11 enemy attack or other cause (natural or otherwise) including
12 sabotage and subversive acts and direct attacks by bombs,
13 shellfire and atomic, radiological, chemical, bacteriological
14 means and other weapons. The prompt, full and effective
15 utilization of the resources of the respective states, including
16 such resources as may be available from the United States
17 government or any other source, are essential to the safety,
18 care and welfare of the people thereof in the event of
19 enemy action or other emergency and any other resources,
20 including personnel, equipment or supplies, shall be incor-
21 porated into a plan or plans of mutual aid to be developed
22 among the civil defense agencies or similar bodies of the
23 states that are parties hereto. The directors of civil defense
24 of all party states shall constitute a committee to formulate
25 plans and take all necessary steps for the implementation
26 of this compact.

27

Article II.

28 It shall be the duty of each party state to formulate
29 civil defense plans and programs for application within such
30 state. There shall be frequent consultation between the re-
31 presentatives of the states and with the United States govern-
32 ment and the free exchange of information and plans,
33 including inventories of any materials and equipment avail-
34 able for civil defense. In carrying out such civil defense
35 plans and programs the party states shall so far as possible
36 provide and follow uniform standards, practices and rules
37 and regulations including:

38 (a) Insignia, armbands and any other distinctive articles
39 to designate and distinguish the different civil defense ser-
40 vices;

41 (b) Blackouts and practice blackouts, air raid drills, mobili-
42 zation of civil defense forces and other tests and exercises;

43 (c) Warnings and signals for drills or attacks and the
44 mechanical devices to be used in connection therewith;

45 (d) The effective screening or extinguishing of all lights
46 and lighting devices and appliances;

47 (e) Shutting off water mains, gas mains, electric power
48 connections and the suspension of all other utility services;

49 (f) All materials or equipment used or to be used for
50 civil defense purposes in order to assure that such materials
51 and equipment will be easily and freely interchangeable
52 when used in or by any other party state;

53 (g) The conduct of civilians and the movement and cessa-
54 tion of movement of pedestrians and vehicular traffic, prior,
55 during and subsequent to drills or attacks;

56 (h) The safety of public meetings or gatherings; and

57 (i) Mobile support units.

58

Article III.

59 Any party state requested to render mutual aid shall
60 take such action as is necessary to provide and make avail-
61 able the resources covered by this compact in accordance
62 with the terms hereof: *Provided*, That it is understood
63 that the state rendering aid may withhold resources

64 to the extent necessary to provide reasonable protection
65 for such state. Each party state shall extend to the civil
66 defense forces of any other party state, while operating
67 within its state limits under the terms and conditions of
68 this compact, the same powers (except that of arrest unless
69 specifically authorized by the receiving state), duties, rights,
70 privileges and immunities as are extended to the civil defense
71 forces of such state. Civil defense forces will continue
72 under the command and control of their regular leaders
73 but the organizational units will come under the operational
74 control of the civil defense authorities of the state receiving
75 assistance.

76

Article IV.

77 Whenever any person holds a license, certificate or other
78 permit issued by any state evidencing the meeting of
79 qualifications for professional, mechanical or other skills,
80 such person may render aid involving such skill in any party
81 state to meet an emergency or disaster and such state shall
82 give due recognition to such license, certificate or other permit
83 as if issued in the state in which aid is rendered.

84

Article V.

85 No party state or its officers or employees rendering aid
86 in another state pursuant to this compact shall be liable on
87 account of any act or omission in good faith on the part
88 of such forces while so engaged or on account of the main-
89 tenance or use of any equipment or supplies in connection
90 therewith.

91

Article VI.

92 Inasmuch as it is probable that the pattern and detail of
93 the machinery for mutual aid among two or more states
94 may differ from that appropriate among other states party
95 hereto, this instrument contains elements of a broad base
96 common to all states and nothing herein contained shall
97 preclude any state from entering into supplementary agree-
98 ments with another state or states. Such supplementary
99 agreements may comprehend, but shall not be limited to,
100 provisions for evacuation and reception of injured and other
101 persons and the exchange of medical, fire, police, public

102 utility, reconnaissance, welfare, transportation and communica-
103 tions personnel, equipment and supplies.

104 Article VII.

105 Each party state shall provide for the payment of com-
106 pensation and death benefits to injured members of the
107 civil defense forces of that state and the representatives of
108 deceased members of such forces in case such members
109 sustain injuries or are killed while rendering aid pursuant to
110 this compact, in the same manner and on the same terms
111 as if the injury or death were sustained within such state.

112 Article VIII.

113 Any party state rendering aid in another state pursuant to
114 this compact shall be reimbursed by the party state receiving
115 such aid for any loss or damage to or expense incurred in
116 the operation of any equipment answering a request for
117 aid and for the cost incurred in connection with such requests:
118 *Provided*, That any aiding party state may assume in whole
119 or in part such loss, damage, expense or other cost or may
120 loan such equipment or donate such services to the receiv-
121 ing party state without charge or cost: *And provided further*,
122 That any two or more party states may enter into supple-
123 mentary agreements establishing a different allocation of
124 costs among those states. The United States government
125 may relieve the party state receiving aid from any liability
126 and reimburse the party state supplying civil defense forces
127 for the compensation paid to and the transportation, sub-
128 sistence and maintenance expenses of such forces during
129 the time of the rendition of such aid or assistance outside
130 the state and may also pay fair and reasonable compensa-
131 tion for the use or utilization of the supplies, materials,
132 equipment or facilities so utilized or consumed.

133 Article IX.

134 Plans for the orderly evacuation and reception of the
135 civilian population as the result of an emergency or disaster
136 shall be worked out from time to time between representa-
137 tives of the party states and the various local civil defense
138 areas thereof. Such plans shall include the manner of trans-
139 porting such evacuees, the number of evacuees to be re-

140 ceived in different areas, the manner in which food, cloth-
141 ing, housing and medical care will be provided, the registra-
142 tion of the evacuees, the providing of facilities for the notifi-
143 cation of relatives or friends and the forwarding of such
144 evacuees to other areas or the bringing in of additional
145 materials, supplies and all other relevant factors. Such plans
146 shall provide that the party states receiving evacuees shall
147 be reimbursed generally for the out-of-pocket expenses in-
148 curred in receiving and caring for such evacuees, for ex-
149 penditures for transportation, food, clothing, medicines and
150 medical care and like items. Such expenditures shall be
151 reimbursed by the party state of which the evacuees are
152 residents or by the United States government under plans
153 approved by it. After the termination of the emergency or
154 disaster the party state of which the evacuees are resident
155 shall assume the responsibility for the ultimate support or
156 repatriation of such evacuees.

157 Article X.

158 This compact shall be available to any state, territory
159 or possession of the United States and the District of Columbia.
160 The term "state" may also include any neighboring foreign
161 country or province or state thereof.

162 Article XI.

163 The committee established pursuant to article one of this
164 compact may request the civil defense agency of the United
165 States government to act as an informational and coordinat-
166 ing body under this compact and representatives of such
167 agency of the United States government may attend meetings
168 of such committee.

169 Article XII.

170 This compact shall become operative immediately upon
171 its ratification by any state as between it and any other
172 state or states so ratifying and shall be subject to approval
173 by Congress unless prior congressional approval has been
174 given. Duly authenticated copies of this compact and of such
175 supplementary agreements as may be entered into shall,
176 at the time of their approval, be deposited with each of

177 the party states and with the civil defense agency and other
178 appropriate agencies of the United States government.

179 Article XIII.

180 This compact shall continue in force and remain binding
181 on each party state until the legislature or the governor of
182 such party state takes action to withdraw therefrom. Such
183 action shall not be effective until thirty days after notice
184 thereof has been sent by the governor of the party state
185 desiring to withdraw to the governors of all other party
186 states.

187 Article XIV.

188 This compact shall be construed to effectuate the pur-
189 poses stated in article one hereof. If any provision of this
190 compact is declared unconstitutional or the applicability
191 thereof to any person or circumstance is held invalid, the
192 constitutionality of the remainder of this compact and the
193 applicability thereof to other persons and circumstances shall
194 not be affected thereby.

§15-5-23. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such invalidity
3 shall not affect other provisions or applications of the article
4 which can be given effect without the invalid provision or
5 application, and to this end the provisions of this article
6 are declared to be severable.

ARTICLE 7. EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT.

§15-7-7. Recording and publication of successor's name, etc.

1 Each designation of an emergency interim successor shall
2 become effective when the legislator or floor leader authorized
3 by section six of this article to make such designation
4 files with the secretary of state the successor's name, address
5 and rank in order of succession. The removal of an emergency
6 interim successor or change in order of succession shall
7 become effective when the legislator or floor leader authorized
8 by section six of this article to do so, files this information
9 with the secretary of state. All such data shall be open to
10 public inspection. The secretary of state shall inform the

11 governor, the director of the office of emergency services,
12 the clerk of the house concerned and all emergency interim
13 successors of all such designations, removals and changes in
14 order of succession. The clerk of each house shall enter all
15 information regarding emergency interim successors for the
16 house in its public journal at the beginning of each legislative
17 session and shall enter all changes in membership or order
18 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.

1 The state of West Virginia and all governmental agencies
2 or departments created by it, including county boards of
3 education, are hereby required to subscribe to and pay
4 premiums into the workmen's compensation fund for the
5 protection of their employees and shall be subject to all
6 requirements of this chapter and all rules and regulations
7 prescribed by the commissioner with reference to rates,
8 classification and premium payments.

9 All persons, firms, associations and corporations regularly
10 employing other persons for the purpose of carrying on any
11 form of industry, service or business in this state, including
12 county courts, municipalities, other political subdivisions of
13 the state, and emergency service organizations organized under
14 article five, chapter fifteen of this code, are employers
15 within the meaning of this chapter and subject to its pro-
16 visions: *Provided*, That the provisions of section eight, arti-
17 cle two of this chapter shall not apply to such county
18 courts, municipalities, other political subdivisions of the state
19 or emergency service organizations: *Provided, however*, That
20 the failure of such county courts, municipalities, other poli-
21 tical subdivisions of the state or emergency service organi-
22 zations to elect to subscribe to and to pay premiums into
23 the workmen's compensation fund shall not impose any lia-
24 bility upon them, other than such liability as would exist
25 notwithstanding the provisions of this chapter. All persons
26 in the service of employers as herein defined, and employed

27 by them for the purpose of carrying on the industry, busi-
28 ness, service or work in which they are engaged, includ-
29 ing persons regularly employed in the state whose duties
30 necessitate employment of a temporary or transitory nature
31 by the same employer without the state, check-weighmen
32 employed according to law, all members of rescue teams
33 assisting in mine accidents with the consent of the owner
34 who, in such case, shall be deemed the employer, or at
35 the direction of the director of the department of mines,
36 and all forest fire fighters who, under the supervision of
37 the director of the department of natural resources or his
38 designated representative, assist in the prevention, confine-
39 ment and suppression of any forest fire are employees with-
40 in the meaning of this chapter and subject to its provisions:
41 *Provided further*, That this chapter shall not apply to em-
42 ployers of employees in domestic service or persons whose
43 employment is prohibited by law, nor to employees of an
44 employer while employed without the state, except in case
45 of temporary employment without the state as hereinbe-
46 fore provided; nor shall a member of a firm of employers
47 or any official of an association or of a corporate employer,
48 including a manager or any elective or appointive official
49 of the state, county, county court, board of education,
50 municipality, other political subdivision of the state or emer-
51 gency service organization organized as aforesaid, whose
52 term of office is definitely fixed by law, be deemed an
53 employee within the meaning of this chapter: *And pro-*
54 *vided further*, That employers of not more than three em-
55 ployees for a period of not more than one month, who
56 shall be called herein "casual employers," employers
57 of employees in agricultural service and duly incorporated
58 volunteer fire departments or companies may voluntarily
59 elect to subscribe to and pay premiums into the workmen's
60 compensation fund for the protection of the employees
61 of such employers and all of the members, including the
62 chief, commander or other officials thereof, of such duly
63 incorporated volunteer fire departments or companies, and
64 in such case shall be subject to all requirements of this
65 chapter and all rules and regulations prescribed by the com-
66 missioner with reference to rates, classifications and pre-

67 mium payments; but such casual employers, employers of
68 employees in agricultural service and duly incorporated
69 volunteer fire departments or companies shall not be re-
70 quired to subscribe to the workmen's compensation fund
71 and their failure to subscribe to such fund shall not im-
72 pose any liability upon them other than such liability
73 as would exist notwithstanding the provisions of this
74 chapter; nor shall the provisions of section eight of this
75 article apply to casual employers, employers of employees
76 in agricultural service or to such duly incorporated volunteer
77 fire departments or companies.

78 The premium and actual expenses in connection with govern-
79 mental agencies and departments of the state of West
80 Virginia shall be paid out of the state treasury from appro-
81 priations made for such agencies and departments, in the
82 same manner as other disbursements are made by such agencies
83 and departments.

84 County courts, municipalities, other political subdivisions
85 of the state, county boards of education, emergency service
86 organizations organized as aforesaid and duly incorporated
87 volunteer fire departments or companies which shall elect
88 to become subscribers to the workmen's compensation fund
89 shall provide for the funds to pay their prescribed premiums
90 into the fund and such premiums and premiums of state
91 agencies and departments, including county boards of educa-
92 tion, shall be paid into the fund in the same manner as
93 herein provided for other employers subject to this chapter.
94 In addition to its usual and ordinary meaning, the term
95 "employer" or "employers," as used in this chapter, shall
96 be taken to extend to and include any duly incorporated
97 volunteer fire department or company or emergency service
98 organization organized as aforesaid which shall elect to
99 subscribe to and pay premiums into the workmen's compen-
100 sation fund and, in addition to its usual and ordinary mean-
101 ing, the term "employee" or "employees," as used in this
102 chapter, shall be taken to extend to and include all of
103 the members of any such department, company or organi-
104 zation. All duly incorporated volunteer fire departments or
105 companies and emergency service organizations organized
106 as aforesaid which shall elect to subscribe to and pay

107 premiums into such fund shall be placed in a separate
108 group or class of subscribers to be established by the com-
109 missioner and such departments, companies or organizations
110 shall pay into the fund such premiums (computed, notwith-
111 standing the provisions of section five of this article, on
112 such basis as to the commissioner shall seem right and
113 proper) as may be necessary to keep such group or class
114 entirely self-supporting.

115 Any employer whose employment in this state is to be
116 for a definite or limited period which could not be con-
117 sidered "regularly employing" within the meaning of this
118 section may elect to pay into the workmen's compensation
119 fund the premiums herein provided for and, at the time
120 of making application to the commissioner, such employer
121 shall furnish a statement under oath showing the probable
122 length of time the employment will continue in this state,
123 the character of the work, an estimate of the monthly pay-
124 roll and any other information which may be required by
125 the commissioner. At the time of making application such
126 employer shall deposit with the state compensation com-
127 missioner to the credit of the workmen's compensation fund
128 the amount required by section five of this article, which
129 amount shall be returned to such employer if his applica-
130 tion be rejected by the commissioner. Upon notice to such
131 employer of the acceptance of his application by the com-
132 missioner, he shall be an employer within the meaning of
133 this chapter and subject to all of its provisions.

134 Any foreign corporation employer electing to comply with
135 the provisions of this chapter and to receive the benefits
136 hereunder shall, at the time of making application to the
137 commissioner, in addition to other requirements of this chap-
138 ter, furnish such commissioner with a certificate from the
139 secretary of state showing that it has complied with all the
140 requirements necessary to enable it legally to do business in
141 this state and no application of such foreign corporation em-
142 ployer shall be accepted by the commissioner until such certi-
143 ficate is filed.

144 For the purpose of this chapter, a mine shall be adjudged

145 within this state when the main opening, drift, shaft or
146 slope is located wholly within this state.

147 Any employee within the meaning of this chapter whose
148 employment necessitates his temporary absence from this state
149 in connection with such employment, and such absence is
150 directly incidental to carrying on an industry in this state,
151 who shall have received injury during such absence in the
152 course of and resulting from his employment shall not be
153 denied the right to participate in the workmen's compensation
154 fund.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2B. WEATHER MODIFICATION.

§29-2B-5. Application for license; renewal; temporary suspension.

1 (a) Any person desiring to do any of the acts specified
2 in section four of this article may file with the director
3 an application in writing for a license. Each application
4 shall be accompanied by a filing fee fixed by the commission
5 but not to exceed one hundred dollars, and shall be on
6 a form to be supplied for such purpose by the director.

7 (b) Every application shall set forth all of the follow-
8 ing:

9 (1) The name and post-office address of the applicant.

10 (2) The previous education, experience and qualifications
11 of the applicant or, if the applicant is other than an indi-
12 dual, the previous education, experience and qualifications
13 of the persons who will be in control of and charged with
14 the operations of the applicant. Previous experience includes
15 subcontracting or counseling services.

16 (3) A general description of the operations which the
17 applicant intends to conduct and the method and type of
18 equipment, including all nucleating agents, that the applicant
19 proposes to use. Aircraft must be listed by numbers and
20 pilots' names.

21 (4) A statement listing all employees who are residents
22 of West Virginia or who will be directly employed in the
23 intended operation, or both.

24 (5) A bond or insurance covering any damage the licensee
25 may cause through his operations in an amount of fifteen
26 thousand dollars or other evidence of financial responsibility
27 shall be furnished and executed at the time of the grant of
28 the license: *Provided*, That no bond shall be required of
29 any person who shall cause or attempt to cause condensation
30 or precipitation of rain, snow, moisture or water in any
31 form contained in the atmosphere over any landing strip or
32 runway of any airport or any approach thereto in an effort
33 to improve the visibility above the landing strip, runway
34 or approach.

35 (6) Every applicant shall have a resident agent within
36 this state.

37 (c) Upon the filing of the application upon a form supplied
38 by the director and containing the information prescribed
39 by this article and accompanied by the required filing fee
40 and bond or insurance, the director may issue a license to
41 the applicant entitling the applicant to conduct the operations
42 described in the application for the calendar year for which
43 the license is issued, unless the license is sooner revoked,
44 suspended or modified.

45 (d) A license may be renewed annually upon application
46 to the director, accompanied by a renewal fee fixed by the
47 commission but not to exceed one hundred dollars, on or
48 before the last day of January of the calendar year for
49 which the license is renewed.

50 (e) Any license granted under this section shall be subject
51 to temporary suspension by the director. Such suspension may
52 occur whenever the director is notified by the office of
53 emergency services that, within an area defined by the
54 office of emergency services, precipitation or other effects
55 of weather modification operations would be likely to cause
56 or aggravate a potential or ongoing disaster. Any such
57 suspension shall continue until the director is notified by
58 the office of emergency services that the disaster or threat
59 of disaster has passed. Should any license be suspended
60 under this subsection, the prohibitions of section four and
61 penalties of section fifteen of this article shall become effective
62 immediately.

CHAPTER 51

(Com. Sub. for House Bill No. 1232—By Mr. Seibert)

[Passed April 12, 1973; in effect July 1, 1973. Approved by the Governor.]

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.
6. Employee Eligibility; Benefits.
9. Employment Security Administration Fund.

ARTICLE 1. DEPARTMENT OF EMPLOYMENT SECURITY.

§21A-1-3. Definitions.

- 1 As used in this chapter, unless the context clearly requires
- 2 otherwise:
- 3 "Administration fund" means the employment security ad-
- 4 ministration fund, from which the administrative expenses
- 5 under this chapter shall be paid.
- 6 "Annual payroll" means the total amount of wages for em-
- 7 ployment paid by an employer during a twelve-month period
- 8 ending with June thirty of any calendar year.
- 9 "Average annual payroll" means the average of the last
- 10 three annual payrolls of an employer.
- 11 "Base period" means the first four out of the last five com-

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

49 first, one thousand nine hundred thirty-five, or subsequent
50 thereto, had in its employ one or more individuals perform-
51 ing service within this state.

52 "Employer" means:

53 (1) Until January one, one thousand nine hundred seventy-
54 two, any employing unit which for some portion of a day,
55 not necessarily simultaneously, in each of twenty different
56 calendar weeks, which weeks need not be consecutive, within
57 either the current calendar year, or the preceding calendar
58 year, has had in employment four or more individuals ir-
59 respective of whether the same individuals were or were not
60 employed on each of such days;

61 (2) Any employing unit which is or becomes a liable
62 employer under any federal unemployment tax act;

63 (3) Any employing unit which has acquired or acquires the
64 organization, trade or business, or substantially all the assets
65 thereof, of an employing unit which at the time of such
66 acquisition was an employer subject to this chapter;

67 (4) Any employing unit which, after December thirty-one,
68 one thousand nine hundred sixty-three, and until January one,
69 one thousand nine hundred seventy-two, in any one calendar
70 quarter, in any calendar year, has in employment four or
71 more individuals and has paid wages for employment in the
72 total sum of five thousand dollars or more, or which, after
73 such date, has paid wages for employment in any calendar
74 year in the sum total of twenty thousand dollars or more;

75 (5) Any employing unit which, after December thirty-one,
76 one thousand nine hundred sixty-three, and until January one,
77 one thousand nine hundred seventy-two, in any three weeks'
78 period, in any calendar year, has in employment ten or
79 more individuals;

80 (6) For the effective period of its election pursuant to
81 section three, article five of this chapter, any employing unit
82 which has elected to become subject to this chapter;

83 (7) Any employing unit which, after December thirty-
84 one, one thousand nine hundred seventy-one, (i) in any
85 calendar quarter in either the current or preceding calendar
86 year paid for service in employment wages of one thousand

87 five hundred dollars or more, or (ii) for some portion of
88 a day in each of twenty different calendar weeks, whether
89 or not such weeks were consecutive, in either the current
90 or the preceding calendar year had in employment at least
91 one individual (irrespective of whether the same individual
92 was in employment in each such day);

93 (8) Any employing unit for which service in employment,
94 as defined in subdivision nine of the definition of "employ-
95 ment" in this section, is performed after December thirty-
96 one, one thousand nine hundred seventy-one;

97 (9) Any employing unit for which service in employ-
98 ment, as defined in subdivision ten of the definition of "em-
99 ployment" in this section, is performed after December thirty-
100 one, one thousand nine hundred seventy-one.

101 "Employment," subject to the other provisions of this
102 section, means:

103 (1) Service, including service in interstate commerce, per-
104 formed for wages or under any contract of hire, written or
105 oral, express or implied;

106 (2) Any service performed prior to January one, one
107 thousand nine hundred seventy-two, which was employment
108 as defined in this section prior to such date and, subject to
109 the other provisions of this section, service performed after
110 December thirty-one, one thousand nine hundred seventy-one,
111 by an employee, as defined in section 3306(i) of the "Federal
112 Unemployment Tax Act," including service in interstate
113 commerce;

114 (3) Any service performed prior to January one, one
115 thousand nine hundred seventy-two, which was employment
116 as defined in this section prior to such date and, subject
117 to the other provisions of this section, service performed after
118 December thirty-one, one thousand nine hundred seventy-one,
119 including service in interstate commerce, by any officer of
120 a corporation;

121 (4) An individual's entire service, performed within or
122 both within and without this state if: (a) The service is
123 localized in this state; or (b) the service is not localized in
124 any state but some of the service is performed in this state
125 and (i) the base of operations, or, if there is no base of

126 operations, then the place from which such service is directed
127 or controlled, is in this state; or (ii) the base of operations
128 or place from which such service is directed or controlled
129 is not in any state in which some part of the service is per-
130 formed but the individual's residence is in this state;

131 (5) Service not covered under paragraph four of this
132 subdivision and performed entirely without this state with
133 respect to no part of which contributions are required and paid
134 under an unemployment compensation law of any other state
135 or of the federal government, shall be deemed to be employ-
136 ment subject to this chapter if the individual performing such
137 services is a resident of this state and the commissioner
138 approves the election of the employing unit for whom such
139 services are performed that the entire service of such individual
140 shall be deemed to be employment subject to this chapter;

141 (6) Service shall be deemed to be localized within a state,
142 if: (a) The service is performed entirely within such state; or
143 (b) the service is performed both within and without such
144 state, but the service performed without such state is in-
145 cidental to the individual's service within this state, as, for
146 example, is temporary or transitory in nature or consists of
147 isolated transactions;

148 (7) Services performed by an individual for wages shall
149 be deemed to be employment subject to this chapter unless and
150 until it is shown to the satisfaction of the commissioner that:
151 (a) Such individual has been and will continue to be free
152 from control or direction over the performance of such services,
153 both under his contract of service and in fact; and (b)
154 such service is either outside the usual course of the business
155 for which such service is performed or that such service is
156 performed outside of all the places of business of the enter-
157 prise for which such service is performed; and (c) such
158 individual is customarily engaged in an independently estab-
159 lished trade, occupation, profession or business;

160 (8) All service performed by an officer or member of
161 the crew of an American vessel (as defined in section three
162 hundred five of an act of Congress entitled "Social Security
163 Act Amendment of 1946," approved August tenth, one
164 thousand nine hundred forty-six) on or in connection with
165 such vessel, provided that the operating office, from which

166 the operations of such vessel operating on navigable waters
167 within and without the United States is ordinarily and
168 regularly supervised, managed, directed and controlled, is
169 within this state;

170 (9) Service performed after December thirty-one, one
171 thousand nine hundred seventy-one, by an individual in the
172 employ of this state or any of its instrumentalities (or in the
173 employ of this state and one or more other states or their
174 instrumentalities), when such service is performed for a
175 hospital or institution of higher education located in this
176 state: *Provided*, That such service is excluded from "employ-
177 ment" as defined in the "Federal Unemployment Tax Act"
178 solely by reason of section 3306(c)(7) of that act, and
179 is not excluded from "employment" under subdivision eleven
180 of the exclusions from the term "employment";

181 (10) Service performed after December thirty-one, one
182 thousand nine hundred seventy-one, by an individual in the
183 employ of a religious, charitable, educational or other or-
184 ganization but only if the following conditions are met:

185 (a) The service is excluded from "employment" as defined
186 in the "Federal Unemployment Tax Act" solely by reason of
187 section 3306(c)(8) of that act; and

188 (b) The organization had four or more individuals in
189 employment for some portion of a day in each of twenty
190 different weeks, whether or not such weeks were consecutive,
191 within either the current or preceding calendar year, regardless
192 of whether they were employed at the same moment of
193 time;

194 (11) Service of an individual who is a citizen of the
195 United States, performed outside the United States (except
196 in Canada or the Virgin Islands), after December thirty-one,
197 one thousand nine hundred seventy-one, in the employ of an
198 American employer (other than service which is deemed
199 "employment" under the provisions of subdivisions four,
200 five or six of this definition of "employment" or the parallel
201 provisions of another state's law), if:

202 (a) The employer's principal place of business in the
203 United States is located in this state; or

204 (b) The employer has no place of business in the United
205 States, but (i) the employer is an individual who is a resident

206 of this state; or (ii) the employer is a corporation which is
207 organized under the laws of this state; or (iii) the employer is
208 a partnership or a trust and the number of the partners or
209 trustees who are residents of this state is greater than the
210 number who are residents of any one other state; or

211 (c) None of the criteria of subparagraphs (a) and (b)
212 of this subdivision (11) is met but the employer has elected
213 coverage in this state or, the employer having failed to elect
214 coverage in any state, the individual has filed a claim for
215 benefits, based on such service, under the law of this state.

216 An "American employer," for purposes of this subdivision
217 (11), means a person who is (i) an individual who is a resident
218 of the United States; or (ii) a partnership if two thirds or
219 more of the partners are residents of the United States; or
220 (iii) a trust, if all of the trustees are residents of the United
221 States; or (iv) a corporation organized under the laws of the
222 United States or of any state.

223 Notwithstanding the foregoing definition of "employment,"
224 if the services performed during one half or more of any
225 pay period by an employee for the person employing him
226 constitute employment, all the services of such employee
227 for such period shall be deemed to be employment; but if
228 the services performed during more than one half of any
229 such pay period by an employee for the person employing
230 him do not constitute employment, then none of the services
231 of such employee for such period shall be deemed to be
232 employment.

233 The term "employment" shall not include:

234 (1) Services performed in the employ of this state or any
235 political subdivision thereof, or any instrumentality of this
236 state or its subdivisions, except as otherwise provided herein;

237 (2) Service performed directly in the employ of another
238 state, or its political subdivisions;

239 (3) Service performed in the employ of the United States or
240 an instrumentality of the United States exempt under the con-
241 stitution of the United States from the payments imposed by
242 this law, except that to the extent that the Congress of the
243 United States shall permit states to require any instrumental-
244 ties of the United States to make payments into an unemploy-

245 ment fund under a state unemployment compensation law, all
246 of the provisions of this law shall be applicable to such instru-
247 mentalities, and to service performed for such instrumentalities,
248 in the same manner, to the same extent and on the same
249 terms as to all other employers, employing units, individuals,
250 and services: *Provided*, That if this state shall not be certified
251 for any year by the secretary of labor under section 1603(c)
252 of the "Federal Internal Revenue Code," the payments re-
253 quired of such instrumentalities with respect to such year shall
254 be refunded by the commissioner from the fund in the same
255 manner and within the same period as is provided in section
256 nineteen, article five of this chapter, with respect to payments
257 erroneously collected;

258 (4) Service performed after June thirty, one thousand nine
259 hundred thirty-nine, with respect to which unemployment
260 compensation is payable under the "Railroad Unemployment
261 Insurance Act" (52 Stat. 1094), and service with respect to
262 which unemployment benefits are payable under an unemploy-
263 ment compensation system for maritime employees establish-
264 ed by an act of Congress. The commissioner may enter into
265 agreements with the proper agency established under such an
266 act of Congress to provide reciprocal treatment to individuals
267 who, after acquiring potential rights to unemployment compen-
268 sation under an act of Congress, or who have, after acquiring
269 potential rights to unemployment compensation under an act
270 of Congress, acquired rights to benefit under this chapter. Such
271 agreement shall become effective ten days after such publica-
272 tions as comply with the general rules of the department;

273 (5) Agricultural labor, and for the purposes of this chapter,
274 the term "agricultural labor" includes all services performed:

275 (a) On a farm, in the employ of any person, in connection
276 with cultivating the soil, or in connection with raising or har-
277 vesting any agricultural or horticultural commodity, including
278 the raising, shearing, feeding, caring for, training, and manage-
279 ment of livestock, bees, poultry, and fur-bearing animals
280 and wildlife;

281 (b) In the employ of the owner or tenant or other
282 operator of a farm, in connection with the operation, manage-
283 ment, conservation, improvement, or maintenance of such

284 farm and its tools and equipment, or in salvaging timber or
285 clearing land of brush and other debris left by a hurricane,
286 if the major part of such service is performed on a farm;

287 (c) In connection with the production or harvesting of
288 any commodity defined as an agricultural commodity in
289 section 15(g) of the "Agricultural Marketing Act," as
290 amended (46 Stat. 1550, sec. 3; 12 U.S.C. § 1141j) or in
291 connection with the ginning of cotton, or in connection with
292 the operation or maintenance of ditches, canals, reservoirs,
293 or waterways, not owned or operated for profit, used ex-
294 clusively for supplying and storing water for farming pur-
295 poses;

296 (d) (i) In the employ of the operator of a farm in handling,
297 planting, drying, packing, packaging, processing, freezing,
298 grading, storing or delivering to storage or to market or to a
299 carrier for transportation to market, in its unmanufactured
300 state, any agricultural or horticultural commodity; but only
301 if such operator produced more than one half of the commodity
302 with respect to which such service is performed; or (ii) in the
303 employ of a group of operators of farms (or a cooperative or-
304 ganization of which such operators are members) in the per-
305 formance of service described in subparagraph (i), but only if
306 such operators produced more than one half of the commodity
307 with respect to which such service is performed; but the pro-
308 visions of subparagraphs (i) and (ii) shall not be deemed to be
309 applicable with respect to service performed in connection with
310 commercial canning or commercial freezing or in connection
311 with any agricultural or horticultural commodity after its
312 delivery to a terminal market for distribution for consump-
313 tion;

314 (e) On a farm operated for profit if such service is not in
315 the course of the employer's trade or business or is domestic
316 service in a private home of the employer. As used in this
317 subdivision (5), the term "farm" includes stock, dairy, poul-
318 try, fruit, fur-bearing animal, and truck farms, plantations,
319 ranches, greenhouses and nurseries, or other similar land areas
320 or structures used primarily for the raising of any agricultural
321 or horticultural commodity, and orchards, and the term
322 "greenhouses and nurseries" shall not include greenhouses and

323 nurseries employing more than fifteen full-time employees;

324 (6) Domestic service in a private home;

325 (7) Service performed by an individual in the employ of his
326 son, daughter, or spouse;

327 (8) Service performed by a child under the age of eighteen
328 years in the employ of his father or mother;

329 (9) Service as an officer or member of a crew of an Ameri-
330 can vessel, performed on or in connection with such vessel, if
331 the operating office, from which the operations of the vessel
332 operating on navigable water within or without the United
333 States are ordinarily and regularly supervised, managed,
334 directed and controlled, is without this state;

335 (10) Services performed by agents of mutual fund broker-
336 dealers or insurance companies, exclusive of industrial in-
337 surance agents, or by agents of investment companies, who are
338 compensated wholly on a commission basis;

339 (11) Service performed (i) in the employ of a church or
340 convention or association of churches, or an organization
341 which is operated primarily for religious purposes and which
342 is operated, supervised, controlled, or principally supported by
343 a church or convention or association of churches; or (ii)
344 by a duly ordained, commissioned or licensed minister of
345 a church in the exercise of his ministry or by a member of
346 a religious order in the exercise of duties required by such
347 order; or (iii) the employ of a school which is not an in-
348 stitution of higher education; or (iv) in a facility conducted
349 for the purpose of carrying out a program of rehabilitation
350 for individuals whose earning capacity is impaired by age
351 or physical or mental deficiency or injury or providing
352 remunerative work for individuals who because of their
353 impaired physical or mental capacity cannot be readily ab-
354 sorbed in the competitive labor market by an individual
355 receiving such rehabilitation or remunerative work; or (v) as
356 part of an unemployment work-relief or work-training program
357 assisted or financed in whole or in part by any federal agency
358 or an agency of a state or political subdivision thereof, by an
359 individual receiving such work relief or work training; or
360 (vi) for a hospital in a state prison or other state correctional

361 institution by an inmate of the prison or correctional institu-
362 tion;

363 (12) Service performed, in the employ of a school, college
364 or university, if such service is performed (i) by a student who
365 is enrolled and is regularly attending classes at such school,
366 college or university, or (ii) by the spouse of such a student, if
367 such spouse is advised, at the time such spouse commences to
368 perform such service, that (I) the employment of such spouse
369 to perform such service is provided under a program to provide
370 financial assistance to such student by such school, college or
371 university, and (II) such employment will not be covered by
372 any program of unemployment insurance;

373 (13) Service performed by an individual under the age of
374 twenty-two who is enrolled at a nonprofit or public educational
375 institution which normally maintains a regular faculty and
376 curriculum and normally has a regularly organized body of
377 students in attendance at the place where its educational acti-
378 vities are carried on as a student in a full-time program, taken
379 for credit at such institution, which combines academic instruc-
380 tion with work experience, if such service is an integral part
381 of such program, and such institution has so certified to the
382 employer, except that this subdivision shall not apply to ser-
383 vice performed in a program established for or on behalf of
384 an employer or group of employers;

385 (14) Service performed in the employ of a hospital, if such
386 service is performed by a patient of the hospital, as defined in
387 this section.

388 Notwithstanding the foregoing exclusions from the definition
389 of "employment," services, except agricultural labor and do-
390 mestic service in a private home, shall be deemed to be in em-
391 ployment if with respect to such services a tax is required to be
392 paid under any federal law imposing a tax against which credit
393 may be taken for contributions required to be paid into a state
394 unemployment compensation fund.

395 "Employment office" means a free employment office or
396 branch thereof, operated by this state, or any free public em-
397 ployment office maintained as a part of a state controlled sys-
398 tem of public employment offices in any other state.

399 "Fund" means the unemployment compensation fund es-
400 tablished by this chapter.

401 "Hospital" means an institution which has been licensed,
402 certified or approved by the state department of health as a
403 hospital.

404 "Institution of higher education" means an educational in-
405 stitution which:

406 (1) Admits as regular students only individuals having a
407 certificate of graduation from a high school, or the recognized
408 equivalent of such a certificate;

409 (2) Is legally authorized in this state to provide a program
410 of education beyond high school;

411 (3) Provides an educational program for which it awards a
412 bachelor's or higher degree, or provides a program which is
413 acceptable for full credit toward such a degree, or provides a
414 program of post-graduate or post-doctoral studies, or pro-
415 vides a program of training to prepare students for gainful em-
416 ployment in a recognized occupation; and

417 (4) Is a public or other nonprofit institution.

418 Notwithstanding any of the foregoing provisions of this
419 definition, all colleges and universities in this state are insti-
420 tutions of higher education for purposes of this section.

421 "Payments" means the money required to be paid or that
422 may be voluntarily paid into the state unemployment compen-
423 sation fund as provided in article five of this chapter.

424 "Separated from employment" means, for the purposes of
425 this chapter, the total severance whether by quitting, discharge,
426 or otherwise, of the employer-employee relationship.

427 "State" includes, in addition to the states of the United
428 States, Puerto Rico, District of Columbia and the Virgin Is-
429 lands.

430 "Total and partial unemployment" means:

431 (1) An individual shall be deemed totally unemployed in
432 any week in which such individual is separated from employ-
433 ment for an employing unit and during which he performs no
434 services and with respect to which no wages are payable to
435 him.

436 (2) An individual who has not been separated from em-

437 ployment shall be deemed to be partially unemployed in any
438 week in which due to lack of work he performs no services
439 and with respect to which no wages are payable to him, or in
440 any week in which due to lack of full-time work wages payable
441 to him are less than his weekly benefit amount plus fifteen
442 dollars.

443 "Wages" means all remuneration for personal service, in-
444 cluding commissions and bonuses and the cash value of all
445 remuneration in any medium other than cash: *Provided*, That
446 the term "wages" shall not include:

447 (1) That part of the remuneration which, after remuneration
448 equal to three thousand dollars has been paid to an individual
449 by an employer with respect to employment during any calen-
450 dar year, is paid after December thirty-one, one thousand nine
451 hundred thirty-nine, and prior to January one, one thousand
452 nine hundred forty-seven, to such individual by such employer
453 with respect to employment during such calendar year; or that
454 part of the remuneration which, after remuneration equal to
455 three thousand dollars with respect to employment after one
456 thousand nine hundred thirty-eight has been paid to an indi-
457 vidual by an employer during any calendar year after one
458 thousand nine hundred forty-six, is paid to such individual by
459 such employer during such calendar year, except that for the
460 purposes of sections one, ten, eleven and thirteen, article six
461 of this chapter, all remuneration earned by an individual in
462 employment shall be credited to the individual and included
463 in his computation of base period wages: *Provided*, That not-
464 withstanding the foregoing provisions, on and after January
465 one, one thousand nine hundred sixty-two, the term "wages"
466 shall not include:

467 That part of the remuneration which, after remuneration
468 equal to three thousand six hundred dollars has been paid to
469 an individual by an employer with respect to employment dur-
470 ing any calendar year, is paid during any calendar year after
471 one thousand nine hundred sixty-one; and shall not include
472 that part of remuneration which, after remuneration equal to
473 four thousand two hundred dollars is paid during a calendar
474 year after one thousand nine hundred seventy-one to an indi-
475 vidual by an employer or his predecessor with respect to em-

476 ployment during any calendar year, is paid to such individual
477 by such employer during such calendar year unless that part
478 of the remuneration is subject to a tax under a federal law
479 imposing a tax against which credit may be taken for contri-
480 butions required to be paid into a state unemployment fund.
481 For the purposes of this subdivision (1), the term employment
482 shall include service constituting employment under any un-
483 employment compensation law of another state; or which as a
484 condition for full tax credit against the tax imposed by the
485 "Federal Unemployment Tax Act" is required to be covered
486 under this chapter; and, except, that for the purposes of sec-
487 tions one, ten, eleven and thirteen, article six of this chapter,
488 all remuneration earned by an individual in employment shall
489 be credited to the individual and included in his computation
490 of base period wages: *Provided, however,* That the remunera-
491 tion paid to an individual by an employer with respect to em-
492 ployment in another state or other states upon which contri-
493 butions were required of and paid by such employer under an
494 unemployment compensation law of such other state or states
495 shall be included as a part of the remuneration equal to the
496 amounts of three thousand six hundred dollars or four thou-
497 sand two hundred dollars herein referred to. In applying such
498 limitation on the amount of remuneration that is taxable an
499 employer shall be accorded the benefit of all or any portion of
500 such amount which may have been paid by its predecessor or
501 predecessors: *Provided further,* That if the definition of the
502 term "wages" as contained in section 3306(b) of the "Internal
503 Revenue Code of 1954" as amended; (a) effective prior to
504 January one, one thousand nine hundred sixty-two, to include
505 remuneration in excess of three thousand dollars, or (b) effec-
506 tive on or after January one, one thousand nine hundred six-
507 ty-two, to include remuneration in excess of three thousand six
508 hundred dollars, or effective on or after January one, one
509 thousand nine hundred seventy-two, to include remuneration in
510 excess of four thousand two hundred dollars, paid to an indi-
511 vidual by an employer under the "Federal Unemployment Tax
512 Act" during any calendar year, wages for the purposes of this
513 definition shall include remuneration paid in a calendar year
514 to an individual by an employer subject to this article or his
515 predecessor with respect to employment during any calendar

516 year up to an amount equal to the amount of remuneration
517 taxable under the "Federal Unemployment Tax Act";

518 (2) The amount of any payment made after December
519 thirty-one, one thousand nine hundred fifty-two (including any
520 amount paid by an employer for insurance or annuities, or into
521 a fund, to provide for any such payment), to, or on behalf of,
522 an individual in its employ or any of his dependents, under a
523 plan or system established by an employer which makes pro-
524 vision for individuals in its employ generally (or for such in-
525 dividuals and their dependents), or for a class or classes of
526 such individuals (or for a class or classes of such individuals
527 and their dependents), on account of (A) retirement, or (B)
528 sickness or accident disability, or (C) medical or hospitaliza-
529 tion expenses in connection with sickness or accident disability,
530 or (D) death;

531 (3) Any payment made after December thirty-one, one thou-
532 sand nine hundred fifty-two, by an employer to an individual
533 in its employ (including any amount paid by an employer for
534 insurance or annuities, or into a fund, to provide for any such
535 payment) on account of retirement;

536 (4) Any payment made after December thirty-one, one
537 thousand nine hundred fifty-two, by an employer on account
538 of sickness or accident disability, or medical or hospitalization
539 expenses in connection with sickness or accident disability, to,
540 or on behalf of, an individual in its employ after the expiration
541 of six calendar months following the last calendar month in
542 which such individual worked for such employer;

543 (5) Any payment made after December thirty-one, one
544 thousand nine hundred fifty-two, by an employer to, or on be-
545 half of, an individual in its employ or his beneficiary (A) from
546 or to a trust described in section 401(a) which is exempt from
547 tax under section 501(a) of the "Federal Internal Revenue
548 Code" at the time of such payment unless such payment is
549 made to such individual as an employee of the trust as remun-
550 eration for services rendered by such individual and not as a
551 beneficiary of the trust, or (B) under or to an annuity plan
552 which, at the time of such payment, is a plan described in sec-
553 tion 403(a) of the "Federal Internal Revenue Code";

554 (6) The payment by an employer (without deduction from

555 the remuneration of the individual in its employ) of the tax
556 imposed upon an individual in its employ under section 3101
557 of the "Federal Internal Revenue Code";

558 (7) Remuneration paid by an employer after December
559 thirty-one, one thousand nine hundred fifty-two, in any med-
560 ium other than cash to an individual in its employ for service
561 not in the course of the employer's trade or business;

562 (8) Any payment (other than vacation or sick pay) made by
563 an employer after December thirty-one, one thousand nine
564 hundred fifty-two, to an individual in its employ after the
565 month in which he attains the age of sixty-five, if he did not
566 work for the employer in the period for which such payment
567 is made;

568 (9) Payments, not required under any contract of hire, made
569 to an individual with respect to his period of training or ser-
570 vice in the armed forces of the United States by an employer
571 by which such individual was formerly employed;

572 (10) Vacation pay received by an individual after becoming
573 separated from employment, but earned prior to becoming
574 separated from employment.

575 Gratuities customarily received by an individual in the
576 course of his employment from persons other than his employ-
577 ing unit shall be treated as wages paid by his employing unit,
578 if accounted for and reported to such employing unit.

579 The reasonable cash value of remuneration in any medium
580 other than cash shall be estimated and determined in accor-
581 dance with rules prescribed by the commissioner.

582 "Week" means a calendar week, ending at midnight Satur-
583 day, or the equivalent thereof, as determined in accordance
584 with the regulations prescribed by the commissioner.

585 "Weekly benefit rate" means the maximum amount of bene-
586 fit an eligible individual will receive for one week of total
587 unemployment.

588 "Year" means a calendar year or the equivalent thereof, as
589 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 publication of rates.

§21A-6-4. Individual not denied benefits by receiving vocational training.

1 Notwithstanding any other provision in this article, no
 2 individual shall be denied unemployment compensation bene-
 3 fits because of his receiving training as part of an area voca-
 4 tional program, or similar program, which has as its object the
 5 training of unemployed individuals in new occupational skills:
 6 *Provided*, That such individual's training and training institu-
 7 tion are approved by the commissioner, and such individual
 8 produces evidence of his continued attendance and satisfactory
 9 progress at such training institution when requested to do so
 10 by the commissioner.

§21A-6-10. Benefit rate—Total unemployment; annual computation and publication of rates.

1 Each eligible individual who is totally unemployed in any
 2 week shall be paid benefits with respect to that week at the
 3 weekly rate appearing in Column (C) in Table A in this para-
 4 graph, on the line on which in Column (A) there is indicated
 5 the employee's wage class, except as otherwise provided under
 6 the term "total and partial unemployment" in section three,
 7 article one of this chapter. The employee's wage class shall be
 8 determined by his base period wages as shown in Column (B)
 9 in Table A. The right of an employee to receive benefits shall
 10 not be prejudiced nor the amount thereof be diminished by
 11 reason of failure by an employer to pay either the wages earned
 12 by the employee or the contribution due on such wages. An
 13 individual who is totally unemployed but earns in excess of
 14 fifteen dollars as a result of odd-job or subsidiary work in any
 15 benefit week shall be paid benefits for such week in accordance
 16 with the provisions of this chapter pertaining to benefits for
 17 partial unemployment.

18 **TABLE A**

	Wage Class	Wages in Base Period	Maximum Benefit In Benefit Year for	
			Weekly Benefit Rate	Total and/or Partial Unemployment
	(Column A)	(Column B)	(Column C)	(Column D)
20		Under \$ 700.00	Ineligible	-----
21	1	700.00— 799.99	\$ 12.00	\$312.00

22	2	800.00—	899.99	13.00	338.00
23	3	900.00—	999.99	14.00	364.00
24	4	1000.00—	1149.99	15.00	390.00
25	5	1150.00—	1299.99	16.00	416.00
26	6	1300.00—	1449.99	17.00	442.00
27	7	1450.00—	1599.99	18.00	468.00
28	8	1600.00—	1749.99	19.00	494.00
29	9	1750.00—	1899.99	20.00	520.00
30	10	1900.00—	2049.99	21.00	546.00
31	11	2050.00—	2199.99	22.00	572.00
32	12	2200.00—	2349.99	23.00	598.00
33	13	2350.00—	2499.99	24.00	624.00
34	14	2500.00—	2599.99	25.00	650.00
35	15	2600.00—	2699.99	26.00	676.00
36	16	2700.00—	2799.99	27.00	702.00
37	17	2800.00—	2899.99	28.00	728.00
38	18	2900.00—	2999.99	29.00	754.00
39	19	3000.00—	3099.99	30.00	780.00
40	20	3100.00—	3199.99	31.00	806.00
41	21	3200.00—	3349.99	32.00	832.00
42	22	3350.00—	3499.99	33.00	858.00
43	23	3500.00—	3649.99	34.00	884.00
44	24	3650.00—	3799.99	35.00	910.00

45 Notwithstanding any of the foregoing provisions of this
 46 section, on and after July one, one thousand nine hundred six-
 47 ty-seven, the maximum weekly benefit rate shall be forty per-
 48 cent of the average weekly wage in West Virginia.

49 Notwithstanding any of the foregoing provisions of this
 50 section, on and after July one, one thousand nine hundred
 51 seventy, the maximum weekly benefit rate shall be forty-five
 52 percent of the average weekly wage in West Virginia.

53 Notwithstanding any of the foregoing provisions of this sec-
54 tion, on and after July one, one thousand nine hundred seven-
55 ty-one, the maximum weekly benefit rate shall be fifty percent
56 of the average weekly wage in West Virginia.

57 Notwithstanding any of the foregoing provisions of this sec-
58 tion, on and after July one, one thousand nine hundred seventy-
59 three, the maximum weekly benefit rate shall be fifty-five per-
60 cent of the average weekly wage in West Virginia.

61 The commissioner, after he has determined the maximum
62 weekly benefit rate upon the basis of the above formula, shall
63 establish as many additional wage classes as are required, in-
64 creasing the amount of base period wages required for each
65 class by one hundred fifty dollars, the weekly benefit rate for
66 each class by one dollar, and the maximum benefit by twenty-
67 six dollars. The maximum weekly benefit rate, when computed
68 by the commissioner, in accordance with the foregoing pro-
69 visions, shall be rounded to the next higher dollar amount, if
70 the computation exceeds forty-nine percent of a dollar amount.
71 Such rounding off to the next higher dollar amount shall re-
72 sult in one additional wage class, with commensurate base peri-
73 od wage requirement of one hundred fifty dollars over the
74 preceding wage class, and with a maximum benefit increase
75 over the preceding wage class of twenty-six dollars. Such an
76 additional wage class shall be published by the commissioner
77 with the table required to be published by the foregoing pro-
78 visions of this section.

79 After he has established such additional wage classes, the
80 commissioner shall prepare and publish a table setting forth
81 such information.

82 Average weekly wage shall be computed by dividing the
83 number of employees in West Virginia earning wages in cov-
84 ered employment into the total wages paid to employees in
85 West Virginia in covered employment, and by further dividing
86 said result by fifty-two, and shall be determined from em-
87 ployer wage and contribution reports for the previous calen-
88 dar year which are furnished to the department on or before
89 June one following such calendar year. The average weekly
90 wage, as determined by the commissioner, shall be rounded to
91 the next higher dollar.

92 The computation and determination of rates as aforesaid
93 shall be completed annually before July one, and any such
94 new wage class, with its corresponding wages in base period,
95 weekly benefit rate, and maximum benefit in a benefit year
96 established by the commissioner in the foregoing manner effective
97 on a July one, shall apply only to a new claim established
98 by a claimant on and after said July one, and shall not apply
99 to continued claims of a claimant based on his new claim
100 established before said July one.

ARTICLE 9. EMPLOYMENT SECURITY ADMINISTRATION FUND.

§21A-9-5a. Special administration fund.

1 There is hereby created in the state treasury a fund to be
2 known as the employment security special administration fund,
3 which shall consist of interest collected on delinquent payments
4 pursuant to section seventeen, article five of this chapter. The moneys deposited with this fund are hereby appropriated
5 and made available to the order of the commissioner
6 for the purpose of (a) replacements in the employment security
7 administration fund as provided in section eight of this article,
8 (b) to meet special, extraordinary, and contingent expenses
9 not provided for in the employment security administration
10 fund, and (c) refunds pursuant to section nineteen of article
11 five, of interest erroneously collected. This fund shall be administered
12 and disbursed in the same manner and under the
13 same conditions as other special funds of the state treasury.
14 Balances to the credit of the special administration fund shall
15 not lapse at any time but shall be continuously available to the
16 commissioner for expenditures consistent with this chapter:
17 *Provided*, (1) That not more than one hundred thousand dollars
18 shall be expended from said fund in any fiscal year for
19 purposes (a) and (b); (2) that at the beginning of each calendar
20 quarter the commissioner shall estimate the amount that may be
21 required in that quarter for refunds of interest erroneously collected;
22 (3) that thereupon the excess, if any, over the amounts
23 provided to be expended under this section shall be paid into
24 the unemployment compensation trust fund.
25

CHAPTER 52

(House Bill No. 609—By Mrs. Rutledge)

[Passed March 26, 1973; in effect ninety days from passage. Approved by the Governor.]

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.

§21A-2-6. Powers and duties generally.

1 The commissioner shall be the executive and administrative
2 head of the department and shall have the power and duty, to:

3 (1) Exercise general supervision of and make regulations
4 for the government of the department;

5 (2) Prescribe uniform rules pertaining to investigations,
6 departmental hearings, and promulgate rules and regulations;

7 (3) Supervise fiscal affairs and responsibilities of the de-
8 partment;

9 (4) Prescribe the qualifications of, appoint, remove, and
10 fix the compensation of the officers and employees of the
11 department, subject to the provisions of section ten, article
12 four of this chapter, relating to the board of review;

13 (5) Organize and administer the department so as to
14 comply with the requirements of this chapter and to satisfy
15 any conditions established in applicable federal legislation;

16 (6) Make reports in such form and containing such infor-
17 mation as the United States department of labor may from
18 time to time require, and comply with such provisions as the
19 United States department of labor may from time to time
20 find necessary to assure the correctness and verification of
21 such reports;

22 (7) Make available to any agency of the United States

23 charged with the administration of public works or assistance
24 through public employment, upon its request, the name,
25 address, ordinary occupation and employment status of each
26 recipient of unemployment compensation, and a statement of
27 the recipient's rights to further compensation under this
28 chapter;

29 (8) Keep an accurate and complete record of all depart-
30 mental proceedings; record and file all bonds and contracts
31 and assume responsibility for the custody and preservation
32 of all papers and documents of the department;

33 (9) Sign and execute in the name of the state, by "The
34 State Department of Employment Security," any contract or
35 agreement with the federal government, its agencies, other
36 states, their subdivisions, or private persons;

37 (10) Prescribe a salary scale to govern compensation of
38 appointees and employees of the department;

39 (11) Make the original determination of right in claims for
40 benefits;

41 (12) Make recommendations, and an annual report to the
42 governor concerning the condition, operation, and functioning
43 of the department;

44 (13) Invoke any legal or special remedy for the enforce-
45 ment of orders or the provisions of this chapter;

46 (14) Exercise any other power necessary to standardize
47 administration, expedite departmental business, assure the
48 establishment of fair rules and regulations and promote the
49 efficiency of the service; and

50 (15) Keep an accurate and complete record and prepare
51 a monthly report of the number of persons employed and
52 unemployed in the state, which report shall be made available
53 upon request to members of the public and press.

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

hundred 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.

1 (a) In any court proceeding wherein a party or witness can-
2 not readily understand or verbally communicate the English
3 language because he is deaf or a deaf mute or because of any
4 other hearing impairment, such person shall have the right to
5 have a qualified interpreter to assist him at every stage of the
6 proceeding. Such right shall also pertain in any proceeding
7 before administrative boards, commissions or agencies of this
8 state or any political subdivision or municipality thereof, and
9 in coroners' inquests and grand jury proceedings.

10 (b) No person shall act as an interpreter under the pro-
11 visions of subsection (a) of this section unless such person
12 is readily able to communicate with the person in question
13 and translate the proceedings for such person and accurately
14 repeat and translate the statements of such person. Any such
15 interpreter must be certified by the national registry of inter-
16 preters for the deaf, if available and if the need for such level
17 of skill is indicated, or shall be otherwise qualified. Every
18 interpreter functioning under the provisions of subsection (a)
19 of this section shall, before entering upon the performance of
20 his duties as such, take an oath that he will make a true
21 interpretation to the person in question in a language which
22 said person understands and that he will repeat the statements

23 of said person, in the English language, to the best of his skill
24 and ability.

25 (c) When any person is unable to pay for the services of a
26 qualified interpreter in any criminal or juvenile proceeding,
27 upon verified application, the judge of the court of record in
28 which such proceeding is pending, or, if such proceeding is not
29 in a court of record, then the judge of the court of record to
30 which such proceeding may be appealed or presented for
31 judicial review, shall, by order, appoint a qualified interpreter
32 as aforesaid to assist such person. Whenever a qualified inter-
33 preter is necessary for a coroner's inquest or grand jury pro-
34 ceeding, and such person is unable to pay for the services of
35 such interpreter, the appointment shall be by order entered by
36 the circuit court of the county in which such person is held in
37 custody or by a court of record of limited jurisdiction having
38 criminal jurisdiction in such county.

39 (d) Whenever a qualified interpreter is appointed pursuant
40 to the provisions of subsection (c) of this section, the court
41 shall, at the conclusion of the proceedings or interrogation, by
42 order, fix the compensation of such interpreter. The com-
43 pensation shall be not less than fifteen dollars per hour, nor
44 more than fifty dollars per day, plus reimbursement for all
45 reasonable and necessary expenses actually incurred in the
46 performance of such duties, but expenses shall not be incurred
47 in excess of the prevailing rate for state employees. In all such
48 cases, the compensation shall be paid by the state auditor from
49 the fund out of which appointed counsel are paid in felony
50 cases. In proceedings before administrative boards, commis-
51 sions and agencies, the compensation shall be fixed by such
52 board, commission or agency and paid, within the limit of
53 available funds, by such board, commission or agency, when-
54 ever it is determined, upon verified application, that the person
55 for whom the interpreter rendered services is unable to pay for
56 the same.

57 (e) Whenever an interpreter is necessary in any court pro-
58 ceeding because a witness or party speaks only a foreign
59 language or for any other reason, an interpreter may be sworn
60 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.
9. Offenses Generally.

ARTICLE 1. STATE DEPARTMENT OF HEALTH.

§16-1-9. Supervision over local sanitation.

1 No person, firm, company, corporation, institution, whether
2 public or private, county or municipal, shall install or establish
3 any system or method of drainage, water supply, sewage or
4 excreta disposal, or solid waste disposal without first obtain-
5 ing a written permit to install or establish such system or
6 method from the state director of health or his authorized
7 representative. All such systems or methods shall be installed
8 or established in accordance with plans, specifications and
9 instructions issued by the state director of health or which
10 have been approved in writing by the state director of health
11 or his authorized representative.

12 Whenever the state director of health or his authorized
13 representative finds upon investigation that any system or

14 method of drainage, water supply, sewage or excreta dis-
15 posal, or solid waste disposal, whether publicly or privately
16 owned, has not been installed in accordance with plans,
17 specifications and instructions issued by the state director
18 of health or approved in writing by the state director of
19 health or his authorized representative, the state director
20 of health or his duly authorized representative may issue
21 an order requiring the owner of such system or method to
22 make alterations as may be necessary to correct the improper
23 condition. Such alterations shall be made within a reasonable
24 time which shall not exceed thirty days, unless a time
25 extension is authorized by the state director of health or
26 his duly authorized representative.

27 The presence of sewage, excreta or solid waste being
28 disposed of in a manner not approved by the state director
29 of health or his authorized representative shall constitute
30 prima facie evidence of the existence of a condition endanger-
31 ing public health.

32 The personnel of the state department of health shall be
33 available to consult and advise with any person, firm,
34 company, corporation, institution, whether public or pri-
35 vately owned, county or municipal, or public service author-
36 ity, as to the most appropriate design, method of operation
37 or alteration of any such system or method.

38 Any person, firm, company, corporation, institution,
39 whether public or private, county or municipal, who shall
40 violate any provisions of this section shall be deemed
41 guilty of a misdemeanor, and, upon conviction thereof, shall
42 be punished by a fine of not less than twenty-five dollars
43 nor more than five hundred dollars. The continued failure
44 or refusal of such convicted person, firm, company, corpora-
45 tion, institution, whether public or private, county or municip-
46 al, to make the alterations necessary to protect the public
47 health required by the state director of health or his duly
48 authorized representative shall constitute a separate, distinct
49 and additional offense for each twenty-four hour period of
50 such failure or refusal, and, upon conviction thereof, the
51 violator shall be fined not less than twenty-five dollars nor
52 more than five hundred dollars for each such conviction:
53 *Provided*, That none of the provisions contained in this

54 section shall apply to those commercial or industrial
55 wastes which are subject to the regulatory control of the West
56 Virginia department of natural resources or the West Virginia
57 air pollution control commission.

58 Justices of the peace shall have concurrent jurisdiction with
59 the circuit courts of this state for violations of any provisions
60 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 substances into waters used for domestic purposes; penalties; jurisdiction; failure to bury or destroy offensive substances after conviction; successive offenses.

1 Any person who knowingly and willfully throws, causes to
2 be thrown or releases any dead animal, carcass, or part
3 thereof, garbage, sink or shower waste, organic substance,
4 human or animal excrement, contents of privy vault, septic
5 tank, cesspool or the effluent from any cesspool or nauseous
6 or offensive or poisonous substances into any well, cistern,
7 spring, brook, pond, stream or other body of water which
8 is used for domestic purposes, shall be guilty of a mis-
9 demeanor, and, upon conviction thereof, shall be fined not
10 less than twenty-five dollars nor more than two hundred
11 dollars. None of the provisions contained in this section
12 shall apply to those commercial or industrial wastes which
13 are subject to the regulatory control of the West Virginia
14 department of natural resources or the West Virginia air
15 pollution control commission.

16 Upon conviction of any such offense, the person con-
17 victed shall, within twenty-four hours after such conviction,
18 removed and bury or cause to be buried at least three feet
19 under the ground or destroy or cause to be destroyed as
20 otherwise directed by the state director of health or his
21 duly authorized representative any of such offensive materials

22 which the person so convicted has thrown, caused to be
23 thrown, released or knowingly permitted to remain in water
24 used for domestic purposes, contrary to the provisions
25 of this section, and his failure or refusal to do so shall
26 constitute a misdemeanor and a second violation of the pro-
27 visions of his section. The continued failure or refusal
28 of such convicted person to so bury or destroy such offensive
29 materials shall constitute a separate, distinct and additional
30 offense for each successive twenty-four hour period of such
31 failure or refusal. Any person convicted of any offense des-
32 cribed in this paragraph shall be fined not less than twenty-five
33 dollars nor more than two hundred dollars, or imprisoned
34 in the county jail not more than ninety days, or both fined
35 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.**

1 Any person (1) who throws, causes to be thrown or releases
2 any dead animal, carcass, or part thereof, garbage, sink or
3 shower waste, organic substances, contents of a privy vault,
4 septic tank, cesspool or the effluent from any cesspool,
5 spoiled meat or nauseous or offensive or poisonous sub-
6 stances into any river, creek or other stream, or upon the
7 surface of any land adjacent to any river, creek or other
8 stream in such a location that high water or normal
9 drainage conditions will cause such offensive materials to
10 be washed, drained or cast into the river, creek or other stream;
11 or (2) who throws, or causes to be thrown or releases any of
12 such offensive materials upon the surface of any road, right-
13 of-way, street, alley, city or town lot, public ground, mar-
14 ket space, common or private land, or (3) who, being the
15 owner, lessee or occupant of any city or town lot, public
16 ground, market space, common or private land knowingly
17 permits any such offensive materials to remain thereon or
18 neglects or refuses to remove or abate the public health
19 menace or nuisance occasioned thereby, within twenty-four
20 hours of the service of notice thereof in writing from the
21 state director of health or his duly authorized representative,
22 shall be guilty of a misdemeanor, and, upon conviction there-

23 of, shall be fined not less than one hundred dollars nor
24 more than one thousand dollars. None of the provisions con-
25 tained in this section shall apply to those commercial or
26 industrial wastes which are subject to the regulatory control
27 of the West Virginia department of natural resources or the
28 West Virginia air pollution control commission.

29 Upon a conviction for any such offense, the person shall,
30 within twenty-four hours after such conviction, remove and
31 bury or cause to be buried at least three feet under the
32 ground, or destroy or cause to be destroyed as otherwise
33 directed by the state director of health or his duly authorized
34 representative, any of such offensive materials which the
35 person so convicted has placed or knowingly permitted to
36 remain upon such city or town lot, public ground, market
37 space, common or private land, contrary to the provisions
38 of this section. Such person's failure or refusal to do so
39 shall constitute a misdemeanor and a second offense against
40 the provisions of this section. The continued failure or
41 refusal of such convicted person to remove and bury or
42 destroy such offensive materials shall constitute a separate,
43 distinct and additional offense for each successive twenty-
44 four hour period of such failure and refusal. Any person
45 convicted of any offense described in this paragraph shall
46 be fined not less than one hundred dollars nor more than
47 one thousand dollars, or imprisoned in the county jail not
48 more than ninety days, or both fined and imprisoned.

§16-9-8. Jurisdiction of justices and municipal judges.

1 Justices of the peace and municipal judges shall have concur-
2 rent jurisdiction with the circuit and criminal courts of this
3 state for violations under sections one to seven, both inclusive,
4 of this article.

CHAPTER 55

(House Bill No. 569—By Mrs. Smirl and Mr. Herman)

[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 small-pox 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.

1 All children entering school for the first time in this state
2 shall have been immunized against diphtheria, polio, rubeola,
3 rubella, tetanus and whooping cough. Any person who cannot
4 give satisfactory proof of having been immunized previously
5 or a certificate from a reputable physician showing that an
6 immunization for any or all diphtheria, polio, rubeola, rubella,
7 tetanus and whooping cough is impossible or improper or
8 sufficient reason why any or all immunizations should not be
9 done, shall be immunized for diphtheria, polio, rubeola, ru-
10 bella, tetanus and whooping cough prior to being admitted in
11 any of the schools of the state. No child or person shall be
12 admitted or received in any of the schools of the state until
13 he or she has been immunized as hereinafter provided, or pro-
14 duces a certificate from a reputable physician showing that an
15 immunization for diphtheria, polio, rubeola, rubella, tetanus
16 and whooping cough has been done or is impossible or im-
17 proper or other sufficient reason why such immunizations have
18 not been done. Any teacher, having information concerning
19 any person who attempts to enter school for the first time
20 without having been immunized against diphtheria, polio, ru-
21 beola, rubella, tetanus and whooping cough shall report the
22 names of all such persons to the county health officer. It shall
23 be the duty of the health officer in counties having a full-time
24 health officer to see that such persons are immunized before
25 entering school.

26 In counties where there is no full-time health officer or dis-
27 trict health officer, the county court or municipal council shall

28 appoint competent physicians to do the immunizations and
29 fix their compensation. The expense incurred in carrying into
30 effect the provisions of this section shall be deemed part of
31 the expense of the county, city, town or village as the case may
32 be, and shall be charged and paid in the same manner as other
33 expenses. County health departments shall furnish the bio-
34 logicals for this immunization free of charge.

35 Health officers and physicians who shall do this immuniza-
36 tion work shall give to all persons and children a certificate
37 free of charge showing that they have been immunized against
38 diphtheria, polio, rubeola, rubella, tetanus and whooping
39 cough, or he may give the certificate to any person or child
40 whom he knows to have been immunized against diphtheria,
41 polio, rubeola, rubella, tetanus and whooping cough. If any
42 physician shall give any person a false certificate of immuni-
43 zation against diphtheria, polio, rubeola, rubella, tetanus and
44 whooping cough, he shall be guilty of a misdemeanor, and,
45 upon conviction, he shall be fined not less than twenty-five nor
46 more than one hundred dollars.

47 Any parent or guardian who refuses to permit his or her
48 child to be immunized against diphtheria, polio, rubeola, ru-
49 bella, tetanus and whooping cough, who cannot give satisfac-
50 tory proof that the child or person has been immunized against
51 diphtheria, polio, rubeola, rubella, tetanus and whooping cough
52 previously or a certificate from a reputable physician showing
53 that an immunization for any or all is impossible or improper
54 or sufficient reason why any or all immunizations should not
55 be done, shall be guilty of a misdemeanor, and, except as here-
56 in otherwise provided, shall, upon conviction, be punished by
57 a fine of not less than ten nor more than fifty dollars for each
58 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.]

AN ACT to amend and reenact section four-a, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, relating to compulsory testing for tuberculosis of school children and compulsory X rays or approved tuberculin skin tests for school personnel.

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
2 not had an approved tuberculin skin test in kindergarten and all
3 students transferring from a school located outside this state
4 shall furnish a certificate from a licensed physician stating
5 that a tuberculin skin test approved by the director of the
6 department of health has been made within four months prior
7 to the beginning of the school year, unless such pupil has
8 moved to this state from another state less than four months
9 prior to starting the school year, in which event such pupil
10 shall have such test as soon in advance of the start of the
11 school as is reasonable, or if the school year has already
12 started, the pupil shall take such test within one month of the
13 time he enters school. Test results must be recorded on the
14 certificate. Positive reactors to the skin test must be immediately x-rayed, and receive annual X rays thereafter, or at
15 more frequent intervals if medically indicated. Pupils found
16 to have tuberculosis in a communicable stage will not be
17 allowed to attend school until their disease has been arrested
18 and is no longer communicable.

20 All school personnel shall have a chest X ray or an approved
21 tuberculin skin test once every two years. Positive reactors
22 to the skin test are to be immediately x-rayed and re-x-rayed
23 annually or at more frequent intervals if medically indicated.
24 Reactors who are annually x-rayed will not be required to

25 have an annual skin test. School personnel found to have
26 tuberculosis in a communicable stage shall have their em-
27 ployment discontinued or suspended until their disease has
28 been arrested and is no longer communicable. School per-
29 sonnel who have not had the required examination will be
30 suspended from employment until reports of examination are
31 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.

1 Any restaurant, hotel, motel, dining room, hospital, snack
2 bar or any food dispensing facility utilizing a microwave oven
3 shall prominently display a public notice in the following
4 words:

5 "NOTICE TO PERSONS HAVING HEART PACEMAK-
6 ERS: This Establishment Uses A Microwave Oven."

7 The state director of health shall be responsible for admin-
8 istering 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 public 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 anatomical 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.

§16-19-4. Manner of executing anatomical gifts.

§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
4 dental education, research, advancement of medical or dental
5 science, therapy, or transplantation; or

6 (2) Any accredited medical or dental school, college or
7 university for education, research, advancement of medical
8 or dental science, or therapy; or

9 (3) Any person operating a bank or storage facility for
10 blood, arteries, eyes, pituitaries, or other human parts, for
11 use in medical or dental education, advancement of medical
12 or dental science, research, therapy or transplantation to
13 individuals; or

14 (4) Any specified individual for therapy or transplanta-
15 tion needed by him.

§16-19-4. Manner of executing anatomical gifts.

1 (a) A gift of all or part of the body under subsection (a),
2 section two of this article may be made by will. The gift be-
3 comes effective upon the death of the testator without
4 waiting for probate. If the will is not probated, or if it is
5 declared invalid for testamentary purposes, the gift, to the
6 extent that it has been acted upon in good faith, is never-
7 theless valid and effective.

8 (b) A gift of all or part of the body under subsection (a),
9 section two of this article may also be made by document
10 other than a will. The gift becomes effective upon the death
11 of the donor. The document, which may be a card designed
12 to be carried on the person, must be signed by the donor in
13 the presence of two witnesses who must sign the document
14 in his presence. If the donor cannot sign, the document may
15 be signed for him at his direction and in his presence in the
16 presence of two witnesses who must sign the document in
17 his presence. Delivery of the document of gift during the
18 donor's lifetime is not necessary to make the gift valid.

19 (c) The gift may be made to a specified donee or without
20 specifying a donee. If the latter, the gift may be accepted
21 by the attending physician as donee upon or following death.
22 If the gift is made to a specified donee who is not avail-
23 able at the time and place of death, the attending physician
24 upon or following death, in the absence of any expressed
25 indication that the donor desired otherwise, may accept the
26 gift as donee. The physician who becomes a donee under
27 this subsection shall not participate in the procedures for
28 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 appropriate 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 telephonic, 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
of

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 desires.

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 research or education;

(c) _____ my body for anatomical study if needed.
Limitations or special wishes, if any: _____

67 Signed by the donor and the following two witnesses in
68 the presence of each other:

69	_____	_____
70	Signature of Donor	Date of Birth of Donor
71	_____	_____
72	Date Signed	City and State
73	_____	_____
74	Witness	Witness

75 This is a legal document under the Uniform Anatomical
76 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 or

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.
- §16-24-19. Injunction.
- §16-24-20. Construction and severability.

§16-24-1. Definitions.

- 1 Unless the context clearly requires otherwise, as used in
- 2 this article:

3 (1) "Advertise," and any of its variants, means and
4 includes the use of a newspaper, magazine, or other publica-
5 tion, book, notice, circular, pamphlet, letter, handbill, poster,
6 bill, sign, placard, card, label, tag, window display, store
7 sign, radio, television announcement, or any other means
8 or methods now or hereafter employed to bring to the
9 attention of the public the practice of fitting or dealing in
10 hearing aids.

11 (2) "Board" means the West Virginia board of hearing-
12 aid dealers.

13 (3) "Department" means the state department of health
14 and, when appropriate, shall include the state director of health
15 or the state board of health.

16 (4) "Hearing aid" means any wearable device or in-
17 strument or any combination thereof, designed for, represented
18 as or offered for sale for the purpose of aiding, improving
19 or compensating for defective or impaired human hearing
20 and shall include earmold, parts, attachments or other acces-
21 sories thereto, but excluding batteries and cords.

22 (5) "Hearing-aid dealer" and "hearing-aid fitter" means
23 any person engaged in the practice of dealing in or fitting
24 of hearing aids.

25 (6) "License" means any license issued under the pro-
26 visions of this article and shall include a temporary license.
27 "Licensee" means any person holding any such license.

28 (7) "Person" means and includes any individual, partner-
29 ship, trust, association, corporation or other like organization,
30 or any combination thereof.

31 (8) "Practice of dealing in or fitting of hearing aids"
32 means and includes:

33 (a) The measurement or other testing of human hearing
34 by means of an audiometer, or by any other means;

35 (b) The selection, adaptation, fitting or sale of hearing
36 aids by a person for the use of another person; or

37 (c) The making of impressions for earmolds.

38 (9) "Sell" or "sale" or any variant thereof, means any
39 transfer of title or of the right to use by lease, bailment or
40 any other contract, but shall not include transactions between

41 distributors, dealers or licensees where the item transferred
42 is intended for sale.

43 (10) "Trainee" means any person training to become a
44 licensed hearing-aid dealer or fitter.

§16-24-2. Engaging in practice of hearing-aid dealer or trainee without license prohibited; exceptions.

1 (a) Except as provided in subsections (b), (c) and (d)
2 hereof, no person shall, on or after the effective date of this
3 article, engage in the practice of dealing in or fitting of hearing
4 aids, either as a hearing-aid dealer or fitter or as a trainee, nor
5 shall any person advertise or assume any such practice, with-
6 out first being licensed or otherwise qualified under the pro-
7 visions of this article.

8 (b) If the applicant is a partnership, trust, association, cor-
9 poration or other like organization, the application, in addi-
10 tion to such other information as the board may require, shall
11 be accompanied by an application for a license for each per-
12 son, whether owner or employee, of such applicant who serves
13 in the capacity of a hearing-aid dealer or fitter, or shall con-
14 tain a statement that such applications for all such persons
15 are submitted separately. No partnership, trust, association,
16 corporation or other like organization shall permit any unli-
17 censed person to sell hearing aids or to engage in the practice
18 of dealing in or fitting of hearing aids.

19 (c) This article is not intended to prevent any person who
20 is not licensed under this article from engaging in the practice
21 of measuring human hearing for the purpose of selection of
22 hearing aids provided such person or organization employing
23 such person does not sell hearing aids or accessories thereto,
24 except in the case of earmolds to be used only for the purpose
25 of audiologic evaluation.

26 (d) Any person who is licensed to practice medicine in this
27 state or any person holding a degree in audiology may sell
28 hearing aids or accessories thereto without obtaining a license
29 under this article.

§16-24-3. West Virginia board of hearing-aid dealers created; members; qualifications; term; oath; salary and expenses; powers and duties.

1 There is hereby created the West Virginia board of hearing-

2 aid dealers, which shall be composed of five members to be
3 appointed by the governor, by and with the advice and consent
4 of the Senate. The members of the board shall be residents of
5 this state. One member shall be a person licensed to practice
6 medicine in this state and one member shall hold a degree in
7 audiology from an accredited college or university. The re-
8 maining three members shall be persons having no less than
9 five years experience as hearing-aid dealers or fitters and
10 shall hold a valid license under the provisions of this article,
11 except that the hearing-aid dealers or fitters to be first appoint-
12 ed to the board shall obtain a license under the provisions of
13 this article within six months following their appointment to the
14 board.

15 The term of office of each member of the board shall be
16 four years, excepting that as to the members first appointed to
17 the board, one shall be appointed for two years; two shall be
18 appointed for three years; and two shall be appointed for four
19 years. A board member shall serve until his successor has been
20 duly appointed and qualified and any vacancy in the office of
21 a member shall be filled by appointment for the unexpired
22 term of such member. Any member of the board shall
23 be eligible for reappointment. Three members of the board
24 shall constitute a quorum.

25 The board shall, annually at its meeting first succeeding
26 July one, elect from its own members a chairman and
27 vice chairman. The state director of health or his designee
28 shall serve as ex officio secretary of the board.

29 Each member of the board shall receive for each day
30 actually engaged in the duties of his office, a per diem
31 salary of fifty dollars and shall be reimbursed for all rea-
32 sonable and necessary expenses actually incurred in the
33 performance of his duties as a member of such board.
34 All fees and other moneys collected by the board, pur-
35 suant to the provisions of this article, shall be kept in a
36 separate fund and shall be expended solely for the pur-
37 poses of this article. The compensation for the members
38 of the board and all expenses incurred under this article
39 shall be paid from this special fund and no such compensation
40 or expenses shall be paid from the general revenue fund of this
41 state. All disbursements of funds necessary to carry out the

42 provisions of this article shall be so disbursed only upon
43 the authority of the board.

44 The board is hereby empowered, with the assistance of the
45 department and the state director of health, to generally supervise, regulate and control the practice of dealing in or fitting
46 of hearing aids in this state, and in so doing, shall administer
47 qualifying examinations in accordance with the provisions of
48 this article to test the knowledge and proficiency of all prospective licensees or trainees.

51 The board may purchase and maintain or rent audio-
52 metric equipment and other facilities necessary to carry
53 out the examination of applicants as provided in this article
54 and may purchase such other equipment and supplies and
55 employ such persons as it deems appropriate to carry out
56 the provisions of this article.

57 The board shall promulgate reasonable rules and regulations
58 in accordance with and subject to the provisions of chapter
59 twenty-nine-a of this code:

60 (a) For the proper performance of its duties;

61 (b) To define and prescribe the ethical practice of dealing
62 in or fitting of hearing aids for the safety, protection and
63 welfare of the public;

64 (c) To govern the time, place and manner of conducting the examinations required by this article and the
65 standard, scope and subject of such examinations, which
66 examinations shall, as a minimum, conform with the standards,
67 scope and subjects set forth in section six of this article
68 and the manner and form in which applications for such
69 examinations shall be filed;

71 (d) To establish procedures for determining whether
72 persons holding similar valid licenses from other states or
73 jurisdictions shall be required to take and successfully pass the
74 appropriate qualifying examination as a condition for such
75 licensing in this state.

§16-24-4. Powers and duties of the state department of health.

1 The administrative work of the board shall be performed
2 by the state director of health or his designee. The director
3 shall keep full and complete records of all of the proceedings

4 of the board and of its accounts, which said records and
5 accounts shall be open to the public inspection at all reason-
6 able times. The department is hereby authorized to assist
7 in the supervision and administration of the qualifying
8 examinations authorized and required by this article, to main-
9 tain for the board a register or record of persons who ap-
10 ply for a license or a temporary trainee permit as well
11 as a register or record of the name and last known busi-
12 ness address of all persons to whom a license or trainee
13 permit is issued pursuant to this article.

14 At the direction and request of the board the depart-
15 ment shall conduct periodic inspections of the establish-
16 ment and facilities of persons who are licensed to engage
17 in the practice of dealing in or fitting of hearing aids and
18 shall report its findings and the results of such inspections to
19 the board.

20 When requested by the board, the department may assist
21 the board generally in carrying out any of the powers and
22 duties granted to the board, but none of the cost incidental
23 to such assistance, powers, functions and duties given to
24 the department pursuant to this article shall be borne from
25 any of the appropriations made to the department, but shall
26 be borne by the board and to this extent the department
27 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.**

1 Each person desiring to obtain a license from the board to
2 engage in the practice of dealing in or fitting of hearing aids
3 shall make application to the board. The application shall be
4 made in such manner and form as prescribed by the board
5 and shall be accompanied by a fee of fifty dollars. The
6 application shall state under oath that the applicant:

7 (1) Intends to maintain a permanent office or place of
8 business in this state or that the applicant has at the time
9 of application a permanent office or place of business in
10 another state within a reasonable commuting distance from
11 this state. The board shall determine and prescribe by
12 regulation the term "reasonable distance" as used herein;

13 (2) Is a person of good moral character and that he

14 has never been convicted of nor is presently under indict-
15 ment for a crime involving moral turpitude;

16 (3) Is eighteen years of age or older;

17 (4) Has an education equivalent to a four-year course
18 in an accredited high school; and

19 (5) Is free of chronic infectious or contagious diseases.

20 Any person who fails to meet any of the standards set
21 forth in the next-preceding paragraph shall not be eligible
22 or qualified to take the examination nor shall any such
23 person be eligible or qualified to engage in the practice of
24 dealing in or fitting of hearing aids.

25 The board, after first determining that the applicant is
26 qualified and eligible in every respect to take the exami-
27 nation, shall notify the applicant that he has fulfilled all
28 of the qualifications and eligibility requirements as required
29 by this section and shall advise him of the date, time and
30 place for him to appear to be examined as required by the
31 provisions of this article and the regulations promulgated
32 by the board pursuant to this article.

33 The board, with the aid and assistance of the department,
34 shall give at least one annual examination of the type
35 required by this article and may give such additional examina-
36 tions, at such times and places, as the board and the depart-
37 ment may deem proper, giving consideration to the number
38 of applications.

§16-24-6. Standards, scope and subject of examination.

1 The board by rules and regulations shall determine and set
2 minimum standards to be met in the qualifying examination
3 provided for in this article, which examination shall be
4 designed to demonstrate the applicant's technical competency
5 and other qualifications by:

6 (1) A test of knowledge in the following areas as they
7 pertain to the fitting and sale of hearing aids:

8 (a) Basic physics of sound;

9 (b) The anatomy and physiology of the ear; and

10 (c) The function of hearing aids.

11 (2) Practical tests of proficiency in the following tech-
12 niques as they pertain to the fitting of hearing aids:

- 13 (a) Pure tone audiometry, including air conduction test-
14 ing;
- 15 (b) Live voice or recorded voice speech audiometry,
16 including speech reception threshold testing and speech dis-
17 crimination testing;
- 18 (c) Masking when indicated and effective masking.
- 19 (3) Evidence of:
- 20 (a) Ability to counsel the person or family who will
21 receive the hearing aid relative to the care and use of the
22 instrument;
- 23 (b) Knowledge regarding the medical and rehabilitative
24 facilities for hearing-handicapped children and adults in the
25 area being served;
- 26 (c) Knowledge and understanding of the grounds for re-
27 vocation, suspension, or probation of a license as outlined
28 in this article;
- 29 (d) Knowledge and understanding of criminal offenses as
30 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
2 be notified by the board within thirty days following such
3 examination as to whether he has satisfactorily passed the
4 examination. If such person has failed to pass the examina-
5 tion, he shall be notified of the reasons for such failure and
6 the particular portions of the examination which he failed to
7 pass. Such person shall also be advised of his right to take
8 the examination in the future.
- 9 If such applicant has satisfactorily passed the examina-
10 tion, he shall be advised of that fact by the board and,
11 upon payment of twenty dollars, the board shall register
12 the applicant as a licensee and shall issue a license to such
13 applicant. Such license shall remain in effect for a period of
14 one year from the date of its issuance.
- 15 (b) Within six months following the effective date of
16 this article, any applicant for license who has been engaged
17 in the practice of dealing in or fitting of hearing aids in this
18 state for a period of three years immediately prior to such

19 effective date, shall be so registered and issued a license
20 without being required to undergo or take the examination
21 required by this article providing such person meets all other
22 requirements of this article and the rules and regulations
23 promulgated pursuant thereto. All of the fees which such
24 prospective licensee would be otherwise required to pay shall
25 be paid by such prospective licensee in the same manner and
26 to the same extent as if such prospective licensee had not so
27 engaged in such practice in this state for such three-year
28 period.

29 (c) The issuance of a license by the board must have
30 the concurrence of a majority of its members.

§16-24-8. Posting of license required; duplicate copies.

1 Each person who holds a hearing-aid dealer's or fitter's
2 license and engages in the practice of dealing in the fitting
3 of hearing aids shall display such license in a conspicuous
4 place in his office or place of business at all times. Each
5 person who maintains more than one office or place of
6 business shall post a duplicate copy of the license at each
7 location. The board shall issue duplicate copies of a license
8 upon receipt of a properly completed application and payment
9 of one dollar for each copy requested.

§16-24-9. Renewal of license.

1 A person who is engaged in the practice of dealing in or
2 fitting of hearing aids shall annually pay to the board a
3 fee of forty dollars for a renewal of his license. A thirty-
4 day period shall be allowed after expiration of a license
5 during which any such license may be renewed on payment
6 of a fee of forty-five dollars to the board. After the expiration
7 of such thirty-day period, the board may renew such a license
8 upon the payment of fifty dollars to the board. No person who
9 applies for renewal, whose license was suspended for failure to
10 renew shall be required to submit to any examination as a con-
11 dition of renewal if application for renewal is made within
12 two years following the date such license was so suspended.

§16-24-10. Notification of change of address of licensee required.

1 Every licensee under the provisions of this article shall
2 notify the board in writing of the address of each place where

3 he is, or intends to be, engaged in the practice of dealing in or
4 fitting of hearing aids. The board shall cause to be kept a
5 record of each place of business of every such licensee. Any
6 notice required to be given by the board or the department
7 to any such licensee shall be given by mailing the same to him
8 at the address shown upon such records.

§16-24-11. Reciprocity.

1 Whenever the board determines that another state or juris-
2 diction has requirements for the licensing of persons to engage
3 in the practice of dealing in or fitting of hearing aids, which
4 requirements meet the minimum requirements and standards
5 set forth in this article and the rules and regulations promul-
6 gated pursuant to this article, the board may, in the manner
7 prescribed by its rules and regulations, issue a license without
8 the examination required by this article, to any person hold-
9 ing license in such other state or jurisdiction, upon ap-
10 plication, providing such prospective licensee meets all of
11 the requirements set forth in this article and the rules and
12 regulations of the board with respect thereto. All of the
13 fees which such prospective licensee would be otherwise
14 required to pay, shall be paid by such prospective licensee
15 in the same manner and to the same extent as if such
16 prospective licensee was not qualified to engage in such
17 other state or jurisdiction.

§16-24-12. Temporary trainee permits.

1 A person who meets all of the qualifications and require-
2 ments set forth in subdivision (2), section five of this
3 article may obtain a temporary trainee permit upon appli-
4 cation to the board. All such applications for a temporary
5 trainee permit shall be made in the manner and form
6 prescribed in the rules and regulations of the board.

7 Upon receiving an application for a temporary trainee
8 permit as prescribed in this section, accompanied by a fee
9 of twenty-five dollars, the board shall issue such permit
10 which shall entitle the applicant trainee to engage in the
11 practice of dealing in or fitting of hearing aids for a period
12 of one year under the supervision and control of a licensee,
13 such licensee to be responsible for the supervision, training
14 and control of such trainee.

15 If a person holding a temporary trainee permit under
16 this section has not successfully passed the licensing examina-
17 tion within one year from the date of issuance of such permit,
18 the permit may be renewed or reissued under such conditions
19 as the board may require in its rules and regulations for
20 an additional one-year period upon the payment of a fee
21 of fifty dollars. No such temporary trainee permit shall be
22 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.**

1 (a) The board may either refuse to issue, or may refuse
2 to renew, or may suspend or revoke any license or trainee per-
3 mit for any one, or any combination, of the following causes:
4 Violation of a rule or regulation governing the ethical practice
5 of dealing in or fitting of hearing aids promulgated by the board
6 under the authority granted by this article; conviction of a
7 felony, as shown by a certified copy of the record of the
8 court wherein such conviction was had when such conviction
9 is final; the obtaining of or the attempt to obtain a license,
10 money or any other thing of value, by fraudulent misrepres-
11 entation; malpractice; continued practice of dealing in or
12 fitting of hearing aids by a person knowingly having a chronic
13 infectious or contagious disease; habitual drunkenness or
14 addiction to the use of a controlled substance as defined
15 in chapter sixty-a of this code; advertising, practicing or
16 attempting to practice under a name other than one's own;
17 advertising by means of or selling by the use of knowingly
18 false or deceptive statements.

19 (b) False and deceptive advertisement shall constitute un-
20 ethical practice and the board, by rule and regulation may
21 regulate and prescribe acts considered by it to be false and
22 deceptive advertisement.

23 The rules and regulations promulgated pursuant to this
24 subsection shall include prohibitions against advertising a
25 particular model or type of hearing aid for sale when pur-
26 chasers or prospective purchasers responding to the advertise-
27 ment cannot purchase the advertised model or type, where
28 it is established, that the purpose of the advertisement is to
29 obtain prospects for the sale of a different model or type

30 than that advertised, representing that the service or advice
31 of a person licensed to practice medicine will be used or
32 made available in the selection, fitting, adjustment, mainten-
33 ance or repair of hearing aids when that is not true, or using
34 the words "doctor," "clinic" or similar words, abbreviations or
35 symbols which tend to connote the medical profession when
36 such use is not accurate, advertising a manufacturer's product
37 or using a manufacturer's name or trademark which implies
38 a relationship with the manufacturer that does not exist or
39 using the words "audiologist," "state licensed clinic," "state
40 registered," "state certified," or "state approved" or any other
41 term, abbreviation or symbol when it would falsely give the
42 impression that service is being provided by persons holding
43 a degree in audiology or trained in clinical audiology, or that
44 licensee's service has been recommended by the state when
45 such is not the case.

46 (c) The refusal to issue or renew a license or trainee permit
47 or the suspension or revocation of a license or trainee permit
48 by the board must have the concurrence of a majority of the
49 members of the board.

§16-24-14. Matters to be ascertained by licensee prior to the sale or fitting of hearing aids.

1 (a) Every licensee engaged in the practice of dealing in or
2 fitting of hearing aids shall, prior to the sale or the fitting of a
3 hearing aid intended to be worn or used by a child sixteen
4 years of age or under, first ascertain whether such child has,
5 within the next preceding ninety days, been examined by an
6 otolaryngologist, or other duly licensed physician or person
7 holding a degree in audiology or an audiologist holding a
8 certificate of clinical competence. If such child has been
9 so examined, the licensee shall, prior to the sale or fitting of
10 such hearing aid, determine the recommendations of such
11 otolaryngologist, physician or person holding a degree in
12 audiology or audiologist. If such child has not been so exam-
13 ined, the licensee shall recommend that such examination be
14 made and his recommendation must be made in writing to the
15 parent or guardian of such child in the manner and form pre-
16 scribed by the board.

17 (b) Prior to the sale of a hearing aid, every licensee shall

18 be required to advise in writing, in the manner and form pre-
19 scribed by the board, the person to whom he intends to sell
20 or fit with such hearing aid that such person's best interest
21 would be served by consulting an otolaryngologist or other
22 physician specializing in diseases of the ear, or any other phy-
23 sician duly licensed to practice medicine in this state, if any
24 of the following conditions is found upon examination of
25 such person:

- 26 (1) Visible congenital or traumatic deformity of the ear;
 - 27 (2) History of active ear discharge within the previous nine-
28 ty days;
 - 29 (3) History of a sudden or rapidly progressive hearing loss
30 within the previous ninety days;
 - 31 (4) Acute or chronic dizziness;
 - 32 (5) Unilateral hearing loss of sudden or recent onset with-
33 in the previous ninety days;
 - 34 (6) Significant air-bone gap.
- 35 (c) A copy of any writing or form required to be given to
36 a prospective purchaser or other person by the terms of this
37 section shall be retained in the records of the licensee for a
38 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.**

1 Any person who practices the fitting and sale of hearing
2 aids shall deliver to each person supplied with a hearing
3 aid a receipt which shall contain his signature and show
4 his business address and the number of his license, to-
5 gether with specifications as to the make and model of
6 the hearing aid furnished, and shall contain the full terms
7 of the sale. If a hearing aid which has been previously sold
8 at retail is sold, the receipt shall be clearly marked as "used"
9 or "reconditioned" whichever is applicable, with terms of
10 guarantee, if any.

11 Such receipt shall be in the manner and form as prescribed
12 by the board in its rules and regulations. Such rules and
13 regulations shall prescribe the type and size of print to be
14 used in such receipt and the receipt shall set forth such addi-

15 tional information as the board may prescribe. A copy of such
16 receipt shall be retained in the records of the licensee for a
17 period of seven years following the issuance of such receipt.

§16-24-16. Hearing procedures; judicial review.

1 Any person, including a person who brings a complaint
2 against a licensee or trainee before the board, adversely
3 affected by any decision, ruling or order of the board shall be
4 entitled to a hearing before the board. The hearing may
5 be held by the board or a majority thereof either in the
6 county wherein the licensee, trainee, prospective licensee
7 or prospective trainee resides or may be held in the county
8 wherein the person adversely affected resides or may be
9 so held in some other county as the board may direct.
10 All of the pertinent provisions of article five, chapter twenty-
11 nine-a of this code shall apply to any hearing held by the
12 board and the administrative procedures in connection with
13 and following such hearing shall apply with like effect
14 as if the provisions of said article five were set forth in
15 extenso in this section. For the purpose of conducting such
16 hearing the board shall have the power and authority to issue
17 subpoenas and subpoenas duces tecum in accordance with the
18 provisions of section one, article five, chapter twenty-nine-a.
19 Any such hearing shall be held within thirty days after the date
20 upon which a request therefor was made. All requests for
21 hearings shall be made in writing to the board by certified or
22 registered mail, return receipt requested. The board may
23 postpone or continue any hearing on its own motion or
24 upon application for good cause shown.

25 Any person, including a person who brings a complaint
26 against a licensee or trainee before the board, who may be
27 adversely affected by any ruling or order made or entered by
28 the board following a hearing, shall be entitled to judicial
29 review of such order, in accordance with the provisions
30 of section four, article five, chapter twenty-nine-a of this
31 code and the provisions of said section four shall apply
32 to and govern such appeal with like affect as if the pro-
33 visions of said section four were set forth in extenso in
34 this section and the provisions of article six of said chap-
35 ter twenty-nine-a shall apply with respect to appeals
36 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
2 punishable under section eighteen of this article and shall also
3 constitute unethical practice and no person shall:

4 (1) Sell, barter or offer to sell or barter a license issued
5 pursuant to this article.

6 (2) Purchase or procure by barter any such license with
7 intent to use it as evidence of the holder's qualifications to
8 engage in the practice of dealing in or fitting of hearing aids.

9 (3) Alter materially a license issued pursuant to this article.

10 (4) Use or attempt to use as a valid license any license
11 which has been purchased, fraudulently obtained, counterfeit-
12 ed or materially altered.

13 (5) Willfully make any false statement in an application
14 for license or for renewal thereof.

15 (6) Advertise for the mail-order sale of hearing aids in any
16 advertising medium or sell hearing aids by mail to any person
17 other than distributors, dealers or those excluded from the
18 provisions of this article.

§16-24-18. Offenses and penalties.

1 Any person who shall engage in the practice of dealing in
2 or fitting of hearing aids without qualifying to do so under
3 the provisions of this article or any person who commits any
4 of the acts prohibited under the provisions of section seven-
5 teen of this article shall be guilty of a misdemeanor, and,
6 upon conviction for the first offense, shall be fined not less
7 than one hundred dollars nor more than five hundred dollars
8 or imprisoned in the county jail for not more than six months,
9 or be subject to both such fine and imprisonment, and for
10 the second or any subsequent offense, shall be fined not
11 less than five hundred dollars nor more than one thousand
12 dollars or imprisoned in the county jail for not less than thirty
13 days nor more than one year or be subject to both such
14 fine and imprisonment. Each sale made in violation of this
15 article shall constitute a separate offense. Justices of the
16 peace shall have concurrent jurisdiction with circuit courts or

17 inferior courts of record with criminal jurisdiction for the
18 enforcement of this article.

§16-24-19. Injunction.

1 Notwithstanding the existence of any other remedy, the
2 board may, in the manner provided by law, maintain an action
3 for an injunction against any person to restrain or prevent the
4 practice of dealing in or fitting of hearing aids when such per-
5 son repeatedly refuses to obtain a license therefor and con-
6 tinues such practice without first obtaining a license there-
7 for in the manner herinbefore provided, and an action
8 for an injunction may be maintained for any continued and
9 repeated violation of any of the provisions of this article and
10 the rules and regulations promulgated pursuant thereto.

§16-24-20. Construction and severability.

1 The provisions of this article and the regulations pro-
2 mulgated thereunder shall be liberally construed so as to
3 carry into effect its purposes and to protect the health,
4 safety and welfare of the public.

5 If any provision of this article or the application thereof
6 to any person or circumstance shall be held invalid, the
7 remainder of the article and the application of such pro-
8 vision to other persons or circumstances shall not be affected
9 thereby.

CHAPTER 60

(House Bill No. 860—By Mr. Tucker and Mr. Paterno)

[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.

§13-2C-3. Definitions.

1 Unless the context clearly indicates otherwise, as used in
2 this article:

3 (a) "County court" means the governmental body created
4 by section twenty-two, article eight of the West Virginia con-
5 stitution.

6 (b) "Governmental body" means the county court, a town
7 or city council or any other governing body in lieu thereof.

8 (c) "Industrial plant" means any site, structure, building,
9 industrial park, water dock and port facilities, fixtures, ma-
10 chinery, equipment and related facility, including real and
11 personal property, or any combination thereof, suitable as a
12 factory, mill or shop, or processing, assembly, manufacturing
13 or fabricating plant, or warehouse or distribution facility, or re-
14 search or development facility or pollution abatement or control
15 facility and includes the reconstruction, modernization and
16 modification of any existing industrial plant for the abatement
17 or control of industrial pollution. Such term does not include,
18 except to the extent above provided, any facility designed for
19 sale or distribution to the public of electricity, gas, water, tele-
20 phone or any other service commonly classified as a "public
21 utility."

22 (d) "Industrial pollution" means any gaseous, liquid or
23 solid waste substances or adverse thermal effects or combina-
24 tions thereof resulting from any process of industry, manu-
25 facturing, trade or business or from the development, process-
26 ing or recovery of any natural resources which pollute the
27 land, water or air of this state.

28 (e) "Municipality" means any incorporated town or city.

CHAPTER 61

(House Bill No. 1064—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 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.

1 Whenever the certificate of incorporation has been duly re-
2 corded and filed as herein provided and the recording and
3 filing of the same certified to the commissioner of banking
4 accompanied by an examination and investigation fee of five
5 hundred dollars payable to the commissioner, the commissioner
6 shall, before the corporation shall be authorized to transact
7 business in this state other than such as relates to formation
8 and organization, satisfy himself that such corporation has
9 complied with all of the provisions of this article required to
10 entitle it to engage in business. If it shall appear to the com-
11 missioner of banking that such corporation is lawfully en-
12 titled to commence business, he shall, within twenty days after
13 the receipt and filing of this certificate, give to such corpora-
14 tion his certificate under his hand and seal that such corpora-
15 tion is duly and legally organized under this article as an in-
16 dustrial loan company and authorized to transact business as
17 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.

- 1 (a) The commissioner may after notice and hearing refuse
2 to renew, or may revoke or suspend the license of an insurer,
3 in addition to other grounds therefor in this chapter, if the
4 insurer:
 - 5 (1) Violates any provision of this chapter other than those
6 as to which refusal, suspension or revocation is mandatory;
 - 7 (2) Fails to comply with any lawful rule, regulation or
8 order of the commissioner;
 - 9 (3) Is transacting insurance in an illegal, improper or un-
10 just manner;
 - 11 (4) Is found by the commissioner to be in an unsound
12 condition or in such condition as to render its further transac-
13 tion of insurance in West Virginia hazardous to its policy-
14 holders or to the people of West Virginia;

15 (5) Compels insureds under its policies to accept less than
16 the amount due them or to bring suit against it to secure full
17 payment when it has no substantial defense;

18 (6) Refuses to be examined or to produce its accounts,
19 records and files for examination by the commissioner when
20 required;

21 (7) Fails to pay any final judgment rendered against it in
22 West Virginia within thirty days after the judgment became
23 final or time for appeal expired, whichever is later;

24 (8) Fails to pay when due to the state of West Virginia any
25 taxes, fees, charges or penalties required by this chapter.

26 (b) In lieu of refusing to renew, revoking or suspending the
27 license of an insurer in any case except where such action is
28 mandatory, the commissioner may, by order, require the in-
29 surer to pay to the state of West Virginia a penalty in a sum
30 not exceeding ten thousand dollars, and upon the failure of the
31 insurer to pay such penalty within thirty days after notice there-
32 of, the commissioner may revoke or suspend the license of such
33 insurer.

34 (c) When any license has been revoked or suspended or
35 renewal thereof refused, the commissioner may reissue, ter-
36 minate the suspension or renew such license when he is satisfied
37 that the conditions causing such revocation, suspension or re-
38 fusal 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.

1 Every insurance contract shall be construed according to
2 the entirety of its terms and conditions as set forth in the
3 policy and as amplified, extended or modified by any rider,
4 endorsement or application attached to and made a part of the
5 policy: *Provided*, That the word "physician" when used in
6 any accident and sickness policy or other contract providing for
7 the payment of surgical procedures shall be construed to in-
8 clude a physician, dentist or chiropodist-podiatrist performing
9 such surgical procedure or chiropractor performing other
10 health care services within the scope of his professional license:
11 *Provided, however*, That any policy of insurance or medical or
12 health service contract providing for payment or reimbursement
13 for any professional services pertaining to eye examination,
14 refractions or the fitting of corrective lenses shall be construed
15 to include payment or reimbursement for such professional
16 service rendered by either a duly licensed physician or a duly
17 licensed optometrist, within the scope of their respective
18 professional licenses, and that the insured or subscriber shall
19 have freedom of choice to select either a physician or an
20 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 exceptions; 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 relating 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

20 application of any such rule of law or regulation to any trans-
21 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

7 person or to a labor union or labor unions of which such per-
8 son is a member or to the trustees of a fund or funds establish-
9 ed in whole or in part by such employer or employers or such
10 labor union or labor unions, exceeds twenty thousand dollars,
11 unless two hundred percent of the annual compensation of such
12 person from his employer or employers exceeds twenty thou-
13 sand dollars, in which event all such term insurance shall not
14 exceed fifty thousand dollars or two hundred percent of such
15 annual compensation, whichever is the lesser.

16 No such policy of group life insurance may be issued pur-
17 suant to the provisions of section five-a of this article which
18 provides term insurance on any person which together with any
19 other term insurance under any group life insurance policy or
20 policies issued pursuant to the provisions of said section five-
21 a exceeds twenty thousand dollars.

CHAPTER 65

(House Bill No. 769—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 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 chiropractors to participate in medical service plans; relating to standards in connection therewith; and relating to the composition 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.

§33-24-2. Definitions.

§33-24-3. Corporations affected by article; eligibility of hospitals, physicians, dentists, chiropodists-podiatrists and chiropractors.

§33-24-2. Definitions.

1 For the purpose of this article:

2 (a) "Corporation" shall mean either a hospital service cor-
3 poration, a medical service corporation or a dental service
4 corporation.

5 (b) "Hospital service corporation" shall mean a nonprofit,
6 nonstock corporation, organized in accordance with the pro-
7 visions of article one, chapter thirty-one of this code, for the
8 sole purpose of contracting with the public and with hospitals
9 and other health agencies for hospital or other health services
10 to be furnished to subscribers under terms of their contract
11 with the corporation.

12 (c) "Hospital service" shall mean only such hospital or oth-
13 er health care, to be provided by hospitals or other health
14 agencies, or such payment therefor, as may be specified in
15 the contract made by the subscriber with the corporation.

16 (d) "Medical service corporation" shall mean a nonprofit,
17 nonstock corporation, organized in accordance with the pro-
18 visions of article one, chapter thirty-one of this code, for the
19 sole purpose of contracting with the public and with duly
20 licensed physicians, duly licensed dentists and duly licensed
21 chiropodists-podiatrists for medical or surgical services and
22 with duly licensed chiropractors and other health agencies for
23 other health services to be furnished to subscribers under terms
24 of their contracts with the corporation, and controlled by a
25 board of directors, the majority of whom are duly licensed
26 physicians.

27 (e) "Medical service" shall mean only such medical, surgi-
28 cal, or other health care, to be provided by duly licensed phy-
29 sicians, duly licensed dentists, duly licensed chiropodists-podia-
30 trists or other health agencies and only such health care, to be
31 provided by duly licensed chiropractors, or such payment

32 therefor, as may be specified in the contract made by the
33 subscriber with the corporation.

34 (f) "Dental service corporation" shall mean a nonprofit,
35 nonstock corporation, organized in accordance with the pro-
36 visions of article one, chapter thirty-one of this code, for the
37 sole purpose of contracting with the public and with duly
38 licensed dentists for dental services to be furnished to sub-
39 scribers under terms of their contracts with the corporations,
40 and controlled by a board of directors, the majority of whom
41 are duly licensed dentists.

42 (g) "Dental service" shall mean only such dental care, to
43 be provided by duly licensed dentists, duly licensed physicians,
44 or such payment therefor, as may be specified in the contract
45 made by the subscriber with the corporation.

46 (h) "Service" shall mean such hospital, medical, dental or
47 other health service as shall be provided under the terms of
48 the contracts issued by the corporation to subscribers.

49 (i) "Commissioner" shall mean the insurance commis-
50 sioner of West Virginia.

**§33-24-3. Corporations affected by article; eligibility of hospitals,
physicians, dentists, chiropodists-podiatrists and chi-
ropractors.**

1 (a) Every such corporation operating within this state shall
2 be subject to the provisions of this article.

3 (b) Every hospital or other health agency in this state
4 meeting the standards prescribed by the board of directors of
5 each such corporation shall be eligible for participation in any
6 hospital service plan operating in this state. Every duly licensed
7 physician, duly licensed dentist, duly licensed chiropodist-
8 podiatrist, duly licensed chiropractor or other health agency in
9 this state meeting the standards prescribed by the board of
10 directors of each such corporation shall be eligible for partic-
11 ipation in any medical service plan operating in this state.
12 Every duly licensed dentist or duly licensed physician in this
13 state meeting the standards prescribed by the board of direc-
14 tors of each such corporation shall be eligible for participa-
15 tion in any dental service plan operating in this state. The
16 board of directors of every such corporation may also pre-

17 scribe standards for hospitals, physicians, dentists, chiropo-
18 dists-podiatrists, chiropractors and other health agencies lo-
19 cated in states adjoining this state, and all such hospitals, phy-
20 sicians, dentists, chiropodists-podiatrists, chiropractors and
21 other health agencies meeting such standards shall be eligible
22 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
2 supreme court of appeals such changes in the practice and
3 procedure of the state as it shall deem expedient. The
4 council shall also file with the governor prior to the con-
5 vening 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
2 account of a fine, costs, cash bond, penalty, restitution or
3 other matter in a criminal case, he shall give to the person
4 paying the same a receipt therefor, stating briefly but intelligently for what purpose the money has been paid, showing
5 separately the amount of the fine and the amount of the
6 costs and the amount of any other payment, the name of the
7 defendant and the docket page upon which the case appears.
8 These receipts shall be prepared and furnished to the justices
9 by the state tax commissioner and shall be numbered and
10 made out in triplicate, one copy to be delivered to the person
11 paying over the money, one copy to be forwarded to the
12 clerk of the county court by the justice, and one copy to be
13 retained and to remain in the receipt book for the inspection
14 of the state tax commissioner.
15

§50-17-15. Disposition of moneys collected; penalty for failure to comply.

1 All fines, costs, forfeitures or penalties which accrue to
2 the state, collected or paid in any proceeding before a justice,
3 except as otherwise provided, shall be paid, on a monthly
4 basis on or before the seventh day of the next succeeding
5 month by the justice receiving the same, to the sheriff of
6 the county, and at the time of making such payment the
7 justice shall furnish to the sheriff a list of the persons fined,
8 the amount collected from each person as a fine, costs,
9 forfeiture or penalty and the number of the receipt issued
10 for each payment received by him and such other information
11 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.

1 Every justice of the peace shall be subject to an annual
2 audit of his criminal docket, and materials relating to said
3 dockets, by the chief inspector of public offices. Every justice
4 of the peace shall also be subject to an audit of his civil docket,
5 and materials and accounts relating to said docket, if the
6 chief inspector deems such an audit to be necessary.

§50-17A-2. Justices to use prenumbered duplicate civil receipts furnished by the chief inspector.

1 The chief inspector of public offices shall prepare and
2 furnish to each justice of the peace prenumbered duplicate
3 civil receipts. These receipts shall be issued by the justice
4 to any person paying money to him in connection with any
5 civil proceeding. The second copy shall be retained by the
6 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.

1 Every justice of the peace shall keep a special trust bank
2 account. All moneys received by a justice shall be deposited
3 in this account. A justice shall only receive from this account

4 moneys constituting fees to which he is entitled by law. Parties
5 and officers entitled to moneys in said account shall be
6 promptly paid by the justice; said payment must be made
7 within thirty days from receipt. Every justice must register
8 his special account with the chief inspector of public offices.

§50-17A-4. Violations of article; penalties.

1 Any justice of the peace who violates any of the provisions
2 of this article shall be guilty of a misdemeanor, and, upon
3 conviction thereof, shall be fined not more than five hundred
4 dollars, or imprisoned in the county jail not more than six
5 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-12. Duty of county clerks and public officials.

§30-13A-16. Delivery of plat and description; recordation.

§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
2 of land surveyors which shall be composed of three members
3 appointed by the governor by and with the advice and consent
4 of the Senate. Each member shall have been actively engaged
5 in the practice of land surveying for at least ten years and
6 shall be the holder of a license under the provisions of this
7 article.

8 (b) The members of the board shall be appointed for over-
9 lapping terms of three years each ending on the thirtieth day
10 of June, and until their respective successors have been
11 appointed and qualified. Members may be reappointed for
12 any number of terms. Before entering upon the performance
13 of his duties, each member shall take and subscribe to the
14 oath required by section five, article four of the constitution
15 of this state. Vacancies shall be filled by appointment by the
16 governor for the unexpired term of the member whose office
17 shall be vacant and such appointment shall be made within
18 sixty days of the occurrence of such vacancy. Any member
19 may be removed by the governor in case of incompetency,
20 neglect of duty, gross immorality or malfeasance in office.

21 (c) The board shall elect from its membership a chairman
22 and secretary-treasurer. A majority of the members of the
23 board shall constitute a quorum and meetings shall be held at
24 the call of the chairman or upon the written request of two
25 members at such time and place as designated in such call
26 or request, and, in any event, the board shall meet at least
27 once annually to conduct the examination hereinafter pro-
28 vided for and to transact such other business as may come
29 before it.

30 (d) Members shall be paid such reasonable compensation
31 as the board may from time to time determine, and in addition
32 may be reimbursed for all reasonable and necessary expenses
33 actually incurred in the performance of their duties, which
34 compensation and expenses shall be paid in accordance with
35 the provisions of subsection (b), section four of this article.

**§30-13A-5. Qualifications of applicants for licenses; exceptions;
applications; fees; examinations.**

1 (a) To be eligible for a license to engage in the practice
2 of land surveying, the applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Have been a resident of the United States for one year
6 immediately preceding the date of application;

7 (4) Not have been convicted of a crime involving moral
8 turpitude;

9 (5) Have four years or more experience in the practice of
10 land surveying under the supervision of a licensee, or a person
11 eligible for a license hereunder, or a person authorized in
12 another state or country to engage in the practice of land
13 surveying; and each year of satisfactory study in an accredited
14 surveying curriculum may be substituted for one year of
15 experience, but only two years of such experience requirement
16 may be fulfilled by such study; and

17 (6) Have passed the examination prescribed by the board,
18 which examination shall cover the basic subject matter of land
19 surveying and land surveying skills and techniques.

20 (b) The following persons shall be eligible for a license
21 to engage in the practice of land surveying without examina-
22 tion:

23 (1) Any applicant who is licensed, certificated or registered
24 to engage in the practice of land surveying in any other state
25 or country, if the requirements to obtain a license or certificate
26 or to become registered in such other state or country are
27 found by the board to be at least as great as those prescribed
28 in this article.

29 (2) Any applicant who is a graduate of an accredited

30 surveying curriculum and has at least two years of experience
31 in the practice of land surveying under the supervision of
32 a licensee, or a person eligible for a license hereunder, or a
33 person authorized in another state or country to engage in the
34 practice of land surveying, if such applicant meets the require-
35 ments of subdivisions (1), (2), (3) and (4), subsection
36 (a) of this section.

37 (3) Any applicant who has been engaged in the practice of
38 land surveying in West Virginia for at least six years prior
39 to the filing of such application, if such application for a
40 license is made within three years after the effective date
41 of this article and if such person meets the requirements of
42 subdivisions (1), (2), (3) and (4), subsection (a) of this
43 section. Such applicant must also furnish the names and
44 addresses of ten persons who have engaged such applicant
45 as a land surveyor, together with satisfactory records of such
46 land surveying work.

47 (c) Any applicant for any such license shall submit an
48 application therefor on forms provided by the board. Such
49 applications shall be verified and shall contain a statement of
50 the applicant's education and experience, the names of five
51 persons for reference (at least three of whom shall be licensees,
52 or persons eligible for a license hereunder, or persons
53 authorized in another state or country to engage in the practice
54 of land surveying, who have knowledge of his work) and such
55 other information as the board may from time to time by
56 reasonable rule and regulation prescribe.

57 (d) An applicant shall pay to the board with his applica-
58 tion a license fee of twenty dollars, half of which fee shall
59 be returned if he is denied a license.

60 (e) Examinations shall be held at least once each year
61 at such time and place as the board shall determine. The
62 scope of the examination and methods of procedure shall be
63 determined by the board. An applicant who fails to pass an
64 examination may reapply at any time and shall furnish addi-
65 tional information as requested by the board. Each such
66 application shall be accompanied by a license fee of twenty
67 dollars, half of which fee shall be returned if the applicant
68 is again denied a license.

69 (f) A licensee who obtained his license under the provisions
70 of subdivisions (2) and (3), subsection (b) of this section
71 may, in addition, apply for licensing under the provisions of
72 subsection (a) of this section, if such licensee pays the fee
73 otherwise required to be paid by other applicants and if such
74 licensee meets the qualifications of subsection (a). Any ap-
75 plicant may apply for a separate license under subsection (a),
76 or subdivisions (2) and (3), subsection (b) of this section upon
77 the payment of the required fee for each license, and he may
78 receive a license for each subsection for which such person
79 makes application and is qualified. If any person fails to
80 qualify for a license under any subsection of this section, such
81 failure to qualify shall not prevent such person's licensure
82 under any other subsection of this section for which such
83 person is otherwise qualified.

§30-13A-7. Exemption from regulation and licensing.

1 The following persons are exempt from regulation and licen-
2 sing under the provisions of this article and any reasonable
3 rules and regulations promulgated hereunder, and may engage
4 in the practice of land surveying without a license issued under
5 the provisions of this article and any such reasonable rules
6 and regulations:

7 (a) Any professional engineer authorized to practice the
8 profession of engineering as provided in article thirteen of this
9 chapter;

10 (b) Any resident of another state, when such practice in
11 this state does not exceed in the aggregate more than thirty
12 days per calendar year, or such additional time as may be ap-
13 proved by the board, if such person is licensed, certified or
14 registered in his own state and the requirements for obtaining
15 a license or certificate or becoming registered in such other
16 state are not lower than those specified in this article: *Provided,*
17 That the person shall first have secured a letter of authorization
18 for the calendar year from the board and have paid a fee of
19 five dollars to the board;

20 (c) Any employee of a person holding a license to engage in
21 the practice of land surveying in this state or any employee of
22 a person exempted from regulation and licensing under sub-

23 divisions (a) and (b) of this section: *Provided*, That the work
24 of any such employee is done under the supervision of and
25 certified by his employer;

26 (d) Any employee of a person, firm, association or corpora-
27 tion, when such employee is engaged in the practice of land
28 surveying exclusively for the person, firm, association or cor-
29 poration by which employed, or, if a corporation, its parents,
30 affiliates or subsidiaries, and such person, firm, association or
31 corporation does not hold himself or itself out to the public as
32 being engaged in the business of land surveying;

33 (e) Any employee or officer of the United States, this state
34 or any political subdivision thereof, when such employee is
35 engaged in the practice of land surveying exclusively for such
36 governmental unit.

§30-13A-12. Duty of county clerks and public officials.

1 No document prepared by or alleged to have been prepared
2 by a land surveyor shall be filed by any clerk of a county court
3 or accepted by any public official of this state unless the seal
4 required by section eleven of this article has been affixed there-
5 to, except that any document prepared by a person exempted
6 from the regulation and licensing requirements of this article,
7 as provided in section seven of this article, shall not be required
8 to have the seal required by section eleven of this article
9 affixed thereto. Nothing in this section shall prevent a docu-
10 ment prepared prior to the twenty-fifth day of May, one thou-
11 sand nine hundred sixty-nine, from being recorded without
12 such seal. If a seal of such exempt person is not affixed to said
13 document, a certificate shall be placed thereon by the exempt
14 person, stating upon what the exemption is claimed. Said certi-
15 ficate may be in a form similar to the following:

16 "I certify that I am engaged in surveying exclusively
17 for _____ and believe
18 I am exempt from regulations and licensing under
19 West Virginia Code 30-13a-7
20 _____
21 Signature"

§30-13A-16. Delivery of plat and description; recordation.

1 When any land surveyor makes a property boundary sur-

vey 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 requirements to eighteen years of age, shall not, however, by

13 operation of law affect any rights, duties, obligations or in-
14 terests accruing or vesting by virtue of any statute, act, event,
15 transaction, order, judgment or decree prior to June nine, one
16 thousand nine hundred seventy-two, or any cause of action
17 which arose or any civil action or claim instituted or asserted
18 prior to such date, and any such right, duty, obligation, interest,
19 cause of action, civil action or claim may be enforced, exercised,
20 enjoyed, terminated, discharged, consummated, prosecuted,
21 maintained or asserted with like effect as if said chapter sixty-
22 one had not been enacted: *Provided*, That any person who
23 has attained the age of eighteen years shall have full power and
24 authority to exercise any and all of the rights, privileges and
25 powers granted to him in the first paragraph of this section
26 with respect to any legal or equitable interest acquired by or
27 which vested in such person before he became eighteen years
28 of age: *Provided, however*, That under no circumstances what-
29 ever shall any of the changes made by said chapter sixty-one
30 have any effect upon any of the terms or provisions of or any
31 conditions imposed by any last will and testament, trust agree-
32 ment or any other written instrument of any kind or character
33 executed prior to such date of June nine, one thousand nine
34 hundred seventy-two. Moreover, the provisions of this section
35 shall not affect any acts performed or transactions entered into
36 by a person under the age of twenty-one years prior to June
37 nine, one thousand nine hundred seventy-two. No change in
38 the general age of legal capacity or in the definitions of the
39 words "under disability", "infant" or "minor" contained in
40 section ten, article two of this chapter shall alter any statute of
41 limitations as to causes of action arising before such date of
42 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.

§2-2-3. Computation of time.

§2-2-1. Legal holidays; official acts or court proceedings.

1 The following days shall be regarded, treated and observed
2 as legal holidays, viz: The first day of January, commonly
3 called "New Year's Day"; the twelfth day of February, com-
4 monly called "Lincoln's Birthday"; the third Monday of Feb-
5 ruary, commonly called "Washington's Birthday"; the last
6 Monday of May, commonly called "Memorial Day"; the
7 twentieth day of June, commonly called "West Virginia Day";
8 the fourth day of July, commonly called "Independence Day";
9 the first Monday of September, commonly called "Labor
10 Day"; the second Monday of October, commonly called
11 "Columbus Day"; the eleventh day of November, hereafter
12 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 appointed 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 contained 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 holiday; adjournments from day to day.

When a proceeding is directed to take place or any act to be done on any particular day of the month or within any period 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.

§2-2-3. Computation of time.

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

6 of Rule 6 (a) of the Rules of Civil Procedure for Trial
7 Courts of Record; but the provisions of this section shall not
8 be deemed to change any rule of law applicable to bills of
9 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.**§1-2-2. Apportionment of membership of House of Delegates.**

1 (a) This section shall be known and may be cited as "The
2 House of Delegates Apportionment Act of 1973."

3 (b) As used in this section:

4 (1) "County" means the territory comprising a county of
5 this state as it existed on the first day of January, one
6 thousand nine hundred seventy, notwithstanding any boundary
7 changes made subsequent thereto;

8 (2) "Enumeration district" and "census tract" mean those
9 geographic areas as defined by the bureau of the census of the
10 United States department of commerce for the taking of the one
11 thousand nine hundred seventy census of population and
12 described on census maps prepared by the bureau of the census.
13 Such maps are, at the time of this enactment, maintained by
14 the said bureau of the census and shall be filed in the office of
15 the secretary of state by the clerk of the House of Delegates
16 not later than the first day of July, one thousand nine
17 hundred seventy-three;

18 (3) "Magisterial district" means the territory comprising
19 a magisterial district of this state as it existed on the first
20 day of January, one thousand nine hundred seventy, as defined
21 in the official records of the county courts of the several
22 counties, notwithstanding any boundary changes made sub-
23 sequent thereto.

24 (c) If an election precinct in this state, as it exists
25 at the time of passage of this section, includes territory
26 contained in more than one delegate district, as such dele-
27 gate districts are established by subsection (d) of this
28 section, it shall be the duty of the county court of the
29 county in which such precinct is located, prior to the first
30 day of February, one thousand nine hundred seventy-four,
31 to alter the boundary lines of its election precincts so that
32 no precinct contains territory included in more than one
33 delegate district.

34 (d) The House of Delegates shall be composed of one
35 hundred members elected from the delegate districts here-
36 inafter described.

37 (1) The county of Hancock (except for census tracts two
38 hundred one and two hundred two of Butler magisterial
39 district) shall constitute the first delegate district and shall
40 elect two delegates;

41 (2) The county of Brooke, and census tracts two hundred
42 one and two hundred two of Butler magisterial district of the
43 county of Hancock, shall constitute the second delegate district
44 and shall elect two delegates;

45 (3) The county of Ohio shall constitute the third delegate
46 district and shall elect four delegates;

47 (4) The county of Marshall shall constitute the fourth
48 delegate district and shall elect two delegates;

49 (5) The county of Wetzel (except for enumeration dis-
50 tricts eighteen, nineteen and twenty of Magnolia magisterial
51 district) shall constitute the fifth delegate district and shall
52 elect one delegate;

53 (6) The counties of Doddridge and Tyler, and enumera-
54 tion districts eighteen, nineteen and twenty of Magnolia
55 magisterial district of the county of Wetzel, shall constitute
56 the sixth delegate district and shall elect one delegate;

57 (7) The counties of Pleasants and Ritchie shall con-
58 stitute the seventh delegate district and shall elect one
59 delegate;

60 (8) The county of Wood shall constitute the eighth dele-
61 gate district and shall elect five delegates;

62 (9) The counties of Roane and Wirt shall constitute the
63 ninth delegate district and shall elect one delegate;

64 (10) The counties of Jackson, Mason and Putnam
65 shall constitute the tenth delegate district and shall elect
66 four delegates: *Provided*, That not less than one nor more
67 than two delegates shall be elected or appointed who
68 are residents of any single county within the tenth delegate
69 district;

70 (11) The county of Cabell shall constitute the eleventh
71 delegate district and shall elect six delegates;

72 (12) The county of Wayne shall constitute the twelfth
73 delegate district and shall elect two delegates;

74 (13) The county of Mingo shall constitute the thirteenth
75 delegate district and shall elect two delegates;

76 (14) The county of McDowell shall constitute the
77 fourteenth delegate district and shall elect three dele-
78 gates;

79 (15) The counties of Boone and Wyoming shall con-
80 stitute the fifteenth delegate district and shall elect three
81 delegates: *Provided*, That not more than two delegates shall
82 be elected or appointed who are residents of any single
83 county within the fifteenth delegate district;

84 (16) The counties of Lincoln and Logan shall constitute
85 the sixteenth delegate district and shall elect four delegates:
86 *Provided*, That not more than three delegates shall be elected
87 or appointed who are residents of any single county within
88 the sixteenth delegate district;

89 (17) The county of Kanawha shall constitute the
90 seventeenth delegate district and shall elect thirteen
91 delegates;

92 (18) The county of Raleigh shall constitute the eigh-
93 teenth delegate district and shall elect four dele-
94 gates;

95 (19) The counties of Mercer, Monroe and Summers shall
96 constitute the nineteenth delegate district and shall elect
97 five delegates: *Provided*, That not more than four delegates
98 shall be elected or appointed who are residents of any single
99 county within the nineteenth delegate district;

100 (20) The county of Greenbrier shall constitute the
101 twentieth delegate district and shall elect two delegates;

102 (21) The county of Fayette shall constitute the twenty-
103 first delegate district and shall elect three delegates;

104 (22) The counties of Nicholas and Webster shall constitute
105 the twenty-second delegate district and shall elect two dele-
106 gates: *Provided*, That not more than one delegate shall be
107 elected or appointed who is a resident of any single county
108 within the twenty-second delegate district;

109 (23) The counties of Braxton, Calhoun, Clay and Gilmer
110 shall constitute the twenty-third delegate district and shall
111 elect two delegates: *Provided*, That not more than one dele-

112 gate shall be elected or appointed who is a resident of any
113 single county within the twenty-third delegate district;

114 (24) The county of Lewis shall constitute the twenty-fourth
115 delegate district and shall elect one delegate;

116 (25) The county of Harrison shall constitute the twenty-
117 fifth delegate district and shall elect four delegates;

118 (26) The counties of Marion and Taylor shall constitute
119 the twenty-sixth delegate district and shall elect four delegates:
120 *Provided*, That not more than three delegates shall be elected
121 or appointed who are residents of any single county within the
122 twenty-sixth delegate district;

123 (27) The county of Monongalia, and Grant, Pleasant and
124 Valley magisterial districts of the county of Preston, shall
125 constitute the twenty-seventh delegate district and shall elect
126 four delegates;

127 (28) The county of Preston (except for Grant, Pleasant
128 and Valley magisterial districts) shall constitute the twenty-
129 eighth delegate district and shall elect one delegate;

130 (29) The counties of Barbour and Upshur shall constitute
131 the twenty-ninth delegate district and shall elect two delegates:
132 *Provided*, That not more than one delegate shall be elected or
133 appointed who is a resident of any single county within the
134 twenty-ninth delegate district;

135 (30) The counties of Pocahontas and Randolph (except for
136 enumeration districts two and three of Dry Fork magisterial
137 district) shall constitute the thirtieth delegate district and
138 shall elect two delegates;

139 (31) The counties of Hardy and Pendleton, and enumera-
140 tion districts two and three of Dry Fork magisterial district of
141 the county of Randolph, shall constitute the thirty-first delegate
142 district and shall elect one delegate;

143 (32) The counties of Grant and Tucker shall constitute the
144 thirty-second delegate district and shall elect one delegate;

145 (33) The county of Mineral (except for enumeration dis-
146 tricts one, two, three, four, five, six and eight of Frankfort
147 magisterial district) shall constitute the thirty-third delegate
148 district and shall elect one delegate;

149 (34) The county of Hampshire, and enumeration districts
150 one, two, three, four, five, six and eight of Frankfort magis-

151 terial district of the county of Mineral, shall constitute the
152 thirty-fourth delegate district and shall elect one delegate;

153 (35) The counties of Berkeley and Morgan, and Shep-
154 herdstown magisterial district of the county of Jefferson, shall
155 constitute the thirty-fifth delegate district and shall elect three
156 delegates: *Provided*, That not more than two delegates shall
157 be elected or appointed who are residents of any single county,
158 or part of a county, within the thirty-fifth delegate district;

159 (36) The county of Jefferson (except for Shepherdstown
160 magisterial district) shall constitute the thirty-sixth delegate
161 district and shall elect one delegate.

162 (e) Regardless of the changes in delegate district bound-
163 aries made by the provisions of subsection (d) of this section,
164 the delegates elected at the general election held in the year one
165 thousand nine hundred seventy-two shall continue to hold their
166 offices as members of the House of Delegates for the term, and
167 as representatives of the county or delegate district, for
168 which each thereof, respectively, was elected. Any appoint-
169 ment made prior to the first day of December, one thousand
170 nine hundred seventy-four, to fill a vacancy in the office of a
171 member of the House of Delegates shall be made for the
172 remainder of the term, and as representative of the county or
173 delegate district, for which the vacating delegate was elected
174 or appointed.

175 (f) If any provision or proviso of this section or the
176 application thereof to any person or circumstance is held
177 invalid, such invalidity shall not affect other provisions,
178 provisos or applications of the section, and to this end the
179 provisions and provisos of this section are declared to be
180 severable.

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
2 or speaker of the House of Delegates, when the Legislature is
3 not in session, resulting from death, resignation or any other
4 cause, the governor shall by proclamation convene the house
5 in which the vacancy exists in session within ten days after such
6 vacancy occurs for the purpose of choosing a presiding officer
7 as provided by section twenty-four, article six of the constitu-
8 tion 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-

nished 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.

§38-2-18. Priority as among mechanics' lienors.

§38-2-17. Priority of mechanics' liens over other liens.

1 A lien authorized and created by this article shall, when
2 perfected, attach as of the date such labor, material, machinery
3 or other necessary equipment shall have begun to be fur-
4 nished, and shall have priority over any other lien secured
5 by a deed of trust or otherwise which is created subsequent to
6 such date. Each lien authorized and created by this article
7 shall be subordinate to any other lien created by a deed of
8 trust or otherwise which is duly recorded or otherwise perfected
9 to constitute constructive notice prior to the date labor,
10 material, machinery or other necessary equipment giving rise
11 to such lien shall have begun to be furnished, notwithstanding
12 the fact that some other lien authorized and created by this
13 article may have priority over such other lien created by deed
14 of trust or otherwise which is so recorded or otherwise per-
15 fected.

§38-2-18. Priority as among mechanics' lienors.

1 Of the persons acquiring liens by virtue of this article and
2 solely for determining priorities as among such persons, labor-
3 ers, artisans, mechanics, workmen and furnishers of material,
4 machinery and other necessary equipment, shall have first
5 liens, and the lien of such persons, when perfected and pre-
6 served as required by this article, shall take precedence over
7 any lien taken or to be taken by the contractor or subcontrac-
8 tor indebted to them for labor, material, machinery or other
9 equipment, to the extent of the amount of the lien of such
10 contractor or subcontractor, and the lien of a subcontractor
11 shall take precedence over any lien taken or to be taken by a

12 contractor indebted to him upon his subcontract, to the extent
13 of the amount of the lien of such contractor, and every assign-
14 ment or transfer by any such head contractor of his contract
15 with the owner or by any such subcontractor of his contract
16 with the contractor, or any proceeding in attachment or other-
17 wise against such head contractor or subcontractor, with the
18 purpose of encumbering or subjecting his interest in such con-
19 tract, shall be subject and subordinate to the liens of all such
20 subcontractors, laborers, workmen, artisans, materialmen and
21 furnishers of machinery and other necessary equipment who
22 shall perfect their liens according to the provisions of this
23 article. But all of such perfected liens of such laborers and
24 workmen and of such materialmen and furnishers of machine-
25 ry and of such contractors and subcontractors, respectively,
26 shall be of equal dignity without priority among themselves,
27 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 officer 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.**

1 (a) The superintendent of a state hospital shall be its
2 chief executive officer and shall have the authority to manage
3 and administer the financial, business and personnel affairs
4 of such state hospital. All other persons employed at a state
5 hospital shall be under the jurisdiction and authority of the
6 superintendent of such state hospital.

7 (b) The clinical director of a state hospital shall have the
8 responsibility for decisions involving clinical and medical
9 treatment of patients and shall be a physician. The clinical
10 director of a state hospital shall be a person other than the
11 superintendent of such state hospital.

CHAPTER 75

(House Bill No. 944—By Mrs. Withrow and Mr. Grews)

[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.**

1 In consultation with the governor, the director of mental
2 health is hereby authorized and directed to establish, develop,
3 operate and maintain a new central mental health-mental re-

4 tardation facility for the evaluation, diagnosis, treatment,
5 research and training and rehabilitation of persons disabled
6 by mental illness or mental retardation and to include, but
7 not to be limited to, alcoholism and drug abuse facilities,
8 specific residential facilities designed for diagnosis, treatment,
9 research and training and rehabilitation of mentally ill
10 children, adolescents and other specialized groups; such facility
11 to be located on a site selected in accordance with the state
12 comprehensive mental health and mental retardation plans,
13 such facility shall also serve as a designated component as
14 one of the fourteen regional mental health centers.

15 The state hospitals heretofore established at Weston, Spen-
16 cer, Huntington, Barboursville, Lakin and St. Marys shall
17 be continued and known respectively as the Weston hospital,
18 Spencer hospital, Huntington hospital, Barboursville hospital,
19 Lakin hospital and the Colin Anderson center. Said state
20 hospitals shall be managed, directed and controlled by the
21 department of mental health. The Guthrie center and the
22 Roney's Point center shall be managed, directed and controlled
23 by the department of mental health as treatment, and re-
24 habilitation centers for the mentally disabled, and shall be
25 included in all references to "state hospital" in this chapter:
26 *Provided*, That the Roney's Point center shall have its own
27 budget separate and apart from any other "state hospital"
28 referenced in this chapter.

29 The governor and the director of the department of mental
30 health are hereby authorized to bring said hospitals into
31 structural compliance with appropriate fire and health stan-
32 dards.

33 All references in this code or elsewhere in law to the "West
34 Virginia Training School" shall be taken and construed to
35 mean and refer to the "Colin Anderson Center."

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

thirty-one, as amended, relating to limitation on the issuance of new permits for surface mining.

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.

- 1 Commencing on the thirteenth day of March, one thousand
- 2 nine hundred seventy-three, and ending on the twelfth day
- 3 of March, one thousand nine hundred seventy-five, no new
- 4 permits, including prospecting permits, shall be issued under
- 5 the provisions of article six of this chapter for the surface
- 6 mining of coal in any county where no surface mining existed
- 7 under lawful permit during the calendar year one thousand
- 8 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.

- 1 Unless the context in which used clearly requires a different

2 meaning, the following definitions shall apply to articles one
3 and two of this chapter:

4 Mine: The term "mine" includes the shafts, slopes, drifts or
5 inclines connected with excavations penetrating coal seams or
6 strata, which excavations are ventilated by one general air cur-
7 rent or divisions thereof, and connected by one general sy-
8 stem of mine haulage over which coal may be delivered to one
9 or more points outside the mine, and the surface structures or
10 equipment connected therewith which contribute directly or
11 indirectly to the mining, preparation or handling of coal.

12 Agent: The term "agent" means any person charged with
13 responsibility for the operation of all or a part of a mine or
14 the supervision of the miners in a mine.

15 Imminent danger: The term "imminent danger" means the
16 existence of any condition or practice in a coal mine which
17 could reasonably be expected to cause death or serious physi-
18 cal harm before such condition or practice can be abated.

19 Department: The term "department" shall mean the state
20 department of mines provided for in section two of this article.

21 Director of the department of mines: The term "director of
22 the department of mines" shall mean the director of the de-
23 partment of mines provided for in section three of this article,
24 and is synonymous with the term "chief of the department of
25 mines."

26 Mine inspector: The term "mine inspector" shall mean a
27 state mine inspector provided for in section seven of this article.

28 Mine inspectors' examining board: The term "mine inspec-
29 tors' examining board" shall mean the mine inspectors' exam-
30 ing board provided for in section twelve of this article.

31 Operator: The term "operator" shall mean any firm, cor-
32 poration, partnership or individual operating any coal mine or
33 part thereof.

34 Person: The term "person" shall mean any individual,
35 partnership, association, corporation, firm, subsidiary of a
36 corporation or other organization.

37 Miner: The term "miner" shall mean any individual working
38 in a coal mine.

39 Work of preparing the coal: The term "work of preparing
40 the coal" shall mean the breaking, crushing, sizing, cleaning,
41 washing, drying, mixing, storing and loading of bituminous
42 coal or lignite, and such other work of preparing such coal
43 as is usually done by the operator of the coal mine.

44 Accident: The term "accident" shall mean any mine ex-
45 plosion, mine ignition, mine fire, or mine inundation, or injury
46 to, or death of any person.

47 Abandoned workings: The term "abandoned workings"
48 shall mean excavation, either caved or sealed, that is deserted
49 and in which further mining is not intended, or open workings
50 which are ventilated and not inspected regularly.

51 Excavations and workings: The term "excavations and
52 workings" shall mean any or all parts of a mine excavated or
53 being excavated, including shafts, slopes, drifts, tunnels,
54 entries, rooms and working places, whether abandoned or
55 in use.

56 Shaft: The term "shaft" shall mean a vertical opening
57 through the strata that is or may be used for the purpose of
58 ventilation, drainage, and the hoisting and transportation of
59 men and material, in connection with the mining of coal.

60 Slope: The term "slope" shall mean a plane or incline
61 roadway, usually driven to a coal seam from the surface and
62 used for the same purposes as a shaft.

63 Drift: The term "drift" shall mean a horizontal or ap-
64 proximately horizontal opening through the strata or in a coal
65 seam and used for the same purposes as a shaft.

66 Panel: The term "panel" shall mean workings that are or
67 have been developed off of submain entries which do not
68 exceed three thousand feet in length.

69 Active workings: The term "active workings" shall mean all
70 places in a mine that are ventilated and inspected regularly.

71 Inactive workings: The term "inactive workings" shall in-
72 clude all portions of a mine in which operations have been
73 suspended for an indefinite period, but have not been aban-
74 doned.

75 Superintendent: The term "superintendent" shall mean the

76 person who shall have, on behalf of the operator, immediate
77 supervision of one or more mines.

78 Mine foreman: The term "mine foreman" shall mean the
79 certified person whom the operator or superintendent shall
80 place in charge of the inside workings of the mine and of the
81 persons employed therein.

82 Supervisor: The term "supervisor" shall mean a superin-
83 tendent, mine foreman, assistant mine foreman, or any person
84 specifically designated by the superintendent or mine foreman
85 to supervise work or employees and who is acting pursuant to
86 such specific designation and instructions.

87 Assistant mine foreman: The term "assistant mine foreman"
88 shall mean a certified person designated to assist the mine fore-
89 man in the supervision of a portion or the whole of a mine or
90 of the persons employed therein.

91 Shot firer: The term "shot firer" shall mean any person hav-
92 ing had at least two years of practical experience in coal mines,
93 who has a knowledge of ventilation, mine roof and timbering,
94 and who has demonstrated his knowledge of mine gases, the
95 use of a flame safety lamp, and other approved detecting de-
96 vices by examination and certification given him by the depart-
97 ment of mines.

98 Qualified person: The term "qualified person" shall mean a
99 person who has completed an examination and is considered
100 qualified on record by the department of mines.

101 Interested persons: The term "interested persons" shall in-
102 clude the operator, members of any mine safety committee at
103 the mine affected and other duly authorized representative of
104 the mine workers and department of mines.

105 Return air: The term "return air" shall mean a volume of
106 air that has passed through and ventilated all the working places
107 in a mine section.

108 Mechanical working section: The term "mechanical working
109 section" shall mean an area of a mine (1) in which coal is
110 loaded mechanically, (2) which is comprised of a number of
111 working places that are generally contiguous, and (3) which is
112 of such size to permit necessary supervision during shift opera-

113 tion, including preshift and on-shift examinations and tests
114 required by law.

115 Working section: The term "working section" shall mean all
116 areas of the coal mine from the loading point of the section to
117 and including the working faces.

118 Working face: The term "working face" shall mean any
119 place in a coal mine in which work of extracting coal from its
120 natural deposit in the earth is performed during the mining
121 cycle.

122 Working place: The term "working place" shall mean the
123 area of a coal mine in by the last open crosscut.

124 Working unit: The term "working unit" shall mean an area
125 of a mine in which coal is mined with a set of production
126 equipment; a conventional mining unit by a single loading
127 machine; a continuous mining unit by a single continuous min-
128 ing machine, which is comprised of a number of working
129 places.

130 Face equipment: The term "face equipment" shall mean mo-
131 bile or portable mining machinery having electric motors or
132 accessory equipment normally installed or operated in by the
133 last open crosscut in an entry or room.

134 Approved: The term "approved" shall mean in strict com-
135 pliance with mining law, or, in the absence of law, accepted by
136 a recognized standardizing body or organization whose ap-
137 proval is generally recognized as authoritative on the subject.

138 Permissible: The term "permissible" shall mean any equip-
139 ment, device or explosive that has been approved as permissible
140 by the United States bureau of mines and meets all require-
141 ments, restrictions, exceptions, limitations and conditions at-
142 tached to such classification by the bureau.

143 Certified electrician: The term "certified electrician" shall
144 mean any person who is qualified as a mine electrician
145 and who has passed an examination given by the de-
146 partment of mines, or has at least three years of experience
147 in performing electrical work underground in a coal mine,
148 in the surface work areas of an underground coal mine,
149 in a surface coal mine, in a noncoal mine, in the mine

150 equipment manufacturing industry, or in any other industry
151 using or manufacturing similar equipment, and has satis-
152 factorily completed a coal mine electrical training program
153 approved by the department of mines.

154 Armored cable: The term "armored cable" shall mean
155 a cable provided with a wrapping of metal, usually steel
156 wires or tapes, primarily for the purpose of mechanical
157 protection.

158 Borehole cable: The term "borehole cable" shall mean
159 a cable designed for vertical suspension in a borehole or
160 shaft and used for power circuits in the mine.

161 Cable: The term "cable" shall mean a standard
162 conductor (single conductor cable) or a combination of
163 conductors insulated from one another (multiple conductor
164 cable).

165 Flame-resistant cable, portable: The term "flame-resistant
166 cable, portable" shall mean a portable flame-resistant
167 cable that has passed the flame tests of the federal bureau of
168 mines.

169 Portable (trailing) cable: The term "portable (trailing) cab-
170 le" shall mean a flexible cable or cord used for connecting
171 mobile, portable or stationary equipment in mines to a trolley
172 system or other external source of electric energy where per-
173 manent mine wiring is prohibited or is impracticable.

174 Branch circuit: The term "branch circuit" shall mean any
175 circuit, alternating current or direct current, connected to and
176 leading from the main power lines.

177 Circuit breaker: The term "circuit breaker" shall mean a
178 device for interrupting a circuit between separable contacts
179 under normal or abnormal conditions.

180 High voltage: The term "high voltage" shall mean voltages
181 of more than one thousand volts.

182 Medium voltage: The term "medium voltage" shall mean
183 voltages from six hundred sixty-one to one thousand volts.

184 Low voltage: The term "low voltage" shall mean up to and
185 including six hundred sixty volts.

186 Lightning arrestor: The term "lightning arrestor" shall mean

187 a protective device for limiting surge voltage on equipment by
188 discharging or by passing surge current; it prevents continued
189 flow of follow current to ground and is capable of repeating
190 these functions as specified.

191 Mine power center or distribution center: The term "mine
192 power center or distribution center" shall mean a combined
193 transformer or distribution unit, complete within a metal en-
194 closure from which one or more low-voltage power circuits
195 are taken.

196 Delta connected: The term "delta connected" shall mean a
197 power system in which the windings or transformers or a. c.
198 generators are connected to form a triangular phase relation-
199 ship, and with phase conductors connected to each point of
200 the triangle.

201 Wye-connected: The term "wye-connected" shall mean a
202 power system connection in which one end of each phase
203 windings or transformers or a.c. generators are connected to-
204 gether to form a neutral point, and a neutral conductor may
205 or may not be connected to the neutral point, and the neutral
206 point may or may not be grounded.

207 Zig-zag transformer (grounding transformer): The term "zig-
208 zag transformer (grounding transformer)" shall mean a trans-
209 former intended primarily to provide a neutral point for
210 grounding purposes.

211 Neutral point: The term "neutral point" shall mean the con-
212 nection point of transformer or generator windings from which
213 the voltage to ground is nominally zero, and is the point gen-
214 erally used for system groundings in wye-connected a.c. power
215 system.

216 Neutral (derived): The term "neutral (derived)" shall mean
217 a neutral point or connection established by the addition of a
218 "zig-zag" or grounding transformer to a normally ungrounded
219 power system.

220 Effectively grounded: The term "effectively grounded" is an
221 expression which means grounded through a grounding con-
222 nection of sufficiently low impedance (inherent or intention-
223 ally added or both) so that fault grounds which may occur

224 cannot build up voltages in excess of limits established for ap-
225 paratus, circuits or systems so grounded.

226 Grounded (earthed): The term "grounded (earthed)" shall
227 mean that the system, circuit, or apparatus referred to is
228 provided with a ground.

229 Ground or grounding conductor (mining): The term "ground
230 or grounding conductor (mining)," also referred to as a safety
231 ground conductor, safety ground, and frame ground, shall
232 mean a metallic conductor used to connect the metal frame or
233 enclosure of any equipment, device or wiring system with a
234 mine track or other effective grounding medium.

235 Board of appeals: The term "board of appeals" shall mean
236 as provided for in section thirty-one of this article.

237 Certified person: The term "certified person," when used to
238 designate the kind of person to whom the performance of a
239 duty in connection with the operation of a mine shall be as-
240 signed, shall mean a person who is qualified under the pro-
241 visions of this law to perform such duty.

CHAPTER 78

(House Bill No. 675—By Mr. Scott)

[Passed March 24, 1973; in effect from passage. Approved by the Governor.]

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.

- 1 The director of the department of mines shall determine the
- 2 location where the mine foreman examiner shall meet for the

3 purpose of holding examinations, and at least two weeks'
4 notice of the time and place where the examinations are to
5 be held shall be given.

6 The examinations shall be given at any location where there
7 are at least five men to be tested, and adequate facilities to
8 conduct such examination. The office of the secretary to the
9 mine foreman examiner shall be located in the capitol com-
10 plex in Charleston. All records pertaining to the examinations
11 shall be kept at such office.

CHAPTER 79

(Com. Sub. for Senate Bill No. 60—By Mr. Neesley)

[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 dif-
2 ferent meaning, as used in this article:

3 (a) "Deputy director" shall mean the deputy director for
4 oil and gas;

5 (b) "Well" shall mean any shaft or hole sunk, drilled,
6 bored or dug into the earth or into underground strata for
7 the extraction or injection or placement of any liquid or gas,
8 or any shaft or hole sunk or used in conjunction with such
9 extraction or injection or placement. The term "well" shall
10 not have included within its meaning any shaft or hole
11 sunk, drilled, bored or dug into the earth for the sole
12 purpose of core drilling or pumping or extracting therefrom
13 potable, fresh or usable water for household, domestic, in-
14 dustrial, agricultural or public use;

15 (c) "Facility" shall mean any facility utilized in the oil
16 and gas industry in this state and specifically named or

17 referred to in this article or in articles five or seven of this
18 chapter, other than a well or well site;

19 (d) "Owner" when used with reference to any such well,
20 shall include any person or persons, firm, partnership,
21 partnership association or corporation that owns, manages,
22 operates, controls or possesses such well as principals,
23 or as lessee or contractor, employee or agent of such
24 principal;

25 (e) "Well operator" or "operator" shall include any per-
26 son or persons, firm, partnership, partnership association or
27 corporation that proposes to or does locate, drill, operate or
28 abandon any well as herein defined;

29 (f) "Chief" shall mean chief of the division of water
30 resources of the department of natural resources;

31 (g) "Coal operator" shall include any person or persons,
32 firm, partnership, partnership association or corporation that
33 proposes to or does operate a coal mine;

34 (h) "Department" or "department of mines" includes the
35 duly constituted authorities under the laws of this state having
36 jurisdiction over coal mining operations;

37 (i) "Plat" means a map, drawing or print showing the
38 location of a well or wells as herein defined;

39 (j) "Casing" means a string or strings of pipe commonly
40 placed in wells drilled for natural gas or petroleum or both;

41 (k) "Oil" and "gas" are synonyms for petroleum and
42 natural gas respectively;

43 (l) "Cement" means hydraulic cement properly mixed
44 with water only;

45 (m) "Workable coal bed" means a coal bed in fact
46 being operated commercially, or which, in the judgment
47 of the department of mines, can, and that it is reasonably
48 to be expected will, be so operated, and which, when
49 operated, will require protection if wells are drilled through
50 it;

51 (n) "Stimulate" means any action taken by any well
52 operator to increase oil or gas production from any oil
53 or gas well, including fracturing, shooting or acidizing, but
54 excluding cleaning out or bailing operations.

§22-4-1c. Oil and gas inspectors; supervising inspectors; tenure; oath and bond.

1 Notwithstanding any other provisions of law, oil and gas
2 inspectors shall be selected, serve and be removed as in this
3 article provided.

4 The deputy director for oil and gas shall divide the state
5 into not more than eight oil and gas districts, so as to
6 equalize, as far as practical, the work of each oil and gas
7 inspector. He may designate a supervising inspector and
8 other inspectors as may be necessary, and may designate
9 their places of abode, at points convenient to the accom-
10 plishment of their work.

11 The deputy director for oil and gas shall make each
12 appointment from among the three qualified eligible candi-
13 dates on the register having the highest grades. The director
14 of the department of mines or the deputy director for oil
15 and gas may, for good cause, at least thirty days prior to
16 making an appointment, strike any name from the register.
17 Upon striking any name from the register, the director or
18 deputy director, as the case may be, shall immediately
19 notify in writing each member of the oil and gas inspectors'
20 examining board of his action, together with a detailed
21 statement of the reasons therefor. Thereafter, the oil and
22 gas inspectors' examining board, after hearing, if it finds that
23 the action of striking such name was arbitrary or unreason-
24 able, may order the name of any candidate so stricken
25 from the register to be reinstated thereon. Such reinstate-
26 ment shall be effective from the date of removal from the
27 register.

28 Any candidate passed over for appointment for three
29 years shall be automatically stricken from the register.

30 After having served for a probationary period of one
31 year to the satisfaction of the deputy director for oil and gas
32 and the director, an oil and gas inspector or supervising
33 inspector shall have permanent tenure until he becomes
34 seventy years of age, subject only to dismissal for cause in
35 accordance with the provisions of section one-d of this
36 article. No oil and gas inspector or supervising inspector
37 while in office shall be directly or indirectly interested as

38 owner, lessor, operator, stockholder, superintendent or engi-
39 neer of any oil or gas drilling or producing venture or of
40 any coal mine in this state. Before entering upon the dis-
41 charge of his duties as an oil and gas inspector or super-
42 vising inspector, he shall take the oath of office prescribed
43 by the constitution, and shall execute a bond in the penalty
44 of two thousand dollars, with security to be approved by
45 the director of the department of mines, conditioned upon
46 the faithful discharge of his duties, a certificate of which
47 oath and bond shall be filed in the office of the secretary
48 of state.

49 The supervising inspector and oil and gas inspectors shall
50 perform such duties as are imposed upon them by this
51 chapter, and related duties assigned by the deputy director
52 for oil and gas upon approval of the director.

**§22-4-1e. Oil and gas inspectors' examining board created; com-
position; appointment, term and compensation of mem-
bers; chairman; oaths of members; meetings; powers
and duties generally.**

1 There is hereby created an oil and gas inspectors' examin-
2 ing board consisting of five members who, except for the
3 public representative on such board, shall be appointed by
4 the governor, by and with the advice and consent of the
5 Senate. Members may be removed only for the same causes
6 and like manner as elective state officers. One member
7 of the board who shall be the representative of the public,
8 shall be a professor in the petroleum engineering department
9 of the school of mines at West Virginia University appointed
10 by the dean of said school; two members shall be persons
11 who by reason of previous training and experience may
12 reasonably be said to represent the viewpoint of independent
13 oil and gas operators; and two members shall be persons
14 who by reason of previous training and experience may
15 reasonably be said to represent the viewpoint of major oil
16 and gas producers.

17 The deputy director for oil and gas shall be an ex officio
18 member of the board, and shall serve as secretary of the
19 board without additional compensation, but he shall have no
20 right to vote with respect to any matter before the board.

21 The members of the board, except the public representa-
22 tive, shall be appointed for overlapping terms of eight years,
23 except that the original appointments shall be for terms of
24 two, four, six and eight years, respectively. Any member
25 whose term expires may be reappointed by the governor.

26 Each member of the board shall receive fifty dollars per
27 diem while actually engaged in the performance of the
28 work of the board; and shall receive mileage at the
29 rate of ten cents for each mile actually traveled going
30 from the home of the member to the place of the meeting
31 of the board and returning therefrom, which shall be paid
32 out of the state treasury upon a requisition upon the state
33 auditor, properly certified by such members of the board.

34 The public member shall serve as chairman of the board.

35 Members of the board, before performing any duty shall
36 take and subscribe to the oath required by section five,
37 article four of the constitution of West Virginia.

38 The board shall meet at such times and places as shall be
39 designated by the chairman. It shall be the duty of the
40 chairman to call a meeting of the board on the written
41 request of two members, or on the written request of the
42 deputy director for oil and gas or the director of the
43 department of mines. Notice of each meeting shall be given
44 in writing to each member by the secretary at least five
45 days in advance of the meeting. Three voting members
46 shall constitute a quorum for the transaction of business.

47 In addition to other powers and duties expressly set
48 forth elsewhere in this article, the board shall:

49 (1) Establish, and from time to time revise, forms of
50 application for employment as an oil and gas inspector
51 and supervising inspector and forms for written examina-
52 tions to test the qualifications of candidates, with such
53 distinctions, if any, in the forms for oil and gas inspector
54 and supervising inspector as the board may from time to
55 time deem necessary or advisable;

56 (2) Adopt and promulgate reasonable rules and regula-
57 tions relating to the examination, qualification and certifica-
58 tion of candidates for appointment, and relating to hearings
59 for removal of inspectors or the supervising inspector, required

60 to be held by this article. All of such rules and regulations shall
61 be printed and a copy thereof furnished by the secretary of
62 the board to any person upon request;

63 (3) Conduct, after public notice of the time and place
64 thereof, examinations of candidates for appointment. By
65 unanimous agreement of all members of the board, one or
66 more members of the board or an employee of the depart-
67 ment of mines may be designated to give to a candidate the
68 written portion of the examination;

69 (4) Prepare and certify to the deputy director for oil and
70 gas and the director of the department of mines a register of
71 qualified eligible candidates for appointment as oil and gas
72 inspectors or as supervising inspectors, with such differen-
73 tiation, if any, between the certification of candidates for
74 oil and gas inspectors and for supervising inspector as the
75 board may from time to time deem necessary or advisable.
76 The register shall list all qualified eligible candidates in the
77 order of their grades, the candidate with the highest grade
78 appearing at the top of the list. After each meeting of the
79 board held to examine such candidates and at least annual-
80 ly, the board shall prepare and submit to the deputy
81 director for oil and gas and the director of the department
82 of mines a revised and corrected register of qualified
83 eligible candidates for appointment, deleting from such
84 revised register all persons (a) who are no longer residents
85 of West Virginia, (b) who have allowed a calendar year to
86 expire without, in writing, indicating their continued
87 availability for such appointment, (c) who have been passed
88 over for appointment for three years, (d) who have
89 become ineligible for appointment since the board originally
90 certified that such persons were qualified and eligible for
91 appointment, or (e) who, in the judgment of at least three
92 members of the board, should be removed from the register
93 for good cause;

94 (5) Cause the secretary of the board to keep and
95 preserve the written examination papers, manuscripts, grad-
96 ing sheets and other papers of all applicants for appoint-
97 ment for such period of time as may be established by the
98 board. Specimens of the examinations given, together with

99 the correct solution of each question, shall be preserved
100 permanently by the secretary of the board;

101 (6) Issue a letter or written notice of qualifications to
102 each successful eligible candidate;

103 (7) Hear and determine proceedings for the removal of
104 inspectors or the supervising inspector in accordance with
105 the provisions of this article;

106 (8) Hear and determine appeals of inspectors or the
107 supervising inspector from suspension orders made by the
108 deputy director for oil and gas pursuant to the provisions
109 of section one-a of this article; *Provided*, That in order
110 to appeal from any order of suspension, an aggrieved
111 inspector or supervising inspector shall file such appeal in
112 writing with the oil and gas inspectors' examining board not
113 later than ten days after receipt of the notice of suspension.
114 On such appeal the board shall affirm the action of the
115 deputy director for oil and gas unless it be satisfied from a
116 clear preponderance of the evidence that the deputy director
117 for oil and gas has acted arbitrarily;

118 (9) Make an annual report to the governor concerning
119 the administration of oil and gas inspection personnel in the
120 state service; making such recommendations as the board
121 considers to be in the public interest; and

122 (10) Render such advice and assistance to the deputy
123 director for oil and gas as he shall from time to time
124 determine necessary or desirable in the performance of his
125 duties.

**§22-4-1k. Permits required; application for permit; information;
responsible agent; drilling permit number; when per-
mits not to be issued; penalty.**

1 It shall be unlawful for any well to be drilled, redrilled,
2 deepened, fractured, stimulated, plugged, pressured, convert-
3 ed, combined or physically changed to allow the migration of
4 fluid from one formation to another unless a permit therefor
5 has been issued by the department. An application for any
6 such permit shall be filed with the deputy director and shall
7 contain the following:

8 (a) The name and address of the well operator;

9 (b) The name and address of the owner of the surface
10 lands upon which the well is or may be located;

11 (c) The name and address of the agent of the well operator,
12 if any such agent is required to be designated under the pro-
13 visions of this section;

14 (d) The approximate depth to which the well is to be
15 drilled;

16 (e) The proposed casing program of such well including
17 the sizes of all such casing, the depth to which all casing
18 is to be run and the extent to which such casing is to be
19 cemented; and

20 (f) Any other information which the deputy director by
21 rule or regulation may require.

22 If the well operator named in such application is a corpo-
23 ration, partnership or a nonresident of the state of West
24 Virginia, then there shall be designated the name and
25 address of an agent for such operator who shall be the
26 attorney in fact for the operator and who shall be a
27 resident of the state of West Virginia upon whom notices,
28 orders or other communications issued pursuant to this
29 article or article five-a, chapter twenty, may be served,
30 and upon whom process may be served. Every well opera-
31 tor required to designate an agent under this section shall
32 within five days after the termination of such designation
33 notify the department of such termination and designate a
34 new agent.

35 The well owner or operator shall install the permit
36 number as issued by the deputy director in a legible and
37 permanent manner to the well upon completion of any
38 permitted work. The dimensions, specifications and manner
39 of installation shall be in accordance with the administra-
40 tive rules and regulations of the department.

41 For the purpose of ascertaining whether or not issuance of
42 any permit to drill, redrill, deepen, case, fracture, stimulate,
43 pressure, operate, plug, abandon, convert or combine
44 any well, or physically change any well to allow the
45 migration of fluid from one formation to another, will
46 contribute to an existing pollution problem, the deputy
47 director shall have the right and it shall be his duty to

48 consult with the director of the department of natural
49 resources. In the event the issuance of any such permit
50 may reasonably be expected to contribute to any such existing
51 pollution then the deputy director will not issue such
52 permit.

53 Any person who violates any provision of this section
54 shall be guilty of a misdemeanor, and, upon conviction
55 thereof, shall be punished by a fine not exceeding two
56 thousand dollars, or imprisonment in jail for not exceeding
57 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.

1 Before drilling for oil or gas, or before fracturing or
2 stimulating a well on any tract of land, the well operator
3 shall have a plat prepared by a licensed land surveyor or
4 registered engineer showing the district and county in which
5 the tract of land is located, the name and acreage of the
6 same, the names of the owners of adjacent tracts, the proposed or actual location of the well determined by survey,
7 the courses and distances of such location from two permanent points or landmarks on said tract and the number to be
8 given the well and the date of drilling completion of a well
9 when it is proposed that such well be fractured and shall
10 forward by registered mail a copy of the plat to the
11 department of mines. In the event the tract of land on
12 which the said well proposed to be drilled or fractured
13 is located is known to be underlaid with one or more
14 workable beds of coal, copies of the plat shall be forwarded
15 by registered mail to each and every coal operator, if any,
16 operating said beds of coal beneath said tract of land,
17 or within five hundred feet of the boundaries of the
18 same, who has mapped the same and filed his maps as
19 required by law. With each of such plats there shall be
20 enclosed a notice (form for which shall be furnished on
21 request by the department of mines) addressed to the
22 department of mines and to each such coal operator, if
23 any, at their respective addresses, informing them that
24 such plat and notice are being mailed to them respectively
25
26

27 by registered mail, pursuant to the requirements of this
28 article. If no objections are made, or are found by the
29 department, to such proposed location or proposed fractur-
30 ing within ten days from receipt of such plat and
31 notice by the department of mines, the same shall be filed
32 and become a permanent record of such location or fractur-
33 ing subject to inspection at any time by any interested
34 person, and the department may forthwith issue to the well
35 operator a permit reciting the filing of such plat, that no
36 objections have been made by the coal operators, if any,
37 or found thereto by the department, and authorizing the
38 well operator to drill at such location, or to fracture the
39 well. Unless the department has objections to such pro-
40 posed location or proposed fracturing or stimulating, such
41 permit may be issued prior to the expiration of such ten-
42 day period upon the obtaining by the well operator
43 of the consent in writing of the coal operator or operators
44 to whom copies of the plat and notice shall have been
45 mailed as herein required, and upon presentation of such
46 written consent to the department. The notice above pro-
47 vided for may be given to the coal operator by delivering
48 or mailing it as above to any agent or superintendent in
49 actual charge of mines.

50 A permit to drill, or to fracture or stimulate an oil or
51 gas well, shall not be issued unless the application therefor
52 is accompanied by a bond of the operator in the sum of
53 two thousand five hundred dollars, payable to the state of
54 West Virginia, with a corporate bonding or surety company
55 authorized to do business in this state as surety thereon,
56 conditioned on full compliance with all laws, rules and
57 regulations relating to the drilling, redrilling, deepening,
58 casing, plugging and abandonment of wells and for furnish-
59 ing such reports and information as may be required by the
60 department: *Provided*, That when such operator makes or
61 has made application for permits to drill a number of wells
62 or fracture or stimulate a well or wells the operator may in
63 lieu of furnishing a separate bond furnish a blanket bond
64 in the sum of fifteen thousand dollars, payable to the state
65 of West Virginia, with a corporate bonding or surety com-
66 pany authorized to do business in this state as surety
67 thereon, and conditioned as aforesaid: *Provided, however*,

68 That in lieu of corporate surety on a separate or blanket
69 bond, as the case may be, the operator may elect to deposit
70 with the deputy director for oil and gas cash or the
71 following collateral securities or any combination thereof:
72 (1) Bonds of the United States or agency thereof, or those
73 guaranteed by, or for which the credit of the United States
74 or agency thereof is pledged for the payment of the principal and interest thereof; (2) direct general obligation
75 bonds of this state, or any other state, or territory of the
76 United States, or the District of Columbia, unconditionally
77 guaranteed as to the principal and interest by such other
78 state or territory of the United States, or the District
79 of Columbia if such other state, territory, or the District
80 of Columbia has the power to levy taxes for the payment of
81 the principal and interest of such securities, and if at the
82 time of the deposit such other state, territory, or the
83 District of Columbia is not in default in the payment
84 of any part of the principal or interest owing by it upon any
85 part of its funded indebtedness; (3) direct general obligation
86 bonds of any county, district, city, town, village, school
87 district or other political subdivision of this state issued
88 pursuant to law and payable from ad valorem taxes levied
89 on all the taxable property located therein, that the total
90 indebtedness after deducting sinking funds and all debts
91 incurred for self-sustaining public works does not exceed
92 five percent of the assessed value of all taxable property
93 therein at the time of the last assessment made before the
94 date of such deposit, and that the issuer has not, within
95 five years prior to the making thereof, been in default for
96 more than ninety days in the payment of any part of the
97 principal or interest on any debt evidenced by its
98 bonds; (4) revenue bonds issued by this state or any
99 agency of this state when such bonds are payable from
100 revenues or earnings specifically pledged for the payment
101 of principal and interest, and a lawful sinking fund or
102 reserve fund has been established and is being maintained
103 for the payment of such bonds; (5) revenue bonds issued
104 by a municipality in this state for the acquisition, construction, improvement or extension of a waterworks system,
105 or a sewerage system, or a combined waterworks and
106 sewerage system, when such bonds are payable from reve-

109 nue or earnings specifically pledged for the payment of
110 principal and interest, and a lawful sinking fund or
111 reserve fund has been established and is being maintained
112 for the payment of such bonds; (6) revenue bonds issued
113 by a public service board of a public service district in
114 this state for the acquisition, construction, improvement or
115 extension of any public service properties, or for the reim-
116 bursement or payment of the costs and expenses of creating
117 the district, when such bonds are payable from revenue or
118 earnings specifically pledged for the payment of principal
119 and interest, and a lawful sinking fund or reserve fund has
120 been established and is being maintained for the payment
121 of such bonds; (7) revenue bonds issued by a board of
122 trustees of a sanitary district in this state for the corporate
123 purposes of such district, when such bonds are payable
124 from revenue or earnings specifically pledged for the pay-
125 ment of principal and interest, and a lawful sinking fund
126 or reserve fund has been established and is being maintained
127 for the payment of such bonds; and (8) bonds issued
128 by a federal land bank or home owners' loan corporation.
129 The cash deposit or market value, or both, of the collateral
130 securities shall be equal to or greater than the penalty of
131 the separate or blanket bond, as the case may be. Upon
132 receipt of any such deposit or cash or collateral securities,
133 the deputy director for oil and gas shall immediately deliver
134 the same to the treasurer of the state of West Virginia
135 The treasurer shall determine whether any such securities
136 satisfy the requirements of this section. If the securities
137 are approved they shall be accepted by the treasurer.
138 If the securities are not approved, they shall be rejected
139 and returned to the operator and no permit shall be issued
140 until a corporate surety bond is filed or cash or proper
141 collateral securities are filed in lieu of such surety. The
142 treasurer shall hold any cash or securities in the name
143 of the state in trust for the purposes for which the deposit
144 was made. The operator shall be entitled to all interest
145 and income earned on the collateral securities filed by
146 such operator so long as the operator is in full compliance
147 with all laws, rules and regulations relating to the drilling,
148 redrilling, deepening, casing, plugging and abandonment of
149 wells and for furnishing such reports and information as

150 may be required by the department. The operator making
151 the deposit shall be entitled from time to time to receive
152 from the treasurer, upon the written order of the deputy
153 director for oil and gas, the whole or any portion of
154 such securities upon depositing with the treasurer in lieu
155 thereof cash equal to or greater than the penalty of the
156 bond, or other approved securities of the classes herein
157 specified having a market value equal to or greater than
158 the penalty of the bond, or a corporate surety bond.

159 Any such bond shall remain in force until released by the
160 department and the department shall release the same
161 when it is satisfied the conditions thereof have been fully
162 performed. Upon the release of any such bond, any cash
163 or collateral securities deposited shall be returned by the
164 deputy director for oil and gas to the operator who deposit-
165 ed same.

166 If any of the requirements of this article or rules and
167 regulations promulgated pursuant thereto or the orders of
168 the deputy director for oil and gas have not been complied
169 with within the time limit set by the violation notice as
170 defined in sections one-g, one-h and one-i, article four,
171 chapter twenty-two of this code the performance bond shall
172 then be forfeited.

173 When any bond is forfeited pursuant to the provisions of
174 this article or rules and regulations promulgated pursuant
175 thereto the deputy director shall give notice to the attorney
176 general who shall collect the forfeiture without delay.

177 All forfeitures shall be deposited in the treasury of the
178 state of West Virginia in the special reclamation fund as
179 defined in section twelve-a, article four, chapter twenty-two
180 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.**

1 Before fracturing any well the well operator shall, by
2 registered mail, forward a notice of intention to fracture such
3 well to the department of mines and to each and every coal
4 operator operating said beds of coal beneath said tract of
5 land, or within five hundred feet of the boundaries of the

6 same, who has mapped the same and filed his maps as
7 required by law.

8 The notice shall be addressed to the department of mines
9 and to each such coal operator at their respective addresses,
10 shall contain the number of the drilling permit for such
11 well and such other information as may be required by the
12 department to enable the department and the coal opera-
13 tors to locate and identify such well and shall inform them
14 that such notice is being mailed to them, respectively,
15 by registered mail, pursuant to the requirements of this
16 article. (The form for such notice of intention shall be
17 furnished on request by the department of mines.) If no
18 objections are made, or are found by the department, to
19 such proposed fracturing within ten days from receipt of
20 such notice by the department of mines, the same shall
21 be filed and become a permanent record of such fracturing,
22 subject to inspection at any time by any interested person,
23 and the department shall forthwith issue to the well
24 operator a permit reciting the filing of such notice, that no
25 objections have been made by the coal operators, or
26 found thereto by the department, and authorizing the well
27 operator to fracture such well. Unless the department has
28 objections to such proposed fracturing, such permit shall
29 be issued prior to the expiration of such ten-day period
30 upon the obtaining by the well operator of the consent in
31 writing of the coal operator or operators to whom notice of
32 intention to fracture shall have been mailed as herein
33 required, and upon presentation of such written consent
34 to the department. The notice above provided for may be
35 given to the coal operator by delivering or mailing it as
36 above to any agent or superintendent in actual charge of
37 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.

1 Before drilling a well for the introduction of liquids for
2 the purposes provided for in section ten-a of this article
3 or for the introduction of liquids for the disposal of sewage,

4 industrial waste or other waste or the effluent there-
5 from on any tract of land, or before converting an existing
6 well for such purposes, the well operator shall have a plat
7 prepared by a registered engineer or licensed land sur-
8 veyor showing the district and county in which the tract
9 of land is located, the name and acreage of the same, the
10 names of the owners of all adjacent tracts, the proposed or
11 actual location of the well or wells determined by a survey,
12 the courses and distances of such location from two perma-
13 nent points of land marked on said tract and the number
14 to be given to the well, and shall forward by registered or
15 certified mail the original and one copy of the plat to the
16 department of mines. In addition, the well operator shall
17 provide the following information on the plat or by way of
18 attachment thereto to the department in the manner and
19 form prescribed by the department's rules and regulations:
20 (a) The location of all wells, abandoned or otherwise lo-
21 cated within the area to be affected; (b) where available,
22 the casing records of all such wells; (c) where available,
23 the drilling log of all such wells; (d) the maximum pres-
24 sure to be introduced; (e) the geological formation into
25 which such liquid or pressure is to be introduced; (f) a
26 general description of the liquids to be introduced; (g) the
27 location of all water bearing horizons above and below
28 the geological formation into which such pressure, liquid
29 or waste is to be introduced; and (h) such other informa-
30 tion as the deputy director by rule and regulation may re-
31 quire.

32 In the event the tract of land on which said well pro-
33 posed to be drilled or converted for the purposes provided
34 for in this section is located is known to be underlaid with
35 one or more workable beds of coal, copies of the plat and
36 all information required by this section shall be forwarded
37 by the operator by registered or certified mail to each and
38 every coal operator, if any, operating said beds of coal be-
39 neath said tracts of land, or within five hundred feet of
40 the boundaries of the same, who has mapped the same
41 and filed his maps as required by law. With each of such
42 plats, there shall be enclosed a notice (form for which
43 shall be furnished on request by the department of mines)
44 addressed to the department of mines and to each such coal

45 operator, if any, at their respective addresses, informing
46 them that such plat and notice are being mailed to them,
47 respectively, by registered or certified mail, pursuant to
48 the requirements of this section. The deputy director shall
49 forward a copy of the plat, notice and all other information
50 required by this section to the chief of the division of
51 water resources of the department of natural resources.

52 If no objections are made by any such coal operator or
53 such chief, or are found by the department to such pro-
54 posed drilling or converting of the well or wells for the
55 purposes provided for in this section within thirty days
56 from the receipt of such plat and notice by the department
57 of mines, the same shall be filed and become a permanent
58 record of such location or well, subject to inspection at any
59 time by any interested person, and the department shall
60 forthwith issue to the well operator a permit reciting the
61 filing of such plat and notice, that no objections have
62 been made by the coal operators, if any, or found thereto
63 by the department of mines or by the chief, and authoriizing
64 the well operator to drill at such location or convert such
65 existing well or wells for the purposes provided for in
66 this section. Such permit shall be issued prior to the expira-
67 tion of such thirty-day period upon the obtaining by the
68 well operator of the consent in writing of the coal operator
69 or operators to whom copies of the plat and notices must
70 have been mailed as herein required and upon obtaining
71 the consent in writing of the chief, and upon presentation
72 of such written consent in writing of the chief, and upon
73 presentation of such written consent to the department. The
74 notices above provided for may be given to the coal operator
75 by delivering or mailing it as above to any agent or superin-
76 tendent in actual charge of the mines.

77 A permit to drill a well or wells or convert an existing
78 well or wells for the purposes provided for in this section
79 shall not be issued until all of the bonding provisions
80 required by the provisions of section two of this article
81 have been fully complied with and all such bonding
82 provisions shall apply to all wells drilled or converted for the
83 purposes provided for in this section as if such wells had
84 been drilled for the purposes provided for in section two

85 of this article, except that such bonds shall be conditioned
86 upon full compliance with all laws, rules and regulations
87 relating to the drilling of a well or the converting of an
88 existing well for the purposes provided for in said section
89 ten-a, or introducing of liquids for the disposal of sewage,
90 industrial waste or other waste or the effluent therefrom
91 including the redrilling, deepening, casing, plugging or
92 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
2 or gas well or both, each well operator shall run and per-
3 manently cement a string of casing in the hole through
4 the fresh water bearing strata in such a manner and to the
5 extent provided for in rules and regulations promulgated
6 by the director of the department of mines in accordance
7 with the provisions of chapter twenty-nine-a.

8 No oil or gas well shall be drilled nearer than two hun-
9 dred feet from an existing water well or dwelling without
10 first obtaining the written consent of the owner of such
11 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 aban-
2 doned under the provisions of section seven of this article
3 shall be plugged in accordance with this section and the
4 other provisions of this article and in accordance with the
5 rules and regulations promulgated by the deputy director.

6 Prior to the commencement of plugging operations and
7 the abandonment of any well, the well operator shall either
8 (a) notify, by registered or certified mail, the department of
9 mines and the coal operator or operators, if any, to whom
10 notices are required to be given by section two of this
11 article and the coal operator or operators to whom notices
12 are required to be given by section two-a of this article
13 of its intention to plug and abandon any such well
14 (using such form of notice as the department may provide),
15 giving the number of the well and its location and fixing

16 the time at which the work of plugging and filling will be
17 commenced, which time shall be not less than five days
18 after the day on which such notice so mailed is received
19 or in due course should be received by the department of
20 mines, in order that a representative or representatives of
21 the department and the coal operator or operators, if any
22 or of both, may be present at the plugging and filling of
23 the well: *Provided*, That whether such representatives
24 appear or do not appear, the well operator may proceed
25 at the time fixed to plug and fill the well in the manner
26 hereinafter described, or (b) first obtain the written ap-
27 proval of the department of mines and the coal operator
28 or operators, if any, to whom notices are required to be
29 given by section two of this article and the coal operator
30 or operators to whom notices are required to be given by
31 section two-a of this article, or (c) in the event the well
32 to be plugged and abandoned is one on which drilling or
33 reworking operations have been continuously progressing
34 pursuant to authorization granted by the department, first
35 obtain the verbal permission of the deputy director for oil
36 and gas or his designated representative to plug and
37 abandon such well, except, that the well operator, shall,
38 within a reasonable period not to exceed five days after
39 the commencement of such plugging operations, give the
40 written notices required by subdivision (a) above.

41 No well shall be plugged or abandoned unless prior to
42 the commencement of plugging operations and the aban-
43 donment of any well the department is furnished a bond of
44 the operator in the sum of two thousand five hundred
45 dollars, payable to the state of West Virginia, with a
46 corporate bonding or surety company authorized to do
47 business in this state as surety thereon, conditioned on
48 full compliance with all laws, rules and regulations relat-
49 ing to the casing, plugging and abandonment of wells and
50 for furnishing such reports and information as may be
51 required by the department. When a number of wells are
52 involved, the operator may in lieu of furnishing a separate
53 bond furnish a blanket bond in the sum of fifteen thousand
54 dollars, payable to the state of West Virginia, with a
55 corporate bonding or surety company authorized to do
56 business in this state as surety thereon, and conditioned

57 as aforesaid. In lieu of corporate surety on a separate or
58 blanket bond, as the case may be, the operator may elect
59 to deposit with the deputy director for oil and gas cash
60 or collateral securities as specified in section two of this
61 article. All of the provisions of section two dealing with
62 cash or collateral securities in lieu of corporate surety
63 shall be fully applicable hereto except for the condition of
64 the bond with respect to which the operator must be in
65 full compliance in order to be entitled to the interest and
66 income earned on such securities. The operator shall be
67 entitled to such interest and income under this section
68 so long as the operator is in full compliance with all
69 laws, rules and regulations relating to the casing, plug-
70 ging and abandonment of wells and for furnishing such
71 reports and information as may be required by the depart-
72 ment. Any such bond shall remain in force until released
73 by the department and the department shall release the
74 same when it is satisfied the conditions thereof have been
75 fully performed. Notwithstanding the foregoing provi-
76 sions, any operator who, in accordance with section two
77 of this article, has furnished a separate bond, which has
78 not been released by the department, for the drilling, con-
79 verting or drilling for the introduction of liquids, for the
80 disposal of sewage, industrial waste or other waste or
81 the effluent therefrom, or introducing pressure, whether
82 liquid or gas, or introducing liquid for the purposes pro-
83 vided for in section ten-a of this article or fracturing of the
84 well it is now proposed be plugged and abandoned, or
85 who, in accordance with the provisions of said section
86 two of this article, has furnished a blanket bond which
87 has not been released by the department shall not be
88 required by this section to furnish any other bond. When
89 the plugging and filling of a well have been completed,
90 an affidavit, in triplicate, shall be made (on a form to be
91 furnished by the department) by two experienced men
92 who participated in the work, in which affidavit shall be
93 set forth the time and manner in which the well was
94 plugged and filled. One copy of this affidavit shall be
95 retained by the well operator, another (or true copies
96 of same) shall be mailed to the coal operator or operators,
97 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
2 any well drilled for natural gas or petroleum, or drilled or
3 converted for the introduction of pressure, whether liquid
4 or gas, or for the introduction of liquid for the purposes
5 provided for in section ten-a of this article or for the dispos-
6 al of sewage, industrial waste or other waste or the effluent
7 therefrom, the well operator, at the time of such abandon-
8 ment or cessation, shall fill and plug the well in the follow-
9 ing manner:

10 (a) Where the well does not penetrate workable coal
11 beds, it shall either be filled with mud, clay or other non-
12 porous material from the bottom of the well to a point
13 twenty feet above the top of its lowest oil, gas or water-
14 bearing stratum; or a permanent bridge shall be anchored
15 thirty feet below its lowest oil, gas or water-bearing stra-
16 tum, and from such bridge it shall be filled with mud,
17 clay or other nonporous material to a point twenty feet
18 above such stratum; at this point there shall be placed a
19 plug of cement or other suitable material which will com-
20 pletely seal the hole. Between this sealing plug and a point
21 twenty feet above the next higher oil, gas or water-bearing
22 stratum, the hole shall either be filled, or bridged and fill-
23 ed, in the manner just described; and at such point there
24 shall be placed another plug of cement or other suitable
25 material which will completely seal the hole. In like man-
26 ner the hole shall be filled and plugged, or bridged, filled
27 and plugged with reference to each of its oil, gas or water-
28 bearing strata. However, whenever such strata are not
29 widely separated and are free from water, they may be
30 grouped and treated as a single sand, gas or petroleum hori-
31 zon, and the aforesaid filling and plugging be performed
32 as though there were but one horizon. After the plugging of
33 all oil, gas or water-bearing strata, as aforesaid, a final
34 plug shall be anchored approximately ten feet below the
35 bottom of the largest casing in the well; from this point to
36 the surface the well shall be filled with mud, clay or other
37 nonporous material. In case any of the oil or gas-bearing
38 strata in a well shall have been shot, thereby creating cav-
39 ities which cannot readily be filled in the manner above de-

40 scribed, the well operator shall follow either of the follow-
41 ing methods:

42 (1) Should the stratum which has been shot be the low-
43 est one in the well, there shall be placed, at the nearest
44 suitable point, but not less than twenty feet above the stra-
45 tum, a plug of cement or other suitable material which will
46 completely seal the hole. In the event, however, that the
47 shooting has been done above one or more oil or gas-bear-
48 ing strata in the well, plugging in the manner specified
49 shall be done at the nearest suitable points, but not less
50 than twenty feet below and above the stratum shot. Or
51 (2), when such cavity shall be in the lowest oil or gas-
52 bearing stratum in the well, a liner shall be placed which
53 shall extend from below the stratum to a suitable point,
54 but not less than twenty feet above the stratum in which
55 shooting has been done. In the event, however, that the
56 shooting has been done above one or more oil or gas-bear-
57 ing strata in the well, the liner shall be so placed that it
58 will extend not less than twenty feet above, nor less than
59 twenty feet below, the stratum in which shooting has been
60 done. Following the placing of the liner in the manner here
61 specified it shall be compactly filled with cement, mud, clay
62 or other nonporous sealing material;

63 (b) Where the well has penetrated one or more workable
64 coal beds, it shall be filled and securely plugged in the
65 manner aforesaid, to a point forty feet below the lowest
66 workable coal bed. If, in the judgment of the well operator,
67 the coal operator and the department of mines, a perma-
68 nent outlet to the surface is required, such outlet shall be
69 provided in the following manner: A plug of cement, or
70 other suitable material, shall be placed in the well at a suit-
71 able point, not less than thirty feet below the lowest work-
72 able coal bed. In this plug and passing through the center
73 of it shall be securely fastened an open pipe not less than
74 two inches in diameter, which shall extend to the surface.
75 At or above the surface the pipe shall be provided with a
76 device which will permit the free passage of gas, and pre-
77 vent obstruction of the same. Following the setting of the
78 cement plug and outlet pipe as aforesaid, the hole shall be
79 filled with cement to a point twenty feet above the lowest
80 workable coal bed. From this point the hole shall be filled

81 with mud, clay or other nonporous material to a point thirty
82 feet beneath the next overlying workable coal bed, if such
83 there be, and the next succeeding fifty feet of the hole fill-
84 ed with cement, and similarly, in case there are more over-
85 lying workable coal beds. If, in the judgment of the well
86 operator, the coal operator and the department of mines,
87 no outlet to the surface is considered necessary, the plug-
88 ging, filling and cementing shall be as last above described.

89 Where a coal protection string of casing has been ce-
90 mented in and circulated to the surface, if a coal outlet pipe
91 is not required in a well which penetrates one or more
92 workable coal beds, then a fifty foot cement plug shall be
93 placed from thirty feet below the casing seat. The well
94 shall then be filled to twenty feet of surface with nonporous
95 material, and cement plug with the monument installed in
96 cement from twenty feet to the surface and extending thirty
97 inches above ground level.

98 Where a coal protection string of casing has been ce-
99 mented in and circulated to the surface, if a coal outlet pipe
100 is required in a well which penetrates one or more work-
101 able coal beds, then a fifty foot cement plug shall be placed
102 in the well from thirty feet to eighty feet below casing
103 seat completely sealing the well. The outlet pipe shall be
104 placed twenty feet below the casing seat centrally located
105 in the casing. A cement basket shall be installed on the out-
106 let pipe and placed ten feet above the casing seat with
107 twenty feet of cement in the annulus between the outlet
108 pipe and the casing. The remaining annulus shall be filled
109 with nonporous material to ten feet of surface. The outlet
110 pipe and monument shall then be cemented from ten feet
111 to the surface with a bleeder pipe which will permit the
112 free passage of gas and prevent obstructions of the same.

**§22-4-10a. Introducing liquid pressure into producing strata to re-
cover oil contained therein.**

1 The owner or operator of any well or wells which produce
2 oil or gas may allow such well or wells to remain open for
3 the purpose of introducing water or other liquid pressure
4 into and upon the producing strata for the purpose of
5 recovering the oil contained therein, and may drill additional

6 wells for like purposes, provided that the introduction of
7 such water or other liquid pressure shall be controlled as to
8 volume and pressure and shall be through casing or tubing
9 which shall be so anchored and packed that no water-bear-
10 ing strata or other oil, or gas-bearing sand or producing
11 stratum, above or below the producing strata into and upon
12 which such pressure is introduced, shall be affected thereby,
13 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.**

1 In any action for contamination or deprivation of a fresh
2 water source or supply within one thousand feet of the site of
3 drilling for an oil or gas well, there shall be a rebuttable
4 presumption that such drilling, and such oil or gas well, or
5 either, was the proximate cause of the contamination or de-
6 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 include 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; ISSU-
ANCE 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
2 plates therefor, whether original issues or duplicates, shall
3 not be issued or furnished by the department of motor vehicles
4 or any other officer charged with such duty, unless the
5 applicant therefor already has received, or shall at the same
6 time make application for and be granted, an official cer-
7 tificate of title of such vehicle. Such application shall be
8 upon a blank form to be furnished by the department of
9 motor vehicles and shall contain a full description of the
10 vehicle, which description shall contain a manufacturer's serial
11 or identification number or other number as determined by
12 the commissioner and any distinguishing marks, together with
13 a statement of the applicant's title and of any liens or
14 encumbrances upon such vehicle, the names and addresses
15 of the holders of such liens and such other information as the
16 department of motor vehicles may require. The application
17 shall be signed and sworn to by the applicant. A tax is
18 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

60 of title or duplicate certificate of title so issued: *Provided*
61 *further*, That this state or any political subdivision thereof,
62 or any such volunteer fire department, or duly chartered rescue
63 squad, shall be exempted from payment of such charge.

64 Such certificate shall be good for the life of the vehicle,
65 so long as the same is owned or held by the original holder of
66 such certificate, and need not be renewed annually, or any
67 other time, except as herein provided.

68 If, by will or direct inheritance, a person becomes the
69 owner of a motor vehicle and the tax herein imposed pre-
70 viously has been paid, to the department of motor vehicles,
71 on that vehicle, he shall not be required to pay such tax.

72 A person who has paid the tax imposed by this section shall
73 not be required to pay the tax a second time for the same
74 motor vehicle, but he shall be required to pay a charge of two
75 dollars for the certificate of retitle of that motor vehicle,
76 except that such tax shall be paid by such person when the
77 title to such vehicle has been transferred either in this or
78 another state from such person to another person and trans-
79 ferred back to such person.

80 Notwithstanding any provisions of this code to the con-
81 trary, the owners of trailers, semitrailers and other vehicles
82 not subject to the certificate of title tax prior to the enact-
83 ment of this chapter shall be subject to the privilege tax
84 imposed by this section: *And provided further*, That mobile
85 homes, house trailers, modular homes and similar nonmotive
86 propelled vehicles susceptible of being moved upon the high-
87 ways but primarily designed for habitation and occupancy,
88 rather than for transporting persons or property, or any
89 vehicle operated on a nonprofit basis and used exclusively for
90 the transportation of mentally retarded or physically handi-
91 capped children when the application for certificate of registra-
92 tion for such vehicle is accompanied by an affidavit stating that
93 such vehicle will be operated on a nonprofit basis and used ex-
94 clusively for the transportation of mentally retarded and physi-
95 cally handicapped children, shall not be subject to the tax
96 imposed by this section, but shall be taxable under the pro-
97 visions of articles fifteen and fifteen-a of chapter eleven of this
98 code.

99 If any person making any affidavit required under any
100 provision of this section, shall therein knowingly swear falsely,
101 or if any person shall counsel, advise, aid or abet another in
102 the commission of false swearing, he shall be guilty of a mis-
103 demeanor, and, on conviction therefor, shall be fined not
104 more than one hundred dollars or be imprisoned in the county
105 jail for a period not to exceed thirty days, or in the discretion of
106 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.

1 "Authorized emergency vehicle" means vehicles of the fire
2 department, duly chartered rescue squad, police vehicles, and
3 such ambulances and emergency vehicles of municipal depart-
4 ments or public service corporations as are designated or
5 authorized by the commissioner or the chief of police of an
6 incorporated city, and such privately owned ambulances and
7 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.

1 The provisions of this chapter, except where specifically
2 otherwise provided, shall not apply to:

3 (1) Motor vehicles operated exclusively in the transpor-
4 tation of United States mail or in the transportation of news-
5 papers;

6 (2) Motor vehicles owned and operated by the United
7 States of America, the state of West Virginia or any county,
8 municipality or county board of education, or by any de-
9 partment thereof, and any motor vehicles operated under a
10 contract with a county board of education exclusively for the
11 transportation of children to and from school or such other
12 legitimate transportation for the schools as the commission may
13 specifically authorize;

14 (3) Motor vehicles used exclusively in the transportation
15 of agricultural or horticultural products, livestock,
16 poultry and dairy products from the farm or orchard on
17 which they are raised or produced to markets, processing
18 plants, packinghouses, canneries, railway shipping points and
19 cold storage plants, and in the transportation of agricultural or
20 horticultural supplies to such farm or orchards to be used
21 thereon;

22 (4) Motor vehicles used exclusively in the transportation
23 of human or animal excreta;

24 (5) Motor vehicles used exclusively in ambulance service,
25 or duly chartered rescue squad service;

26 (6) Motor vehicles used exclusively for volunteer fire
27 department service;

28 (7) Motor vehicles used exclusively in the transportation
29 of coal from mining operations to loading facilities for further
30 shipment by rail or water carriers; and

31 (8) Motor vehicles used by petroleum commission agents
32 and oil distributors solely for the transportation of petroleum
33 products and related automotive products when such trans-
34 portation is incidental to the business of selling said pro-
35 ducts: *Provided*, That the owner of said vehicle or vehicles
36 shall have in effect at all times a public liability insurance
37 policy with respect to said vehicle or vehicles and the driver
38 or drivers thereof in an amount equal to or in excess of that
39 required by the public service commission of West Virginia
40 for similar vehicles under its jurisdiction, evidence of which
41 insurance shall be filed with the motor carrier division of said
42 public service commission. All such motor vehicles not so
43 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.

1 Whenever the owner of a registered vehicle transfers or as-
2 signs his title, or interest thereto, the registration of such ve-
3 hicle shall expire: *Provided, however,* That such owner, if he
4 has made application to the department to have said registra-
5 tion plates transferred to be used on another vehicle owned by
6 said owner, may then operate the other vehicle for a period of
7 forty days, but in no event longer than forty days from the
8 date of original transfer. Upon such transfer, it shall be the
9 duty of the original owner to retain the registration plates is-
10 sued therefor and to immediately notify the commissioner of
11 such transfer upon such form as may be provided therefor and
12 to deliver to him the certificate of registration, whereupon the
13 commissioner shall, upon the payment of a fee of one dollar,
14 issue a new certificate showing the use to be made of such
15 plates. Such plates may then be used by such owner on anoth-
16 er vehicle of the same class as the vehicle for which they were

17 originally issued if such other vehicle does not require a great-
18 er license fee than was required for such original vehicle. If
19 such other vehicle requires a greater license fee than such orig-
20 inal vehicle, then such plates may be used by paying such dif-
21 ference to the commissioner. When such transfer of ownership
22 is made to a licensed dealer in motor vehicles it shall be the
23 duty of such dealer to immediately execute notification of trans-
24 fer, in triplicate, and to have this notification properly signed
25 by the owner making the transfer. The dealer shall immediately
26 forward to the department the original copy of the notification
27 of transfer. One copy of the notification of transfer shall be
28 given to the owner and one shall be retained by the dealer. The
29 owner shall immediately send to the department the transfer
30 fee of one dollar with any additional fee that may be required
31 under the terms of this chapter. The owner's copy, properly
32 signed by the dealer, will be the owner's identification until
33 he receives a new registration card from the department.

34 The owner of a set of registration plates may surrender them
35 to the commissioner together with the registration card and,
36 upon the payment of one dollar as an exchange fee and upon
37 the payment of such additional fees as are necessary to equal-
38 ize the value of the plates surrendered with the value of regis-
39 tration plates desired, receive in exchange a set of plates and
40 registration card for a vehicle of a different class.

§17A-4-2. Endorsement of certificate of title upon transfer by owner.

1 Whenever the owner of a registered vehicle transfers or
2 assigns his title, he shall endorse an assignment and warranty
3 of title upon the certificate of title for such vehicle with a
4 statement of all liens and encumbrances thereon, which state-
5 ment shall be verified under oath by the owner, and he
6 shall within twenty days from date of sale deliver the certificate
7 of title to the purchaser or transferee, except in the case of
8 a vehicle sold as scrap or to be dismantled.

§17A-4-4. Transfers to dealers and others.

1 When the transferee of a vehicle is a dealer who holds the
2 same for resale and lawfully operates the same under dealer's
3 plates, such dealer shall not be required to obtain a new
4 registration of said vehicle or be required to forward the

- 5 certificate of title to the department, but such dealer upon
6 transferring his title or interest to another person shall execute
7 and acknowledge an assignment and warranty of title upon the
8 certificate of title and deliver the same not later than thirty days
9 from date of sale to the person to whom such transfer is made.
- 10 When the transferee of a vehicle does not drive such vehicle
11 or permit it to be driven upon the highways, such transferee
12 shall not be required to obtain a new registration of said
13 vehicle, but such transferee shall be required within thirty days
14 from the date of such transfer to forward the certificate of
15 title to the department accompanied by an application for a
16 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.**

- 1 If application for a certificate of title showing a deferred
2 purchase money lien or deferred purchase money encumbrance
3 to be placed upon a vehicle be filed in the office of the
4 department within thirty days from the date of such appli-
5 cant's purchase of such vehicle, it shall be as valid as to all
6 persons, whomsoever, including the state, as if such filing had
7 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.

1 (a) In order to permit a vehicle which is sold to a pur-
2 chaser by a dealer to be operated on the streets and highways
3 pending receipt of the annual registration plate from the
4 department for such vehicle, the commissioner may, subject to
5 the limitations and conditions hereinafter set forth, deliver
6 temporary vehicle registration plates or markers to dealers
7 who in turn may, subject to the limitations and conditions here-
8 inafter set forth, issue the same to purchasers of vehicles, but
9 such purchasers must comply with the pertinent provisions
10 of this section.

11 (b) Application by a dealer to the commissioner for such
12 temporary registration plates or markers shall be made on the
13 form prescribed and furnished by the commissioner for such
14 purpose and shall be accompanied by a fee of one dollar for
15 each such temporary registration plate or marker. No refund
16 or credit of fees paid by dealers to the commissioner for
17 temporary registration plates or markers shall be allowed,
18 except that in the event the commissioner discontinues the
19 issuance of such temporary plates or markers, dealers returning
20 temporary registration plates or markers to the commissioner
21 may petition for and be entitled to a refund or a credit
22 thereof. No temporary registration plates or markers shall
23 be delivered by the commissioner to any dealer in house trailers
24 only, and no such temporary plates or markers shall be issued
25 for or used on any house trailer for any purpose.

26 (c) Every dealer who has made application for and re-
27 ceived temporary registration plates or markers shall maintain
28 in permanent form a record of all temporary registration plates
29 or markers delivered to him, a record of all temporary registra-
30 tion plates or markers issued by him, and a record of any other
31 information pertaining to the receipt or the issuance of tem-
32 porary registration plates or markers which the commissioner
33 may require. Each such record shall be kept for a period of

34 at least three years from the date of the making thereof. Every
35 dealer who issues a temporary registration plate or marker
36 shall, within three days after he issues such plate or marker,
37 send to the department a copy of the temporary registration
38 plate or marker certificate properly executed by such dealer
39 and the purchaser. No temporary registration plates or
40 markers may be delivered to any dealer until such dealer has
41 fully accounted to the commissioner for the temporary registra-
42 tion plates or markers last delivered to such dealer, by showing
43 the number issued to purchasers by such dealer and any on
44 hand.

45 (d) A dealer shall not issue, assign, transfer or deliver a
46 temporary registration plate or marker to anyone other than
47 the bona fide purchaser of the vehicle to be registered; nor
48 shall a dealer issue a temporary registration plate or marker
49 to anyone possessed of an annual registration plate for a
50 vehicle which has been sold or exchanged, except a dealer
51 may issue a temporary registration plate or marker to the bona
52 fide purchaser of a vehicle to be registered who possesses
53 an annual registration plate of a different class and makes
54 application to the department to exchange such annual
55 registration plate of a different class in accordance with the
56 provisions of section one, article four of this chapter; nor
57 shall a dealer lend to anyone, or use on any vehicle which
58 he may own, a temporary registration plate or marker. It
59 shall be unlawful for any dealer to issue any temporary registra-
60 tion plate or marker knowingly containing any misstatement
61 of fact, or knowingly to insert any false information upon the
62 face thereof.

63 (e) Every dealer who issues temporary registration plates
64 or markers shall affix or insert clearly and indelibly on the face
65 of each temporary registration plate or marker the date of
66 issuance and expiration thereof, and the make and motor
67 or serial number of the vehicle for which issued.

68 (f) If the commissioner finds that the provisions of this
69 section or his directions are not being complied with by a
70 dealer, he may suspend the right of such dealer to issue tem-
71 porary registration plates or markers.

72 (g) Every person who is issued a temporary registration
73 plate or marker shall execute and send an application for an

74 annual registration plate to the department, previous to or not
75 later than fifteen days from the day on which the temporary
76 registration plate or marker is issued to such purchaser.

77 (h) Every person to whom a temporary registration plate
78 or marker has been issued shall permanently destroy such
79 temporary registration plate or marker immediately upon re-
80 ceiving the annual registration plate for such vehicle from the
81 department: *Provided*, That if the annual registration plate is
82 not received within forty days of the issuance of the tem-
83 porary registration plate or marker, the owner shall, not-
84 withstanding the fact that the annual registration plate has not
85 been received, immediately and permanently destroy the tem-
86 porary registration plate or marker: *Provided, however*, That
87 not more than one temporary registration plate or marker shall
88 be issued to the same bona fide purchaser for the same vehicle.

89 (i) A temporary registration plate or marker shall expire
90 and become void upon the receipt of the annual registration
91 plate from the department or upon the rescission of the con-
92 tract to purchase the vehicle in question, or upon the expiration
93 of forty days from the date of issuance, depending upon which-
94 ever event shall first occur.

CHAPTER 83

(Com. Sub. for House Bill No. 774—By Mr. Kincaid)

[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

14. Miscellaneous Rules.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-36. Private road or driveway; private property.

1 (a) "Private road" or "driveway" means every way or place
2 in private ownership and used for vehicular travel by the
3 owner and those having express or implied permission from
4 the owner, but not by other persons.

5 (b) "Private property" means real estate in private owner-
6 ship without regard to the manner in which it is used.

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-13. Vehicles parked on private property.

1 It shall be unlawful for any driver of a vehicle to stop,
2 park or leave standing unattended any vehicle on a private
3 road or driveway or on private property without having
4 express or implied permission from the owner, tenant or
5 lessee of such land. The owner, tenant or lessee of such
6 private road or driveway or private property may move, or
7 have moved, any vehicle stopped, parked or left standing unat-
8 tended on his private road, driveway, or private property as
9 above prohibited without any liability for the cost of moving
10 any vehicle, nor shall he be liable to the owner of the vehicle
11 for any damage done to such vehicle in moving it, unless
12 the owner, tenant or lessee of such private road or driveway
13 or private property was negligent in removing or authorizing
14 the removal of the vehicle. The owner of such vehicle shall
15 be responsible to the persons removing such vehicle for pay-
16 ing all removal costs. Any person who removes any vehicle
17 under the provisions of this section shall notify the depart-
18 ment of public safety of such action, and, if such vehicle is

- 19 removed within a municipality, shall, in addition notify the
20 police department of such municipality.

CHAPTER 84

(Com. Sub. for House Bill No. 766—By Mr. Speaker, Mr. McManus, and Mrs. Withrow)

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

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
2 vehicle stopped, left standing either attended or unattended, or
3 parked by him, or a vehicle under his direction and for his
4 use, a distinguishing insignia provided for in this section may
5 exercise the stopping, standing or parking privileges provided
6 in this section. The distinguishing insignia shall be displayed
7 on the motor vehicle in the manner prescribed by the com-
8 missioner.

9 A person desiring to have a distinguishing insignia issued
10 to him under this section shall submit to the commissioner:

11 (1) An application therefor on a form prescribed and
12 furnished by the commissioner;

13 (2) A certificate issued by a person licensed to practice
14 medicine in this state stating that the applicant is physically
15 disabled within the meaning of this section; and

16 (3) A fee of one dollar.

17 Upon receipt of the application, the physician's certificate
18 and the registration fee if the commissioner finds that the
19 applicant qualifies for the stopping, standing or parking
20 privileges provided for in this section, the commissioner may
21 issue to such applicant either, as the case may warrant:

22 (1) A temporary insignia to be used by persons who are
23 temporarily disabled, such insignia to be valid for such period
24 of time as the aforementioned physician determines the ap-
25 plicant will be disabled, or

26 (2) A permanent insignia to be used by persons who are certi-
27 fied as permanently disabled by the aforementioned physician.

28 The two types of insignia shall be identical in size and form
29 while being clearly distinguishable by color and lettering from
30 each other for identification purposes. The commissioner shall
31 adopt and promulgate rules and regulations in accordance with
32 chapter twenty-nine-a as needed to administer the provisions of
33 this section.

34 Free stopping, standing or parking places marked "reserved
35 for disabled persons" shall be designated in close proximity
36 to all state, county and municipal buildings or other public
37 facilities. Such places shall be reserved solely for physically
38 disabled persons during the hours that such buildings are open
39 for business.

40 In this section "physically disabled person" means any per-
41 son who has sustained a permanent disability rendering it
42 difficult and burdensome for such person to walk, or any
43 person who is similarly disabled for a temporary period of
44 time.

45 Any person who is not disabled permanently or temporarily
46 and who applies for the stopping, standing or parking privileges
47 provided for in this section, or any person who upon having
48 been granted such privileges wrongfully uses or abuses them
49 or any person who falsely certifies that a person is disabled
50 permanently or temporarily in order that such person may be
51 granted such privileges shall be guilty of a misdemeanor,
52 and, upon conviction thereof, in addition to any other

53 penalty he may otherwise incur or have imposed upon him
54 by law, shall be fined not less than fifty dollars nor more than
55 one hundred dollars, or imprisoned in the county jail not
56 more than thirty days, or both fined and imprisoned. The
57 commissioner shall recall and destroy any distinguishing in-
58 signia that was issued under improper circumstance.

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.

- 1 (a) In extension of the power and authority set forth in
- 2 section two of this article and notwithstanding any provision of

3 this code or any charter provision to the contrary, any city
4 shall have plenary power and authority by charter provi-
5 sion or ordinance to establish a department of development
6 for such city and to transfer to such department (1) all or any
7 limited part of the planning functions of such city's housing
8 authority, as provided for in article fifteen, chapter sixteen of
9 this code; (2) all or any limited part of the planning functions
10 of such city's urban renewal authority, as provided for in arti-
11 cle eighteen, chapter sixteen of this code; (3) all or any limited
12 part of the planning functions of such city's planning commis-
13 sion, as provided for in article twenty-four of this chapter; and
14 (4) all or any limited part of the powers, privileges, rights,
15 duties, responsibilities and obligations related to such plan-
16 ning functions.

17 (b) Any city adopting any such charter provision or
18 ordinance shall also have plenary power and authority to
19 enact such other ordinances and adopt such resolutions as
20 may be deemed necessary or desirable to (1) implement and
21 make effective the provisions of subsection (a) of this sec-
22 tion; and (2) provide for the implementation of the plans pre-
23 pared 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
2 plenary power and authority by ordinance to provide that
3 no electrical work may be performed within the jurisdictional
4 limits of such municipality by an electrical contractor
5 or electrician, as those terms are defined in subsection (b)
6 of this section, unless such electrical work is performed by
7 an electrician holding an unexpired certificate of competency
8 for the level of electrical work in question issued by the
9 state fire marshal in accordance with the provisions of
10 subsection (c) of this section. Upon the enactment of any

11 such ordinance the recorder of such municipality shall
12 forward a copy of the same to the state fire marshal so
13 that he may be advised that the examinations provided for
14 in subsection (c) of this section shall be required.

15 (b) As used in this section, "electrical contractor" means
16 any person who engages in the business of or employs
17 others for the construction, alteration or repair of any
18 electrical wiring used for the purpose of furnishing heat,
19 light or power; "electrician" means any individual who either
20 on his own or as an employee of an electrical contractor
21 is engaged in the construction, alteration or repair of any
22 electrical wiring used for the purpose of furnishing heat,
23 light or power; and "electrical" pertains to the installation
24 of wires and conduits for the purpose of transmitting
25 electricity, the installation of fixtures and equipment in
26 connection therewith, or both: *Provided*, That the terms
27 "electrical contractor" and "electrician" shall not be construed
28 so as to apply to (1) any electrician who performs
29 electrical work with respect to any property owned or
30 rented by him, (2) any electrician who performs electrical
31 work at any manufacturing plant or other industrial establishment
32 as an employee of the person operating such plant
33 or establishment, (3) any electrician who, while employed
34 by a person engaged in the business of selling appliances
35 at retail, performs electrical work with respect to installation
36 and repair of appliances as part of his regular duties, or
37 (4) any electrician who, while employed by a public utility
38 or any of its affiliates, performs electrical work in connection
39 with the furnishing of public utility service.

40 (c) The state fire marshal is hereby empowered and
41 authorized, and directed if any municipality adopts an
42 ordinance in accordance with the provisions of subsection
43 (a) of this section, to prepare and arrange for the giving
44 of an examination, at least four times each year, to all
45 applicants for certification as a master electrician, journeyman
46 electrician or helper electrician. Such examination shall be
47 based upon the national electric code published from time
48 to time by the national fire protection association. In
49 preparing such examination, the state fire marshal shall
50 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.

91 (d) Notwithstanding any other provision of law, charter

92 or ordinance to the contrary, on and after the effective
93 date of this section, no municipality may require any
94 electrician holding an unexpired certificate of competency
95 to obtain any type of municipal electrician's license as a
96 condition precedent to performing electrical work within the
97 jurisdictional limits of such municipality or charge any license
98 fee therefor.

99 (e) Every municipality which enacts an ordinance pursuant
100 to the provisions of subsection (a) of this section shall have
101 plenary power to take such action as is necessary to make
102 certain there is full compliance with the provisions of this
103 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 municipality 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 municipality 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 amended, be amended and reenacted to read as follows:

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

PART VI. SALE, LEASE OR DISPOSITION
OF OTHER MUNICIPAL PROPERTY.

§8-12-18. Sale, lease or disposition of other municipal property.

1 (a) Every municipality may sell, lease as lessor or dispose
2 of any of its real or personal property or any interest therein
3 or any part thereof (other than a public utility which shall
4 be sold or leased in accordance with the provisions of section
5 seventeen of this article) as authorized in article five, chapter
6 one of this code, or to the United States of America or any
7 agency or instrumentality thereof for a public purpose for
8 an adequate consideration, without considering alone the
9 present commercial or market value of such property.

10 (b) In all other cases involving a sale, any municipality
11 is hereby empowered and authorized to sell any of its real
12 or personal property or any interest therein or any part
13 thereof for a fair and adequate consideration, such proper-
14 ty to be sold at public auction at a place designated by the
15 governing body, but before making any such sale, notice of
16 the time, terms and place of sale, together with a brief
17 description of the property to be sold, shall be published
18 as a Class II legal advertisement in compliance with the
19 provisions of article three, chapter fifty-nine of this code,
20 and the publication area for such publication shall be the
21 municipality. The requirements of notice and public auc-
22 tion shall not apply to the sale of any one item or piece of
23 property of less value than one thousand dollars, and under
24 no circumstances shall the provisions of this section be
25 construed as being applicable to any transaction involving
26 the trading in of municipally owned property on the pur-
27 chase of new or other property for the municipality, and
28 every municipality shall have plenary power and authority
29 to enter into and consummate any such trade-in trans-
30 action.

31 (c) In all other cases involving a lease, any municipality
32 is hereby empowered and authorized to lease as lessor any
33 of its real or personal property or any interest therein or
34 any part thereof for a fair and adequate consideration and
35 for a term not exceeding thirty years. Every such lease
36 shall be authorized by resolution of the governing body
37 of such municipality, which resolution may specify terms

38 and conditions which must be contained in such lease:
39 *Provided*, That before any such proposed lease is authorized
40 by resolution of the governing body, a public hearing on
41 such proposed lease shall be held by such governing body
42 after notice of the date, time, place and purpose of such
43 public hearing has been published as a Class I legal ad-
44 vertisement in compliance with the provisions of article three,
45 chapter fifty-nine of this code, and the publication area for
46 such publication shall be the municipality. The power and
47 authority granted in this subsection shall be in addition to
48 and not in derogation of any power and authority vested
49 in any municipality under any constitutional or other statutory
50 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 gov-
2 erned by other provisions of this code and not required for
3 the payment of current obligations may be invested by the
4 treasurer in the following classes of securities and accounts
5 and not otherwise; which securities and accounts mature on
6 such dates as will make available such amount of cash as
7 is required:

8 (a) Certificates or other obligations of the United States
9 or for which the full faith and credit of the United States is
10 pledged.

11 (b) Certificates of deposit secured by (1) obligations of
12 the United States of America, (2) general obligation or
13 revenue bonds of the state of West Virginia, (3) general
14 obligation bonds of any other state, (4) general obligation
15 bonds of any county in this state or of any county board
16 of education in this state, or (5) general obligation bonds
17 of any municipality in this state.

18 (c) Interest bearing savings accounts in banking institu-
19 tions, the accounts of which are insured by the federal de-
20 posit insurance corporation, or in federal savings and loan
21 associations, the accounts of which are insured by the
22 federal savings and loan insurance corporation, or in build-
23 ing and loan associations, the accounts of which are in-
24 sured by the federal savings and loan insurance corpora-
25 tion: *Provided*, That an investment in any such savings
26 account in excess of the amount thereof which would be
27 insured by the federal deposit insurance corporation or the
28 federal savings and loan insurance corporation, as the case
29 may be, shall not be made unless such banking institu-
30 tion, federal savings and loan association or building and
31 loan association provides adequate bond or other adequate
32 security for the amount of the proposed municipal invest-
33 ment in excess of such insurance coverage, the adequacy of
34 any such bond or other security to be determined by the
35 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.]

AN ACT to amend and reenact sections seven, ten and seventeen,
article sixteen, chapter eight of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to

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 FINANCING.

§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.
23 When two or more municipalities take joint action under
24 the provisions of this article, a certified copy of each such
25 ordinance shall be filed in the office of the clerk of the county
26 court of the county or counties in which the municipalities are
27 located and in the office of the state tax commissioner, and

28 when any such municipality is located in more than one
29 county, the filing for that municipality shall be in the office
30 of the clerk of the county court in which the major portion
31 of the territory of such municipality is located. Before any
32 such ordinance shall become effective, an abstract of the
33 ordinance, determined by the governing body or each govern-
34 ing body, as the case may be, to contain sufficient information
35 as to give notice of the contents of such ordinance, together
36 with the following described notice, shall be published as a
37 Class II legal advertisement in compliance with the provisions
38 of article three, chapter fifty-nine of this code, and the
39 publication area for such publication shall be such munici-
40 pality or each such municipality, as the case may be. The
41 notice to be published with said abstract of the ordinance
42 shall specify a date, time and place for a public hearing, the
43 date being not less than ten days after the first publication of
44 said abstract and notice at which time and place all parties and
45 interests may appear before the governing body of the
46 municipality or each such municipality and may be heard as
47 to whether or not said ordinance shall be put into effect, and
48 said notice shall also identify the office in which a certified
49 copy of such ordinance shall be on file for review by inter-
50 ested persons during the office hours of such office. At such
51 hearing all objections and suggestions shall be heard and the
52 governing body or each such governing body shall take such
53 action as it or they shall deem proper in the premises: *Provided,*
54 That if at any such hearing written protest is filed by thirty per-
55 cent or more of the freeholders of the municipality for which
56 the hearing is held, then the governing body of said municipality
57 shall not take further action unless four fifths of the members of
58 said governing body assent thereto: *Provided, however,* That in
59 case written protest is filed by thirty percent or more of the
60 freeholders as herein provided, any such governing body shall
61 have authority to appoint a committee to consist of one pro-
62 ponent, one opponent, and the third to be selected by these two,
63 to determine whether or not thirty percent of the freeholders
64 have in fact protested and said committee shall report its
65 findings to any such governing body.

§8-16-10. Items of expense included in cost of works.

1 The cost of the works shall be deemed to include the cost of

2 construction, reconstruction, establishment or acquisition there-
3 of, the cost of all land, rights, easements, rights-of-way, fran-
4 chises and other property, real or personal, deemed necessary,
5 appropriate, useful, convenient or incidental therefor or there-
6 to and for the improvement, renovation, extension, enlarge-
7 ment, increase, equipment or repair (including replacements)
8 determined upon; the interest upon bonds prior to and during
9 the project and for six months after completion thereof; the
10 amount of any reserve funded from the proceeds of bonds;
11 engineering and legal expenses; expenses for estimates of cost
12 and of revenues; expenses for plans, specifications and sur-
13 veys; other expenses necessary or incident to determining the
14 feasibility or practicability of the enterprise; administrative ex-
15 penses; and such other expenses as may be necessary or inci-
16 dent to the financing herein authorized, the project, the plac-
17 ing of the works in operation and the performance of the things
18 herein required or permitted in connection with any thereof.

**§8-16-17. Sinking fund; sinking fund commission; transfer of funds;
purchase of outstanding bonds.**

1 Before the issuance of any such bonds, the governing body
2 or bodies shall, by ordinance or ordinances, provide for a sink-
3 ing fund for the payment of the bonds and the interest there-
4 on, and the payment of the charges of banking institutions or
5 trust companies for making payment of such bonds and inter-
6 est, out of the net revenues of said works, and shall set aside
7 and pledge a sufficient amount of the net revenues of the works
8 hereby defined to mean the revenues of the works remaining
9 after the payment of the reasonable expenses of repair (includ-
10 ing replacements), maintenance and operation, such amount
11 to be paid by the board into the sinking fund at intervals, to
12 be determined by ordinance or ordinances adopted prior to the
13 issuance of the bonds, for (a) the interest upon such bonds as
14 such interest shall fall due; (b) the necessary fiscal agency
15 charges for paying bonds and interest; (c) the payment of the
16 bonds as they fall due, or if all bonds mature at one time, the
17 proper maintenance of a sinking fund sufficient for the pay-
18 ment thereof at such time; and (d) a margin for safety and for
19 the payment of premium upon bonds retired by call or pur-
20 chase as herein provided, which margin, together with unused

21 surplus of such margin carried forward from the preceding
22 year and the amounts set aside as reserves out of the proceeds
23 from the sale of the bonds, or from the revenues of said works,
24 or from both, shall equal ten percent of all other amounts so
25 required to be paid into the sinking fund. Such required pay-
26 ments shall constitute a first charge upon all the net revenues
27 of the works. Prior to the issuance of the bonds, the board
28 may, by ordinance or ordinances, be given the right to use or
29 direct the trustee or the state sinking fund commission to use
30 such sinking fund, or any part thereof, in the purchase of any
31 of the outstanding bonds payable therefrom, at the market
32 prices thereof, but not exceeding the price, if any, at which
33 the same shall in the same year be payable or redeemable, and
34 all bonds redeemed or purchased shall forthwith be cancelled,
35 and shall not again be issued. After the payments into the
36 sinking fund as herein required and after reserving an amount
37 deemed by the board sufficient for repair (including replace-
38 ments), maintenance and operation for an ensuing period of
39 not less than twelve months and for depreciation, the board
40 may at any time in its discretion transfer all or any part of the
41 balance of the net revenues into the sinking fund or into a
42 fund for improvement, renovation, extension, enlargement, in-
43 crease or equipment for or to the works, or the governing body
44 or bodies may, notwithstanding the provisions of section twenty,
45 article thirteen of this chapter, transfer all or any part of
46 the balance of the net revenues to the general or any special
47 fund of the municipality or municipalities and use such reve-
48 nues for any purpose for which such general or special fund
49 may be expended.

50 All amounts for the sinking fund and interest, as and when
51 set apart for the payment of same, shall be remitted to the
52 state sinking fund commission at such periods as shall be de-
53 signated in the ordinance or ordinances, but in any event at
54 least thirty days previous to the time interest or principal pay-
55 ments become due, to be retained and paid out by said com-
56 mission consistent with the provisions of this article and the
57 ordinance or ordinances pursuant to which such bonds have
58 been issued. The state sinking fund commission is hereby au-
59 thorized to act as fiscal agent for the administration of such
60 sinking fund under any ordinance or ordinances passed or

- 61 adopted pursuant to the provisions of this article and shall
62 invest all sinking funds as provided by general law.

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
2 three of this article, the governing body, by ordinance or
3 resolution, may authorize such improvements and the assessing
4 of the total cost or any part thereof on abutting property as
5 herein provided. In the same or subsequent ordinances or
6 resolutions, but before advertising for bids from contractors,
7 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

11 proposed grade and sufficient data for any owner of abutting
12 property to calculate approximately what proportionate part
13 of the estimated cost thereof might be assessed against his
14 property, and shall be filed with the recorder and open
15 to the inspection of interested persons before advertise-
16 ment for bids of contractors and before the meeting at
17 which such bids may be accepted or rejected. Before
18 advertising for bids of contractors, such governing body
19 shall consider said plans, specifications and estimates and
20 may amend or modify them, and before advertising for
21 bids shall by ordinance or resolution approve such plans,
22 specifications and estimates as so amended and modified.
23 Such ordinance or resolution shall also provide for ad-
24 vertisement for bids, for the letting of a contract or contracts
25 for the work to the lowest responsible bidder, with right
26 reserved to such governing body to reject any and all bids,
27 and shall provide for supervision of such work by the mayor,
28 city manager, if any, municipal engineer, if any, or other
29 person or committee designated by the governing body. Such
30 ordinance or resolution shall also provide for payment of the
31 cost of the work when completed. The governing body shall
32 provide in such ordinance or resolution for the payment by
33 abutting property owners of the cost of the work in equal in-
34 stallments payable over a period of not less than five years
35 nor more than ten years from the date of assessment, with
36 interest not to exceed eight percent a year from the date
37 of assessment, and in said ordinance or resolution the govern-
38 ing body shall fix the number of installments in which the
39 amounts assessed shall be payable: *Provided*, That each of
40 said assessments or the installments thereof then remaining
41 unpaid shall be payable at any time after assessment without
42 interest after the date such payment is made: *Provided*,
43 *however*, That on failure of the owner of the property assessed
44 to pay any installment as and when due, and if such default
45 continues for sixty days, then at the option of the governing
46 body (if neither assessment certificates nor bonds are issued as
47 hereinafter in this article provided), or the holder of the
48 assessment certificates (if the assessments are evidenced by
49 such certificates), or the holder of any bonds secured by such
50 assessments (if bonds are issued), the entire balance due may
51 be declared immediately due and payable and the municipi-

52 pality, or the holder of the certificates, or bonds, as the case
53 may be, may forthwith proceed to enforce the collection
54 thereof: *Provided further*, That if the amounts to be assessed
55 against abutting property be less than two dollars for each
56 abutting front foot of property, then said governing body is
57 authorized to make the same payable in one lump sum or in
58 installments, with interest, over a period of less than five
59 years from the date of assessment.

CHAPTER 91

(House Bill No. 1120—By Mr. Terry and Mr. Dinsmore)

[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
2 provisions for subdivision control and the approval of plats
3 and replats have been adopted and a certified copy of the
4 ordinance has been filed with the clerk of the county court as
5 aforesaid, within the corporate limits of the municipality, a
6 structure shall not be located and an improvement location
7 permit for a structure on platted or unplatted lands shall not

8 be issued unless the structure and its location conform to the
9 municipality's comprehensive plan and ordinance. A structure
10 shall not be located and an improvement location permit shall
11 not be issued for a structure on unincorporated lands within
12 the jurisdiction of the county planning commission unless the
13 structure and its location conform to the county's compre-
14 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 thereto a new article, designated article twenty-six-a, relating to municipal and county historic landmarks commissions; setting forth certain legislative determinations; authorizing any municipality or county to establish a municipal historic landmarks commission 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 commission; setting forth the powers and duties of any such commission; relating to agreements and restrictions concerning landmarks; relating to assistance of other agencies; and providing that every such commission shall cooperate and coordinate its activities with the West Virginia department of archives and history and the West Virginia antiquities commission.

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-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-3. Powers and duties of commission.

§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.

1 It is hereby declared as a matter of legislative determination:
2

3 (1) That the state of West Virginia is richly endowed with
4 numerous historic buildings, structures and sites which have
5 a close and immediate relationship to the values upon which
6 this state and the nation were founded;

7 (2) That such historic buildings, structures and sites can
8 best be identified, studied, preserved and protected for the
9 benefit of residents of this state and this nation by authorizing
10 and empowering action for this purpose at the local level;

11 (3) That the preservation and protection of such historic
12 buildings, structures and sites aid the development of education
13 in this state;

14 (4) That there is little hope of preserving and protecting
15 such historic buildings, structures and sites unless recognition
16 is provided for the owners thereof in order that the same
17 should be preserved and protected; and

18 (5) That the Legislature hereby finds that it is in the
19 best interest of the education and general welfare of the
20 people of this state and nation to identify, study, preserve and
21 protect historic buildings, structures and sites in this state
22 and this article shall be broadly construed in order to accomplish
23 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.

1 Any municipality by ordinance and any county by order
2 of the county court entered of record may, if it so desires,

3 establish a municipal historic landmarks commission or county
4 historic landmarks commission, hereinafter in this article
5 referred to as the commission, to consist of five members, ap-
6 pointed by the mayor or county court, as the case may be.

7 In any such ordinance or order, the governing body shall
8 include provisions specifying (1) the terms of the members
9 of such commission; (2) a method of filling vacancies; (3)
10 whether the members of the commission are to be reim-
11 bursed for all reasonable and necessary expenses actually incur-
12 red in the performance of their duties; (4) the officers of the
13 commission to be elected from the membership thereof;
14 (5) requirements as to meetings of the commission; (6) re-
15 quirements as to a quorum of the commission; (7) require-
16 ments as to voting by members of the commission; and (8)
17 such other matters as may be deemed necessary or desirable
18 for the proper functioning of the commission.

19 Any such commission may also be authorized and em-
20 powered by any such ordinance or order to employ, within
21 the limits of funds available therefor, such employees, assis-
22 tants, technical personnel and consultants as are necessary
23 to discharge the duties and responsibilities of the com-
24 mission.

25 Any municipality or county establishing any such com-
26 mission shall have plenary power and authority to appropriate
27 funds to such commission for expenditure by the com-
28 mission for the purposes of this article.

§8-26A-3. Powers and duties of commission.

1 Any such commission shall have plenary power and
2 authority, within the jurisdictional limits of the municipality
3 or county, as the case may be, and within the limits of
4 available funds, to:

5 (1) Make a survey of, and designate as historic landmarks,
6 buildings, structures and sites which constitute the principal
7 historical and architectural sites which are of local, regional,
8 statewide or national significance. No building, structure or
9 site shall be deemed to be an historic one unless it has been
10 prominently identified with, or best represents, some major
11 aspect of the cultural, political, economic, military or social
12 history of the locality, region, state or nation, or has had a

13 major relationship with the life of an historic personage or
14 event representing some major aspect of, or ideals related to,
15 the history of the locality, region, state or nation. In the
16 case of buildings or structures which are to be so designated,
17 they shall embody the principal or unique features of an
18 architectural type or demonstrate the style of a period of our
19 history or method of construction, or serve as an illustration
20 of the work of a master builder, designer or architect whose
21 genius influenced the period in which he worked or has
22 significance in current times;

23 (2) Prepare a register of buildings, structures and sites
24 which meet the requirements of subdivision (1) of this section,
25 publish lists of such properties and, with the consent of the
26 property owners, inspect such properties from time to time
27 and publish a register thereof from time to time setting forth
28 appropriate information concerning the registered buildings,
29 structures and sites;

30 (3) With the consent of the property owners, certify and
31 mark with appropriately designed markers, buildings, structures
32 and sites which it has registered;

33 (4) Establish standards for the care and management of
34 certified landmarks and withdraw such certification for failure
35 to maintain the standards so prescribed;

36 (5) Acquire by purchase, gift or lease and administer
37 registered landmarks and easements and interests therein,
38 both real and personal;

39 (6) Lease or sell property so acquired under terms and
40 conditions designed to insure the proper preservation of the
41 landmark in question;

42 (7) Establish historic districts for registered landmarks,
43 utilizing the same guidelines set forth in subdivision (1)
44 above, and designate the area thereof by appropriate markers;

45 (8) Identify historical districts for registered landmarks and
46 aid and encourage the municipality or county in which the
47 district or landmark is located to adopt rules and regulations
48 for the preservation of historical or architectural values;

49 (9) Prepare and place historical markers on or along the
50 highway or street closest to the location which is intended to
51 be identified by such marker;

52 (10) Seek the advice and assistance of individuals, groups
53 and departments and agencies of government who or which
54 are conducting historical preservation programs and coordinate
55 the same insofar as possible;

56 (11) Seek and accept gifts, bequests, endowments and
57 funds from any and all sources for the accomplishment of the
58 functions of the commission;

59 (12) Adopt rules and regulations concerning the operation
60 of the commission, the functions and responsibilities of its of-
61 ficers, employees, assistants and other personnel and such
62 other matters as may be necessary to carry out the purposes of
63 this article; and

64 (13) Adopt such other rules and regulations as may be
65 deemed necessary to effectuate the purposes of this article,
66 but no such rules and regulations shall be inconsistent with the
67 provisions of this article or with any plan of the planning
68 commission of such municipality or county.

§8-26A-4. Restrictions on use of property designated an historic landmark.

1 Whenever any such commission, with the consent of the
2 property owner, certifies property as being a registered land-
3 mark, it may seek and obtain from such property owner an
4 agreement as to such restrictions upon the use of the pro-
5 perty as the commission finds are reasonable and are calcu-
6 lated to perpetuate and preserve the features which led it to
7 designate such property as an historical landmark. All such
8 agreements between such commission and the property owner
9 shall be in writing, and when duly signed and acknowledged,
10 shall be recorded in the office of the clerk of the county court
11 of the county wherein such landmark is located and when so
12 recorded shall be notification to the assessor of such county
13 of the restrictions therein set forth.

§8-26A-5. Notice to county assessor of designation of historic district.

1 When any such commission establishes an historic district,
2 it shall notify the county assessor of the county in which such
3 district or any part thereof is located of the fact of such es-

4 tablishment and the boundaries of the district, together with
5 the restrictions which are applicable to the properties located
6 in such district which have been mutually agreed upon by such
7 commission and the owners of property within such district.
8 The agreement shall be recorded in the same manner as the
9 recordation of agreements between the commission and owners
10 of designated landmarks entered into pursuant to the provi-
11 sions of section four of this article. The county assessor shall
12 take such factors into consideration in assessing the proper-
13 ties therein.

§8-26A-6. Assistance of state agencies; coordination.

1 Upon the request of any such commission, all agencies of
2 the state shall assist such commission in the discharge of its
3 duties and functions.

4 Every such commission shall cooperate and coordinate its
5 activities with the West Virginia department of archives and
6 history, the West Virginia historical society and the West Vir-
7 ginia antiquities commission, with the view of developing a uni-
8 fied program for the identification, study, preservation and
9 protection of all historic buildings, structures and sites in this
10 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.

1 (a) The Legislature hereby finds that the support of non-
2 stock, nonprofit corporations dedicated to making available to
3 the general public (1) museums, historic landmarks, facilities
4 or cultural centers for the appreciation, advancement or enjoy-
5 ment of art, crafts, music, dance, drama, nature, science or
6 other educational and cultural activities or (2) parks, play-
7 grounds, athletic fields, stadiums, swimming pools, skating
8 rinks, arenas or other public park and recreational facilities for
9 the promotion, advancement or enjoyment of education, recrea-
10 tion and health is for the general welfare of the public and is a
11 public purpose. This section is enacted in view of this finding
12 and shall be liberally construed in the light thereof.

13 (b) When a nonstock, nonprofit corporation, chartered
14 under the laws of this state, (1) is organized for the con-
15 struction, maintenance or operation of (i) museums, historic
16 landmarks, facilities or cultural centers for the appreciation, ad-
17 vancement or enjoyment of art, crafts, music, dance, drama,
18 nature, science or other educational and cultural activities or
19 (ii) parks, playgrounds, athletic fields, stadiums, swimming
20 pools, skating rinks, arenas or other public park and recrea-
21 tional facilities for the promotion, advancement or enjoyment of
22 education, recreation and health and provides in its charter that
23 its buildings or facilities, or a designated portion thereof, shall
24 be devoted to the use by the public for all purposes set forth in
25 such charter without regard to race, sex, religion, national origin
26 or economic circumstance, and free from charge except such as
27 is necessary to provide the means to keep the buildings, facili-
28 ties and grounds in proper condition and repair, and to pay the
29 cost of insurance, care, management, operations, teaching and
30 attendants, so that the general public may have the benefit of
31 such establishment for the uses set forth in such corporation's
32 charter at as little expense as possible, (2) provides in its

33 charter that no member trustee, or member of the board of
34 directors (by whatever name the same may be called), of the
35 corporation shall receive any compensation, gain or profit from
36 such corporation, and (3) is operated in compliance with such
37 charter provisions as aforesaid, then, notwithstanding any
38 statutory or municipal charter provisions to the contrary, any
39 municipality in which such nonstock, nonprofit corporation is
40 operating or which is or will be served by such nonstock, non-
41 profit corporation, if any, and the county court of any county
42 in which such nonstock, nonprofit corporation is operating or
43 which is or will be served by such nonstock, nonprofit corpora-
44 tion, may appropriate funds, subject to the provisions and
45 limitations set forth in subsections (c) and (d) of this section,
46 to such nonstock, nonprofit corporation, for such public
47 purposes or convey or lease real or personal property, with
48 or without consideration, to such nonstock, nonprofit corpora-
49 tion, for such public purposes, except that no such conveyance
50 or lease may be made by a municipality or a county court to
51 such nonstock, nonprofit corporation for any of the public
52 purposes set forth in (2) of subsection (a) of this section if
53 such county has a county parks and recreation commission or
54 board operating in or for such county, or participates in a
55 consolidated recreation commission or board with a munici-
56 pality as the case may be: *Provided*, That if at any time such
57 property ceases to be used for such public purposes, it
58 shall by operation of law revert to and vest in the municipality
59 or county court which conveyed or leased the same and
60 such nonstock, nonprofit corporation shall thereafter have
61 no right, title or interest therein or thereto.

62 In every such case, the governing body of any such munici-
63 pality or any such county court and such corporation may agree
64 for the appointment of additional members to the board of
65 directors of such corporation by such governing body or
66 county court, either as regular members or in an ex officio
67 capacity.

68 (c) No funds appropriated by a municipality or county
69 court under the authority of this section shall be disbursed by
70 any such nonstock, nonprofit corporation unless and until the
71 expenditure thereof has been approved by the governing body
72 of such municipality or any such county court, as the case may
73 be, which made such appropriation, and such corporation

74 shall upon demand at any time make a full and complete
75 accounting of all such funds to such governing body or county
76 court, as the case may be, and shall in every event without
77 demand make to such governing body or county court an
78 annual accounting thereof.

79 (d) Under no circumstances whatever shall any action
80 taken by any municipality or county court under the authority
81 of this section give rise to or create any indebtedness on the
82 part of the municipality, the governing body of such munici-
83 pality, the county, such county court, any member of such
84 governing body or the county court or any municipal or county
85 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.

1 All officers and employees of the state, or subdivisions or
2 municipalities thereof, who shall be members of the national
3 guard or any military reserve unit of the United States armed
4 services, shall be entitled to leave of absence from their re-
5 spective offices or employments without loss of pay, status or
6 efficiency rating, on the days during which they shall be en-

7 gaged in drills, parades or other duty, during business hours
8 ordered by proper authority, or for field training or active ser-
9 vice of the state for a maximum period of thirty days in any
10 one calendar year. The term "without loss of pay" means that
11 the officer or employee shall continue to receive his normal
12 salary or compensation, notwithstanding the fact that such
13 officer or employee may have received other compensation
14 from federal or state sources during the same period. Benefits
15 of this section shall not accrue to individuals ordered or called
16 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, duties 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;

47 (10) Designate such localities as he shall determine to be
48 necessary and desirable for the perpetuation of any species of
49 wildlife;

50 (11) Enter private lands to make surveys or inspections for
51 conservation purposes, to investigate for violations of provi-
52 sions of this chapter, to serve and execute warrants and pro-
53 cesses, to make arrests and to otherwise effectively enforce the
54 provisions of this chapter;

55 (12) Acquire for the state in the name of the "department
56 of natural resources" by purchase, condemnation, lease or
57 agreement, or accept or reject for the state, in the name of the
58 department of natural resources, gifts, donations, contributions,
59 bequests or devises of money, security or property, both real
60 and personal, and any interest in such property, including lands
61 and waters, which he deems suitable for the following pur-
62 poses:

63 (a) For state forests for the purpose of growing timber,
64 demonstrating forestry, furnishing or protecting watersheds or
65 providing public recreation;

66 (b) For state parks or recreation areas for the purpose of
67 preserving scenic, esthetic, scientific, cultural, archaeological
68 or historical values or natural wonders, or providing public
69 recreation;

70 (c) For public hunting, trapping, or fishing grounds or wat-
71 ers for the purpose of providing areas in which the public
72 may hunt, trap or fish, as permitted by the provisions of this
73 chapter, and the rules and regulations issued hereunder;

74 (d) For fish hatcheries, game farms, wildlife research areas
75 and feeding stations;

76 (e) For the extension and consolidation of lands or waters
77 suitable for the above purposes by exchange of other lands or
78 waters under his supervision;

79 (f) For such other purposes as may be necessary to carry
80 out the provisions of this chapter;

81 (13) Capture, propagate, transport, sell or exchange any
82 species of wildlife as may be necessary to carry out the pro-
83 visions of this chapter;

84 (14) Sell, with the approval in writing of the governor, tim-
85 ber for not less than the value thereof, as appraised by a quali-
86 fied appraiser appointed by the director, from all lands under
87 the jurisdiction and control of the director, except those lands
88 that are designated as state parks. The appraisal shall be made
89 within a reasonable time prior to any sale, reduced to writing,
90 filed in the office of the director and shall be available for pub-
91 lic inspection. When the appraised value of the timber to be
92 sold is more than five hundred dollars, the director, before
93 making sale thereof, shall receive sealed bids therefor, after
94 notice by publication as a Class II legal advertisement in com-
95 pliance with the provisions of article three, chapter fifty-nine
96 of this code, and the publication area for such publication
97 shall be each county in which the timber is located. The tim-
98 ber so advertised shall be sold at not less than the appraised
99 value to the highest responsible bidder, who shall give bond
100 for the proper performance of the sales contract as the director
101 shall designate; but the director shall have the right to reject
102 any and all bids and to readvertise for bids. If the foregoing
103 provisions of this section have been complied with, and no bid
104 equal to or in excess of the appraised value of the timber is
105 received, the director may, at any time, during a period of six
106 months after the opening of the bids, sell the timber in such
107 manner as he deems appropriate, but the sale price shall not
108 be less than the appraised value of the timber advertised. No
109 contract for sale of timber made pursuant to this section shall
110 extend for a period of more than ten years. And all contracts
111 heretofore entered into by the state for the sale of timber shall
112 not be validated by this section if the same be otherwise in-
113 valid. The proceeds arising from the sale of the timber so sold,
114 shall be paid to the treasurer of the state of West Virginia,
115 and shall be credited to the department and used exclusively
116 for the purposes of this chapter;

117 (15) Sell or lease, with the approval in writing of the gov-
118 ernor, coal, oil, gas, sand, gravel and any other minerals that
119 may be found in the lands under the jurisdiction and control
120 of the director, except those lands that are designated as state
121 parks. The director, before making sale or lease thereof, shall
122 receive sealed bids therefor, after notice by publication as a
123 Class II legal advertisement in compliance with the provisions

124 of article three, chapter fifty-nine of this code, and the pub-
125 lication area for such publication shall be each county in
126 which such lands are located. The minerals so advertised shall
127 be sold or leased to the highest responsible bidder, who shall
128 give bond for the proper performance of the sales contract
129 or lease as the director shall designate; but the director shall
130 have the right to reject any and all bids and to readvertise the
131 bids. The proceeds arising from any such sale or lease shall be
132 paid to the treasurer of the state of West Virginia and shall be
133 credited to the department and used exclusively for the pur-
134 poses of this chapter;

135 (16) Exercise the powers granted by this chapter for the
136 protection of forests, and regulate fires and smoking in the
137 woods or in their proximity at such times and in such localities
138 as may be necessary to reduce the danger of forest fires;

139 (17) Cooperate with departments and agencies of state,
140 local and federal governments in the conservation of natural
141 resources and the beautification of the state;

142 (18) Report to the governor each year all information rela-
143 tive to the operation and functions of his department and he
144 shall make such other reports and recommendations as may be
145 required by the governor, including an annual financial report
146 covering all receipts and disbursements of the department of
147 each fiscal year, and he shall deliver such report to the gover-
148 nor on or before the first day of December next after the end
149 of the fiscal year so covered. A copy of such report shall be
150 delivered to each house of the Legislature when convened in
151 January next following;

152 (19) Keep a complete and accurate record of all proceed-
153 ings, record and file all bonds and contracts taken or entered
154 into, and assume responsibility for the custody and preserva-
155 tion of all papers and documents pertaining to his office, ex-
156 cept as otherwise provided by law;

157 (20) Offer and pay, in his discretion, rewards for informa-
158 tion respecting the violation, or for the apprehension and con-
159 viction of any violators, of any of the provisions of this chap-
160 ter;

161 (21) Require such reports as he may deem to be necessary

162 from any person issued a license or permit under the provi-
163 sions of this chapter, but no person shall be required to dis-
164 close secret processes or confidential data of competitive
165 significance;

166 (22) Purchase as provided by law all equipment necessary
167 for the conduct of his department;

168 (23) Conduct and encourage research designed to further
169 new and more extensive uses of the natural resources of this
170 state and to publicize the findings of such research;

171 (24) Encourage and cooperate with other public and pri-
172 vate organizations or groups in their efforts to publicize the
173 attractions of the state;

174 (25) Accept and expend, without the necessity of appro-
175 priation by the Legislature, any gift or grant of money made
176 to the department for any and all purposes specified in this
177 chapter, and he shall account for and report on all such re-
178 cepts and expenditures to the governor;

179 (26) Cooperate with the state historian and other appro-
180 priate state agencies in conducting research with reference to
181 the establishment of state parks and monuments of historic,
182 scenic and recreational value, and to take such steps as may
183 be necessary in establishing such monuments or parks as he
184 deems advisable;

185 (27) Maintain in his office at all times, properly indexed
186 by subject matter, and also, in chronological sequence, all
187 rules and regulations made or issued under the authority of
188 this chapter. Such records shall be available for public inspec-
189 tion on all business days during the business hours of work-
190 ing days;

191 (28) Delegate the powers and duties of his office, except
192 the power to execute contracts, to appointees and employees
193 of the department, who shall act under the direction and sup-
194 ervision of the director and for whose acts he shall be respon-
195 sible;

196 (29) Conduct schools, institutes and other educational pro-
197 grams, apart from or in cooperation with other governmental
198 agencies, for instruction and training in all phases of the
199 natural resources programs of the state;

200 (30) Authorize the payment of all or any part of the
201 reasonable expenses incurred by an employee of the depart-
202 ment in moving his household furniture and effects as a
203 result of a reassignment of the employee: *Provided*, That
204 no part of the moving expenses of any one such employee
205 shall be paid more frequently than once in twelve months;
206 and

207 (31) Promulgate rules and regulations, in accordance with
208 the provisions of chapter twenty-nine-a of this code, to imple-
209 ment and make effective the powers and duties vested in him
210 by the provisions of this chapter and take such other steps as
211 may be necessary in his discretion for the proper and effec-
212 tive enforcement of the provisions of this chapter: *Provided*,
213 *however*, That all rules and regulations relating to articles
214 five and five-a of this chapter shall be promulgated by the
215 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.

- 1 Section forty-four-b, article two, chapter twenty of the
- 2 code of West Virginia, one thousand nine hundred thirty-one,
- 3 as amended, is hereby repealed.

CHAPTER 97

(Senate Bill No. 145—By Mr. Hatfield)

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

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.

5. Water Resources.

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
2 cooperation with the commissioner of highways, the de-
3 partment of public safety, the United States forestry ser-
4 vice, and other local, state and federal law-enforcement
5 agencies, shall be responsible for the administration and
6 enforcement of all laws and regulations relating to the
7 maintenance of cleanliness and improvement of appear-
8 ances on and along highways, roads, streets, alleys and
9 other public areas and ways of the state and shall make
10 recommendations to the director from time to time con-
11 cerning means and methods of accomplishing state highway
12 beautification consistent with the provisions of this chapter.

13 It shall be unlawful to place, deposit, dump or throw,
14 or cause to be placed, deposited, dumped or thrown, any
15 litter, garbage, refuse, trash, can, bottle, paper, ashes,
16 cigarette or cigar butt, carcass of any dead animal or
17 any part thereof, offal or any other offensive or unsightly
18 matter in or upon any public or private highway, road,
19 street or alley, or upon the surface of any land within
20 one hundred yards thereof without the consent of the
21 owner, or in or upon any private property into or upon
22 which the public is admitted by easement or license, or
23 upon any private property without the consent of the
24 owner, or in or upon any public park or other public prop-
25 erty other than in such place as may be set aside for
26 such purpose by the governing body having charge there-
27 of.

28 If any such materials be thrown, cast, dumped or dis-
29 charged from a motor vehicle in violation of the provi-
30 sions hereof, such action shall be deemed prima facie
31 evidence that the owner and driver of such motor vehicle
32 intended to violate the provisions of this section.

33 The commissioner of motor vehicles, upon registering
34 a motor vehicle or issuing an operator's or chauffeur's license,
35 shall issue to the owner or licensee, as the case may be a copy
36 of this section.

37 The commissioner of highways shall cause appropriate
38 signs to be placed at the state boundary on each primary
39 and secondary road, informing those entering the state of
40 the maximum penalty herein provided for disposing of
41 litter in, upon and near highways and roads in violation of
42 this section.

43 No portion of this section shall be construed to restrict
44 a private owner in the use of his own private property
45 or to prohibit the disposal of materials designated in this
46 section in any manner authorized by law.

47 Any person violating any provision of this section shall
48 be guilty of a misdemeanor, and, upon conviction thereof,
49 shall be fined not less than twenty nor more than five
50 hundred dollars or imprisoned in the county jail not more
51 than six months, or both fined and imprisoned: *Provided,*
52 That, in the discretion of the court, execution of any such
53 sentence may be suspended upon the condition that such
54 person pick up and remove from any area of any public
55 or private highway, road, street or alley, private land or
56 property with prior permission of the owner, or public
57 park or other public property, the area to be specified by
58 the court, any and all litter, garbage, refuse, trash, cans,
59 bottles, papers, ashes, cigarette or cigar butts, carcass of
60 any dead animal or any part thereof, offal or any other
61 offensive or unsightly matter placed, deposited, dumped
62 or thrown thereon contrary to the provisions of this sec-
63 tion by anyone prior to the date of such conviction. If
64 execution of any such sentence is so suspended and the
65 person convicted satisfies the condition upon which ex-
66 ecution was suspended, he shall be discharged with like
67 effect as if the sentence had been fully executed, and if

68 he does not satisfy such condition, then such sentence shall
69 be executed.

ARTICLE 5. WATER RESOURCES.

§20-5-15. Litter along streams, etc.

1 It shall be unlawful to place, deposit, dump or throw,
2 or cause to be placed, deposited, dumped or thrown,
3 any litter, garbage, refuse, trash, can, bottle, paper, ashes,
4 carcass of any dead animal or any part thereof, offal or any
5 other offensive or unsightly matter into any river, stream,
6 creek, branch, brook, lake or pond, or upon the surface of
7 any land within one hundred yards thereof, or in such loca-
8 tion that high water or normal drainage conditions will
9 cause any such materials or substances to be washed into
10 any river, stream, creek, branch, brook, lake or pond.

11 No portion of this section shall be construed to restrict
12 an owner, renter or lessee in the use of his own private
13 property or rented or leased property or to prohibit the
14 disposal of any industrial and other wastes into waters of
15 this state in a manner consistent with the provisions
16 of article five-a of this chapter. But if any owner, renter
17 or lessee, private or otherwise, knowingly permits any
18 such materials or substances to be placed, deposited,
19 dumped or thrown in such location that high water or
20 normal drainage conditions will cause any such materials
21 or substances to wash into any river, stream, creek, branch,
22 brook, lake or pond, it shall be deemed prima facie evi-
23 dence that such owner, renter or lessee intended to violate
24 the provisions of this section.

25 In addition to enforcement by the director, the chief
26 of the division of water resources, and the department's
27 chief law-enforcement officer, the provisions of this section
28 may be enforced by all other proper law-enforcement
29 agencies.

30 Any person violating any provision of this section shall
31 be guilty of a misdemeanor, and, upon conviction thereof,
32 shall be fined not less than twenty nor more than five
33 hundred dollars or imprisoned in the county jail not more
34 than six months, or both fined and imprisoned: *Provided,*
35 That, in the discretion of the court, execution of any such
36 sentence may be suspended upon the condition that such

37 person pick up and remove from any area of a bank of
38 any river, stream, creek, branch, brook, lake or pond
39 or other property with prior permission of the owner,
40 the area to be specified by the court, any and all
41 litter, garbage, refuse, trash, cans, bottles, papers, ashes,
42 carcass of any dead animal or any part thereof, offal or
43 any other offensive or unsightly matter placed, deposited,
44 dumped or thrown contrary to the provisions of this section
45 by anyone prior to the date of such conviction. If
46 execution of any such sentence is so suspended and the
47 person convicted satisfies the condition upon which exe-
48 cution was suspended, he shall be discharged with like effect
49 as if the sentence had been fully executed, and if he does not
50 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.

1 This article shall be known and cited as the "Dam Control
2 Act."

§20-5D-2. Legislative findings; intent and purpose of article.

1 The Legislature finds that dams may constitute a potential
2 hazard to people and property; therefore, dams in this state
3 must be properly regulated and controlled to protect the health,
4 safety and welfare of people and property in this state. It is the
5 intent of the Legislature by this act to provide for the regula-
6 tion and supervision of dams in this state to the extent necessary
7 to protect the public health, safety and welfare. The Legisla-
8 ture has ordained this act to fulfill its responsibilities to the
9 people of this state and to protect their lives and private and
10 public property from the danger of a potential or actual dam
11 failure.

§20-5D-3. Definition of terms used in article.

1 As used in this article, unless used in a context that clearly
2 requires a different meaning, the term:

3 (a) "Alterations" or "repairs" means only those changes in
4 the structure or integrity of a dam which may affect its safety,
5 which determination shall be made by the director.

6 (b) "Application for a certificate of approval" means the
7 request in writing by a person to the director requesting that
8 such person be issued a certificate of approval.

9 (c) "Appurtenant works" mean any structure or facility
10 which is an adjunct of, or connected, appended or annexed to
11 a dam, including, but not limited to, spillways, a reservoir and
12 its rim, low level outlet works, or water conduits such as tun-
13 nels, pipelines and penstocks either through the dam or its
14 abutments.

15 (d) "Certificate of approval" means the approval in writing
16 issued by the director to a person who has applied to the di-
17 rector for such certificate of approval which authorizes such
18 person to place, construct, enlarge, alter, repair or remove a
19 dam and specifies the conditions or limitations under which
20 such work is to be performed by such person.

21 (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.

62 (j) "Reservoir" means any basin which contains or will
63 contain impounded water.

64 (k) "Water" means any liquid, including any solids or other
65 matter which may be contained therein, which is or may be
66 impounded by a dam.

67 (l) "Water storage elevation" means the maximum elevation
68 that water can reach behind a dam without encroaching on the
69 freeboard approved for the dam under flood conditions.

§20-5D-4. General powers and duties of director; maximum fee established for certificates of approval.

1 The director shall have the following powers and duties:

2 (a) To control and exercise regulatory jurisdiction over
3 dams as provided for in this article;

4 (b) To review all applications for a certificate of approval
5 for the placement, construction, enlargement, alteration, repair
6 or removal of any dam;

7 (c) To grant, modify, amend, revoke, restrict or refuse to
8 grant any certificate of approval based on a determination by
9 him that such action is proper or necessary to protect life and
10 property as provided in this article;

11 (d) To adopt, modify, repeal and enforce rules, and issue
12 orders, which he shall do in accordance with the provisions of
13 chapter twenty-nine-a of this code as if the provisions of said
14 chapter twenty-nine-a were set forth in extenso herein to im-
15 plement and make effective the powers and duties vested in
16 him by the provisions of this article;

17 (e) To take any lawful action he deems necessary for the
18 effective enforcement of the provisions of this article;

19 (f) To establish and charge reasonable fees not to exceed
20 twenty-five dollars for the review of applications for certi-
21 ficates of approval and the issuance thereof;

22 (g) To employ qualified consultants or additional persons
23 in the department as necessary to review applications for certi-
24 ficates of approval and to recommend whether they should be
25 approved, to inspect dams and to enforce the provisions of this
26 article;

27 (h) To cooperate and coordinate with agencies of the fed-
28 eral government, this state and counties and municipalities of
29 this state to improve, secure, study and enforce dam safety and
30 dam technology within this state;

31 (i) To make any investigation or inspection necessary to
32 implement or enforce the provisions of this article and to enter
33 upon the public or private property of any dam owner as may
34 be necessary to make such investigations or inspections. The
35 director may make such investigations, inspections or entries
36 after notifying the dam owner or other person in charge of
37 such dam; and

38 (j) To prepare and publish within a reasonable time, criteria
39 to govern the design, construction, repair, inspection and main-
40 tenance of proposed dams herein defined, and to review these
41 criteria annually in order to consider improved technology for
42 inclusion in such criteria.

**§20-5D-5. Unlawful to place, construct, enlarge, alter, repair or re-
move dam without certificate of approval; application
required to obtain certificate.**

1 After the thirtieth day of June, one thousand nine hundred
2 seventy-three, it shall be unlawful for any person to place,
3 construct, enlarge, alter, repair or remove any dam under the
4 jurisdiction of the department until he has first (a) filed an
5 application for a certificate of approval with the department
6 and (b) obtained from the department a certificate of approval:
7 *Provided*, That a person making routine repairs on a dam
8 which do not affect the safety of the dam shall not be required
9 to submit such application or have such certificate. A separate
10 application for a certificate of approval must be submitted by a
11 person for each dam he desires to place, construct, enlarge,
12 alter, repair or remove except that, under rules adopted by the
13 director, one application may be valid for more than one dam
14 involved in a single project or formation of a reservoir.

15 Each application for a certificate of approval shall be made
16 in writing on a form prescribed by the director and shall be
17 signed and verified by the applicant. The application shall con-
18 tain and provide information which may be reasonably required
19 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, en-
2 largement, alteration, repair or removal of dams shall be in
3 the charge of a registered professional engineer. Any plans or
4 specifications submitted to the department shall bear the seal
5 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
2 and the fee required under the provisions of this article and
3 rules promulgated thereunder, the director shall proceed to con-
4 sider the application for sufficiency. The director shall ap-
5 prove or disapprove the application within sixty days after re-
6 ceiving it and the fee.

7 If an application is defective, it shall be returned to the
8 applicant by certified or registered mail, return receipt request-
9 ed, in order that the applicant may correct any defect: *Provided*,
10 That the application must be returned to the department by the
11 applicant within thirty days after it has been returned to such
12 applicant or it shall be treated as a new application: *Provided*,
13 *however*, That the director may extend the thirty-day period.

14 Upon approval by the director of the sufficiency of the ap-
15 plication, the director shall immediately cause a notice of such
16 application to be published at the owner's expense as a Class
17 I legal advertisement in compliance with the provisions of
18 article three, chapter fifty-nine of this code, and the publication
19 area for such publication shall be the county in which the pro-
20 posed dam is to be located or in which the existing dam is
21 located. Such notice shall include but not be limited to the name
22 and address of the owner of the dam and the location of the
23 dam for which the application was filed.

24 Any person whose life or property may be adversely affected
25 by the issuance of a certificate of approval shall have a right to
26 a hearing thereon before the director, providing that demand
27 in writing for such hearing containing specific objections to

28 the issuance of the certificate of approval is served upon the
29 director within fifteen days following such publication.

30 Upon receipt by the director of the service of such demand
31 for hearing, the director shall immediately set a date for such
32 hearing and notify the person or persons demanding such hear-
33 ing thereof, which hearing shall be held within ten days after
34 receipt of said demand. At such hearing the director shall hear
35 evidence and shall thereafter (1) refuse to issue a certificate of
36 approval, or (2) issue a certificate of approval which shall be
37 subject to such terms, conditions and limitations as the director
38 may deem necessary to protect life and property.

39 Actual placement, construction, enlargement, alteration, re-
40 pair or removal of a dam must be commenced within one year
41 after the certificate of approval for the project is issued by the
42 director, otherwise the certificate of approval becomes void:
43 *Provided further*, That the director may extend such one-year
44 period.

**§20-5D-8. Content of certificates of approval for dams; revocation
or suspension of certificates.**

1 Each certificate of approval issued by the director under
2 the provisions of this article and rules promulgated there-
3 under may contain such terms and conditions as the director
4 may prescribe.

5 The director may revoke or suspend any certificate of
6 approval whenever he determines that the dam for which
7 the certificate was issued constitutes a danger to life and
8 property. Whenever he deems such action necessary to
9 safeguard life and property, the director may also amend the
10 terms and conditions of any such certificate by issuing a new
11 certificate containing the revised terms and conditions.

12 Before any certificate of approval is amended or revoked
13 by the director, the director shall hold a hearing. Such hearing
14 and the administrative procedure prior to, during and follow-
15 ing the same shall be governed by and be in accordance with
16 the provisions of article five, chapter twenty-nine-a of this
17 code in like manner as if the provisions of article five were
18 set forth in extenso in this section.

19 Any person adversely affected by an order entered follow-
20 ing such hearing shall have the right of judicial review thereof
21 in accordance with the provisions of section four, article five,
22 chapter twenty-nine-a of this code with like effect as if the
23 provisions of said section four were set forth in extenso
24 herein.

25 The judgment of a circuit court reviewing such order of the
26 director shall be final unless reversed, vacated or modified
27 on appeal to the supreme court of appeals in accordance
28 with the provisions of section one, article six, chapter twenty-
29 nine-a of this code.

§20-5D-9. Inspections during progress of work on dam.

1 During the placement, construction, enlargement, repair,
2 alteration or removal of any dam the director shall make,
3 either with the department's own engineers or by consulting
4 engineers or engineering organizations, periodic inspections
5 at state expense for the purpose of ascertaining compliance
6 with the approved plans and specifications. The director
7 shall require the owner at his expense to perform such work
8 or tests as necessary, to provide adequate supervision during
9 such placement, construction, enlargement, repair, alteration
10 or removal.

11 If at any time during placement, construction, enlargement,
12 repair, alteration or removal of any dam, the director finds
13 that the work is not being done in accordance with the
14 provisions of the original approved plans and specifications
15 or in accordance with the approved revised plans and
16 specifications, he shall give a written notice thereof by
17 certified or registered mail, return receipt requested, to the
18 owner involved.

19 The notice and order shall state the particulars in which
20 the original approved plans and specifications or the approved
21 revised plans and specifications are not being or have not
22 been complied with and shall order the immediate compliance
23 with the original approved plans and specifications or with
24 the approved revised plans and specifications as the case may
25 be. The director may order that no further work be done
26 until such compliance has been effected and approved by
27 him.

28 If, after any such inspections, investigations or exami-
29 nations, or at any time as the work progresses, it is found by
30 the director that amendments, modifications, or changes are
31 necessary to ensure the safety of the dam, he may order the
32 owner to revise his plans and specifications. If conditions
33 are revealed which will not permit the placement, construction,
34 enlargement, repair, alteration or removal of the dam in a
35 safe manner the certificate of approval shall be revoked.

36 Immediately upon completion of a new dam or enlarge-
37 ment, repair or alteration of a dam the owner shall give
38 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.**

1 The owner of a dam shall have primary responsibility for
2 determining when an emergency involving his dam exists.
3 When the owner of a dam determines such emergency does
4 exist, he shall notify the director and shall notify any persons
5 who may be endangered if the dam should fail. The owner
6 shall also immediately take any remedial action necessary
7 to protect life and property.

8 The director shall, if he determines that an emergency
9 exists involving a dam, notify any persons who may be
10 endangered if the dam should fail and who have not been
11 so notified and immediately take any remedial action necessary
12 to protect life and property if in his judgment (a) the con-
13 dition of the dam so endangers life and property that time
14 is not sufficient to permit the issuance and enforcement of
15 an order for the owner to correct the condition or (b) passing
16 or imminent floods or other conditions threaten the safety
17 of the dam. Remedial actions the director may take include,
18 but are not limited to:

19 (1) Taking full charge and control of the dam.

20 (2) Lowering the level of water impounded by the dam
21 by releasing such impounded water.

22 (3) Completely releasing all water impounded by the
23 dam.

24 (4) Performing any necessary remedial or protective work
25 at the site of the dam.

26 (5) Taking any other steps necessary in the opinion of
27 the director to safeguard life and property.

28 Once the director has taken full charge of the dam, the
29 director shall continue in full charge and control of such dam
30 until, in the director's opinion, it has been rendered safe
31 or the emergency occasioning the action has ceased and the
32 owner is adjudged competent by the director to reassume
33 control of such dam and its operation. The assumption by
34 the director of the control of the dam will not relieve the
35 owner of a dam of liability for any negligent acts the owner
36 commits or which are committed by his agents.

37 In case of an emergency where the director declares that
38 making repairs to the dam or breaching of the dam is im-
39 mediately necessary to safeguard life and property, repairs or
40 breaching shall be started immediately by the owner, or by the
41 director at the owner's expense, if the owner fails to do so.
42 The owner shall notify the director at once of any emergency
43 repairs or breaching the owner proposes to undertake and
44 of work he has under way to alleviate the emergency. The
45 proposed repairs, breaching and work shall be made to conform
46 to such orders as the director may issue.

47 The costs reasonably incurred in any remedial action taken
48 by the director as provided in this article shall be paid for
49 initially by funds appropriated to the department of natural
50 resources for such purposes, and such sums so expended, if
51 not promptly repaid by the owner upon request of the director,
52 shall be recovered from the owner by appropriate civil action
53 to be initiated by the attorney general upon request of the
54 director.

**§20-5D-11. Requirements for dams completed prior to effective date
of this article.**

1 The director shall give notice to file an application for a
2 certificate of approval to every owner of a dam which was
3 completed prior to the effective date of this article. Such no-
4 tice shall be given by certified or registered mail, return re-
5 ceipt requested, to the owner at his last address of record in

6 the office of the county assessor of the county in which the
7 dam is located and such mailing shall constitute service. A
8 separate application for each dam a person owns shall be filed
9 with the director in writing upon forms supplied by him and
10 shall include or be accompanied by appropriate information
11 concerning the dam as the director requires.

12 The director shall make inspections of such dams or reser-
13 voirs at state expense. The director shall require owners of
14 such dams to perform at their expense such work or tests as
15 may reasonably be required to disclose information sufficient to
16 enable the director to determine whether to issue a certificate
17 of approval or to issue an order directing further work at the
18 owner's expense necessary to safeguard life and property. For
19 this purpose, the director may require an owner to lower the
20 water level of, or to empty, water impounded by the dam ad-
21 judged by the director to be unsafe. If, upon inspection or upon
22 completion to the satisfaction of the director of all work that
23 he ordered, the director finds that the dam is safe to impound
24 water, a certificate of approval shall be issued.

**§20-5D-12. Requirements for dams under construction prior to ef-
fective date of article.**

1 Any dam which the director finds was under construction
2 and based on his findings not fifty percent constructed on the
3 effective date of this article shall, except as provided in the
4 next succeeding paragraph, be subject to the same provisions of
5 this article as a dam commenced after that date. Every owner
6 of such a dam shall file an application with the director for the
7 director's written approval of the plans and specifications of
8 the dam.

9 Construction work on such a dam may proceed, provided an
10 application for approval of the plans and specifications there-
11 for is filed, until a certificate of approval is received by the
12 owner from the director approving the dam or an order is re-
13 ceived by the owner from the director specifying how the con-
14 struction must be performed to render the dam safe. After re-
15 ceipt of an order specifying how construction of the dam must
16 be performed, work thereafter must be in accordance with the
17 order.

18 Dams which are determined by the director to be fifty per-

19 cent or more constructed on the effective date of this article
20 shall be subject to the same supervision as dams which were
21 completed prior thereto.

§20-5D-13. Dam owner not relieved of legal responsibilities by any provision of article.

1 Nothing in this article shall be construed to relieve the
2 owner of a dam of the legal duties, obligations or liabilities
3 incident to the ownership or operation of a dam.

§20-5D-14. Offenses and penalties.

1 (a) Any person who violates any of the provisions of this
2 article or of any certificate of approval, order, rule or require-
3 ment of the director or department shall be guilty of a
4 misdemeanor, and, upon conviction thereof, shall be fined
5 not less than one hundred dollars nor more than one thousand
6 dollars, or imprisoned in the county jail not more than six
7 months, or both fined and imprisoned.

8 (b) Any person who willfully obstructs, hinders or pre-
9 vents the director or department or its agents or employees
10 from performing the duties imposed on them by the provisions
11 of this article or who willfully resists the exercise of the control
12 and supervision conferred by the provisions of this article
13 upon the director or department or its agents or employees
14 or any owner or any person acting as a director, officer, agent,
15 or employee of an owner, or any contractor or agent or em-
16 ployee of a contractor who engages in the placement, con-
17 struction, enlargement, repair, alteration, maintenance or re-
18 moval of any dam who knowingly does work or permits work
19 to be executed on the dam without a certificate of approval or
20 in violation of or contrary to any approval as provided for by
21 the provisions of this article, or any inspector, agent or em-
22 ployee of the department who has knowledge of such work
23 being done and who fails to immediately notify the director
24 thereof shall be guilty of a misdemeanor, and, upon con-
25 viction thereof, shall be fined not less than one thousand
26 dollars nor more than five thousand dollars, or imprisoned
27 in the county jail not more than one year, or both fined and
28 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 re-
2 main in any navigable or floatable stream of this state when
3 to do so shall obstruct the passage of boats, rafts, staves, ties
4 or timber of any kind.

5 Except as may be provided in chapter twenty of this code,
6 no person shall construct or maintain any dam or other struc-
7 ture in any stream or watercourse, which shall in any way pre-
8 vent or obstruct the free and easy passage of fish up or down
9 such stream or watercourse, without first providing as a part
10 of such dam or other structure a suitable fish ladder, way or
11 flume, so constructed as to allow fish easily to ascend or de-
12 scend the same; which ladder, way or flume shall be construct-
13 ed only upon plans, in a manner, and at a place, satisfactory to
14 the department of natural resources: *Provided*, That if the di-
15 rector of the department of natural resources determines that
16 there is no substantial fish life in such stream or watercourse, or
17 that the installation of a fish ladder, way or flume would not
18 facilitate the free and easy passage of fish up or down a
19 stream or watercourse, or that an industrial development proj-
20 ect requires the construction of such dam or other structure and
21 the installation of an operational fish ladder, way or flume is
22 impracticable, he may, in writing, permit the construction or
23 maintenance of a dam or other structure in a stream or water-
24 course without providing a suitable fish ladder, way or flume;
25 and in all navigable and floatable streams provisions shall be
26 made in such dam or structure for the passage of boats and
27 other crafts, logs and other materials: *Provided, however*, That
28 this section shall not relieve such person from liability for
29 damage to any riparian owner on account of the construction
30 or maintenance of such dam.

31 Any person who shall violate any of the provisions of this
32 section shall be guilty of a misdemeanor, and, upon convic-
33 tion thereof, shall be fined not exceeding one thousand dollars,
34 or imprisoned in the county jail not exceeding one year, or
35 both fined and imprisoned, and, whether conviction be had un-

36 der this section or not, such violation shall be deemed a nuis-
37 ance, which may be abated at the suit of any citizen or tax-
38 payer, the county court of the county, or, as to fish ladders,
39 at the suit of the director of the department of natural re-
40 sources, and, if the same endangers county roads, the county
41 court may abate such nuisance peaceably without such suit.

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
2 of the circuit court, clerk of the county court or other tribunal
3 established in lieu thereof, clerk of the supreme court of ap-
4 peals, and notary public, shall be sent to the state tax commis-
5 sioner by the officer in whose office the original is filed, with-
6 in two months after the same is filed in his office. If the officer
7 whose duty it is so to send any such copy fail to do so within
8 the time specified, he shall forfeit fifty dollars.

CHAPTER 100

(House Bill No. 1031—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

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

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
2 of this the code relating to congressional districts shall not
3 affect the qualification or tenure of office of any person who
4 was appointed a member of any state board, agency, commis-
5 sion or committee prior to the effective date of such amend-
6 ment; however, all appointments made after the effective date
7 of such amendment to any state board, agency, commission or
8 committee on which membership is affected by congressional
9 district requirements shall be made in accordance with the
10 congressional district arrangement provided by said amend-
11 ment.

12 If the total number of members prescribed by law on any
13 board, agency, commission or committee, on which member-
14 ship is affected by congressional district requirements, shall
15 exceed the members from congressional districts, the excess
16 members shall be appointed at large, unless otherwise provided
17 for in this code.

CHAPTER 101

(Com. Sub. for House Bill No. 1187—By Mr. Seibert)

[Passed April 14, 1973; in effect July 1, 1973. Approved by the Governor.]

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
- 2 contrary, on and after the effective date of this section each
- 3 of the following named appointive state officers shall be
- 4 appointed by the governor, by and with the advice and
- 5 consent of the Senate. Each of such appointive state officers

6 shall serve at the will and pleasure of the governor for the
7 term for which the governor was elected and until the respective
8 state officer's successors have been appointed and qualified.
9 Each of such appointive state officers shall hereafter be subject
10 to the existing qualifications for holding each such respective of-
11 fice and each shall have and is hereby granted all of the powers
12 and authority and shall perform all of the functions and services
13 heretofore vested in and performed by virtue of existing law
14 respecting each such office. The annual salary of each such
15 named appointive state officer shall be as follows:

16 The commissioner of highways, thirty-two thousand dollars;
17 director of mental health, twenty-five thousand dollars; com-
18 missioner of commerce, twenty thousand dollars; tax com-
19 missioner, twenty-two thousand dollars; director of department
20 of natural resources, twenty thousand dollars; commissioner of
21 department of welfare, twenty-five thousand dollars; alcohol
22 beverage control commissioner, twenty thousand dollars; com-
23 missioner of public institutions, twenty thousand dollars; com-
24 missioner of employment security, twenty-two thousand five
25 hundred dollars; commissioner of labor, eighteen thousand dol-
26 lars; director of personnel civil service commission, eighteen
27 thousand dollars; superintendent of department of public safety,
28 nineteen thousand dollars; insurance commissioner, twenty
29 thousand dollars; commissioner of motor vehicles, eighteen
30 thousand dollars; commissioner of banking, nineteen thousand
31 dollars; members of the board of probation and parole, thirteen
32 thousand five hundred dollars; nonintoxicating beer commis-
33 sioner, fifteen thousand dollars; state historian and archivist,
34 fifteen thousand dollars; adjutant general, fourteen thousand
35 dollars; director of civil and defense mobilization, fourteen
36 thousand dollars; director of veterans affairs, fifteen thou-
37 sand dollars; members of board of review of employment
38 security, twelve thousand dollars; members of workmen's
39 compensation appeal board, eight thousand five hundred
40 dollars; state workmen's compensation commissioner, twenty
41 thousand dollars; finance and administration commissioner,
42 twenty-two thousand dollars; director of the department of
43 mines, twenty-five thousand dollars: *Provided*, That the
44 personal services account of the respective depart-
45 ments, boards, commissions or offices are adequately
46 funded to provide the hereinafter required minimum annual

47 salary.

48 No increase in the salary of any appointive state officer
49 pursuant to this section shall be paid until and unless such
50 appointive state officer files, on or after July first, one thousand
51 nine hundred seventy-three, with the state auditor and the
52 legislative auditor a certificate showing:

53 (1) That every full-time employee employed in such ap-
54 pointive state officer's department, board, commission or office
55 is on the date of the certificate paid compensation at an annual
56 rate of four thousand two hundred dollars or more;

57 (2) That every such full-time employee who has been in
58 the continuous full-time employ of such department, board,
59 commission or office at least since June thirtieth, one thousand
60 nine hundred seventy-two, and receives compensation of less
61 than ten thousand dollars annually, is on the date of such
62 certificate paid compensation at a rate of one hundred five
63 percent of the rate of compensation at which such employee
64 was paid June thirtieth, one thousand nine hundred seventy-
65 two. The effect of the foregoing proviso shall expire and
66 terminate on June thirtieth, one thousand nine hundred seventy-
67 four.

68 In the event that funds are not available to meet the pro-
69 visions of (1) and (2) of the aforesaid paragraph, said ap-
70 pointed state official shall file a statement with the state
71 auditor and the legislative auditor to that effect.

72 Nothing herein contained shall be construed to permit pay-
73 ment of any compensation in excess of the amount which can
74 be paid state officers under the rules and regulations of the
75 pay board established by the president of the United States by
76 virtue of the authority vested in him by the Economic Stabili-
77 zation 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.

1 When one or more optometrists duly registered to practice
2 optometry in the state of West Virginia wish to form an
3 optometric corporation, such optometrist or optometrists shall
4 file a written application with the board of optometry, on a
5 form prescribed by the board, and shall furnish proof satisfactory
6 to the board that the signer is a duly registered
7 optometrist, or if there be more than one that all the signers
8 of such application are such duly registered optometrists. A
9 fee of twenty-five dollars shall accompany each such application,
10 no part of which shall be returnable.

11 If the board finds that the signer is a duly registered
12 optometrist, or if there be more than one that all of the
13 signers of such application are such duly registered optometrists,
14 the board shall notify the secretary of state that a
15 certificate of authorization has been issued to the individual
16 or individuals signing such application, to form an optometric
17 corporation.

18 When the secretary of state receives notification from the

19 board of optometry that an individual or individuals have been
20 issued a certificate of authorization, he shall attach such au-
21 thorization to the agreement of incorporation and upon com-
22 pliance by the corporation with the applicable provisions of
23 chapter thirty-one of this code, shall notify the incorporators
24 that such corporation, through a duly registered optometrist or
25 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.**

1 (a) An optometric corporation may practice optometry only
2 through an individual optometrist or optometrists duly regis-
3 tered to practice optometry in the state of West Virginia, but
4 such optometrist or optometrists may be employees rather than
5 shareholders of such corporation, and nothing herein con-
6 tained shall be construed to require a license or other legal
7 authorization of any individual employed by such corporation
8 to perform services for which no license or other legal autho-
9 rization is otherwise required. Nothing contained in sections
10 three-a and ten and this section of this article is meant or in-
11 tended to change in any way the rights, duties, privileges,
12 responsibilities and liabilities incident to the optometrist-patient
13 relationship nor is it meant or intended to change in any way
14 the personal character of the optometrist-patient relationship.
15 A corporation holding such certificate of authorization shall
16 register biennially, on or before the thirtieth day of June, on a
17 form prescribed by the board of optometry and shall pay an an-
18 nual registration fee of fifty dollars.

19 (b) An optometric corporation holding a certificate of autho-
20 rization shall cease to engage in the practice of optometry upon
21 being notified by the board of optometry that any of its share-
22 holders is no longer a duly registered optometrist, or when any
23 shares of such corporation have been sold or disposed of to a
24 person who is not a duly registered optometrist: *Provided*, That
25 the personal representative of a deceased shareholder shall have
26 a period, not to exceed twelve months from the date of such
27 shareholder's death, to dispose of such shares; but nothing con-
28 tained herein shall be construed as affecting the existence of
29 such corporation or its right to continue to operate for all law-
30 ful purposes other than the practice of optometry.

31 (c) No corporation shall practice optometry, or any of its
32 branches, or hold itself out as being capable of doing so, with-
33 out a certificate from the board, or after its certificate has been
34 revoked, or if suspended, during the term of such suspension. A
35 certificate signed by the secretary of the board of optometry to
36 which is affixed the official seal of the board to the effect that it
37 appears from the records of the board that no such certificate to
38 practice optometry or any of its branches in the state has been
39 issued to any such corporation specified therein or that such
40 certificate has been revoked or suspended shall be admissible in
41 evidence in all courts of this state and shall be prima facie
42 evidence of the facts stated therein.

43 (d) Any officer, shareholder or employee of such corpora-
44 tion who participates in a violation of any provision of this
45 section shall be guilty of a misdemeanor, and, upon conviction
46 thereof, shall be fined not more than one thousand dollars.

47 (e) If any provision of section three-a or this section of this
48 article be held to be invalid, such invalidity shall not affect
49 the other provisions of said sections, and to this end the pro-
50 visions 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.**

1 Except as provided in sections three-a and three-b of this
2 article, no corporation or voluntary association shall practice,
3 or assume to practice, or in any manner hold itself out to
4 the public as being entitled to practice the profession of
5 optometry, or advertise the title of optometrist in such manner
6 as to convey the impression to the public that it is entitled to
7 practice optometry, or furnish optometric advice and services,
8 or advertise that, either alone or together with or by or
9 through any person, whether a duly registered and licensed
10 optometrist or not, it has, owns, conducts or maintains an
11 office or place for practice of optometry. Except as provided
12 in sections three-a and three-b of this article, no duly registered
13 and licensed optometrist shall associate himself with any
14 corporation or voluntary association for the practice of op-
15 tometry, or in any manner practice such profession, on a
16 salary or commission basis, for any such corporation or

17 voluntary association. Any corporation or voluntary associa-
18 tion violating any of the provisions of this section, or any
19 officer, trustee, director, agent, or employee of such corpora-
20 tion or voluntary association who, either directly or indirectly,
21 engages in any of the acts herein prohibited, or assists such
22 corporation or voluntary association to do such prohibited
23 acts, shall be guilty of a misdemeanor, and, upon conviction
24 thereof, shall be fined not less than one hundred nor more
25 than one thousand dollars. The fact that any such officer,
26 trustee, director, agent or employee shall be a duly registered
27 and licensed optometrist shall not be held to permit or allow
28 any such corporation or voluntary association to do the acts
29 prohibited herein, nor shall such fact be a defense upon the
30 trial of any of the persons hereinbefore mentioned for a viola-
31 tion of this section. Any duly registered and licensed optome-
32 trist who shall violate the provisions of this section shall be
33 guilty of a misdemeanor, and, upon conviction thereof, shall be
34 fined not less than ten dollars nor more than twenty-five dollars,
35 and each and every day such violation continues shall constitute
36 a separate offense; and in addition to the foregoing penalties,
37 such offending optometrist shall have his license to practice
38 suspended for a period of one year by the court in which such
39 conviction is had: *Provided*, That this section shall not apply
40 to a partnership of two or more duly registered and licensed
41 optometrists who practice under their own names.

42 It shall be unlawful for any registered optometrist to prac-
43 tice his profession as an employee, lessee, or sublessee of any
44 commercial or mercantile establishment or to practice his
45 profession in connection therewith, or to advertise either in
46 person or through any commercial or mercantile establishment
47 that he is a duly registered practitioner, and is practicing or will
48 practice optometry as an employee, lessee, or sublessee of
49 any such commercial or mercantile establishment or in con-
50 nection therewith. But nothing herein shall be construed to
51 prohibit or prevent the rendering of professional services
52 to the officers and employees of any person, firm or corpora-
53 tion by an optometrist, whether or not the compensation for
54 such services is paid by the officers and employees, or by
55 the employer, or jointly by all or any of them. Any person
56 violating this provision shall be guilty of a misdemeanor, and,
57 upon conviction thereof, shall be fined not less than fifty
58 nor more than five hundred dollars, and each and every day

- 59 such violation continues shall constitute a separate offense.
60 The circuit court of any county in which the violation
61 occurred shall have jurisdiction to restrain by injunction the
62 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
- 3 of any applicant for a license to practice veterinary
- 4 medicine in this state;
- 5 (b) Issue, renew, deny, suspend or revoke licenses and

6 temporary permits to practice veterinary medicine in this
7 state or otherwise discipline licensed veterinarians consistent
8 with the provisions of this article and reasonable rules and
9 regulations promulgated by the board as specified in sub-
10 division (i) of this section;

11 (c) Establish and publish annually a schedule of reason-
12 able fees for the licensing and registration of veterinarians,
13 such fee schedule to be based on the board's anticipated
14 financial requirements for the year;

15 (d) Conduct investigations for the purpose of discovering
16 violations of this article or grounds for disciplining licensed
17 veterinarians;

18 (e) Hold hearings as specified in section twelve of this
19 article;

20 (f) Employ such full-time or part-time professional, cleri-
21 cal or special personnel as may be necessary to effectuate
22 the provisions of this article, and purchase or rent necessary
23 office space, equipment and supplies;

24 (g) Appoint from its own membership one or more mem-
25 bers to act as an official representative or representatives of
26 the board at any meeting within or without this state where
27 such representation is deemed desirable;

28 (h) Institute appropriate proceedings for the enforce-
29 ment of the provisions of this article or any reasonable
30 rules and regulations of the board promulgated as specified
31 in subdivision (i) of this section;

32 (i) Promulgate, amend or repeal reasonable rules and regu-
33 lations, in accordance with the provisions of chapter twenty-
34 nine-a of this code, to implement the provisions of this
35 article, including rules and regulations establishing stan-
36 dards of professional conduct for the practice of veterinary
37 medicine; and

38 (j) The board shall also have the power to suspend or
39 revoke for cause any certificate of authorization issued by
40 it. It shall have the power to reinstate any certificate of autho-
41 rization suspended or revoked by it.

42 The powers enumerated above are granted for the pur-
43 pose of enabling the board to effectively supervise the prac-

44 tice of veterinary medicine, and are to be construed liberally
45 to accomplish this objective.

§30-10-7. Examinations; issuance or denial of license.

1 The board shall hold at least one examination during
2 each year and may hold such additional examinations as are
3 necessary. The secretary-treasurer shall give public notice
4 of the time and place of each examination at least one
5 hundred twenty days in advance of the date set for such
6 examination. A person desiring to take an examination shall
7 make application for a license at least sixty days before the
8 date of such examination.

9 Procedures concerning the preparation, administration and
10 grading of examinations shall be prescribed by the board.
11 Examinations shall be designed to test the examinee's know-
12 ledge of and proficiency in the subjects and techniques com-
13 monly taught in veterinary schools. To pass the examination,
14 the examinee must demonstrate scientific and practical know-
15 ledge sufficient to prove himself a competent person to
16 practice veterinary medicine in the judgment of the board.
17 All examinees shall be tested by a written examination,
18 supplemented by such oral interviews and practical demon-
19 strations as the board may deem necessary. The board may
20 adopt and use the examination prepared by the national board
21 of veterinary examiners.

22 The secretary-treasurer shall notify each examinee of the
23 result of his examination within forty-five days thereafter,
24 and the board shall issue a license to each person who passes
25 the examination. The application for a license by any person
26 failing an examination shall be denied, but such person shall
27 be admitted to any subsequent examination upon payment
28 of another application fee.

29 The board shall also examine the application of any one
30 or more veterinarians for the formation of a veterinary
31 medical corporation, filed pursuant to the provisions of sec-
32 tion eighteen of this article, and issue a certificate of authori-
33 zation therefor to any applicant or applicants legally entitled
34 to receive the same. The board shall also have authority to
35 authorize veterinary medical corporations, in accordance with
36 the provisions of sections eighteen and nineteen of this article,

37 to practice veterinary medicine and surgery through duly
38 licensed veterinarians.

39 The board shall have the power to certify and establish
40 standards for employment of assistants to veterinarians.

41 No license shall be issued under the provisions of this
42 section until the person applying therefor shall have paid
43 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.

1 When one or more veterinarians duly licensed to practice
2 veterinary medicine in the state of West Virginia wish to
3 form a veterinary medical corporation, such veterinarians
4 shall file a written application with the board on a form
5 prescribed by the board, and shall furnish proof satisfactory
6 to the board that the signer or all of the signers of such application is or are a duly licensed veterinarian or veterinarians. A
7 fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

10 If the board finds that the signer or all of the signers
11 of such application are duly licensed, the board shall notify
12 the secretary of state that a certificate of authorization has
13 been issued to the individual or individuals signing such application.
14

15 When the secretary of state receives notification from the
16 board that a certain individual or individuals has or have been
17 issued a certificate of authorization, he shall attach such
18 authorization to the corporation application and upon compliance by the corporation with chapter thirty-one of this
19 code shall notify the incorporators that such corporation,
20 through a duly licensed veterinarian, may engage in the practice of veterinary medicine and surgery.
22

§30-10-19. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.

1 (a) A veterinary medical corporation may practice veterinary
2 medicine and surgery only through individual veterinarians
3 duly licensed to practice veterinary medicine or sur-

4 gery in the state of West Virginia, but such veterinarians may
5 be employees rather than shareholders of such corporation,
6 and nothing herein contained shall be construed to require
7 a license for or other legal authorization of any individual
8 employed by such corporation to perform services for which
9 no license or other legal authorization is otherwise required.
10 A corporation holding such certificate of authorization shall
11 register biennially, on or before the thirtieth day of June, on
12 a form prescribed by the board, and shall pay an annual
13 registration fee of fifty dollars.

14 (b) A veterinary medical corporation holding a certificate
15 of authorization shall cease to engage in the practice of
16 veterinary medicine and surgery upon being notified by the
17 board that any of its shareholders is no longer a duly licensed
18 veterinarian, or when any shares of such corporation have
19 been sold or disposed of to a person who is not a duly
20 licensed veterinarian: *Provided*, That the personal repre-
21 sentative of a deceased shareholder shall have a period, not
22 to exceed twelve months from the date of such shareholder's
23 death, to dispose of such shares; but nothing contained here-
24 in shall be construed as affecting the existence of such
25 corporation or its right to continue to operate for all law-
26 ful purposes other than the practice of veterinary medicine and
27 surgery.

28 (c) No corporation shall practice veterinary medicine or
29 surgery, or any of its branches, or hold itself out as being
30 capable of doing so, without a certificate from the board;
31 nor shall any corporation practice veterinary medicine or
32 surgery or any of its branches, or hold itself out as being
33 capable of doing so, after its certificate has been revoked,
34 or if suspended, during the term of such suspension. A certi-
35 ficate signed by the secretary of the board to which is affixed
36 the official seal of the board to the effect that it appears
37 from the records of the board that no such certificate to
38 practice veterinary medicine or surgery or any of its branches
39 in the state has been issued to any such corporation specified
40 therein or that such certificate has been revoked or su-
41 suspended shall be admissible in evidence in all courts of
42 this state and shall be prima facie evidence of the facts stated
43 therein.

44 (d) Any officer, shareholder or employee of such corpora-
45 tion who participates in a violation of any provision of
46 this section shall be guilty of a misdemeanor, and, upon
47 conviction thereof, shall be fined not more than one
48 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 of 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
2 surgery as an osteopathic physician and surgeon shall be
3 written and oral and shall cover all the essential branches
4 of medicine and surgery including anatomy, physiology,
5 chemistry, pharmacology, pathology, public health—preven-
6 tive medicine, surgery, obstetrics and gynecology, osteo-
7 pathic medicine, materia medica principles and practice of
8 osteopathy; and this list of subjects may be expanded or
9 regrouped at the discretion of the board.

10 The board shall issue certificates of license to all appli-
11 cants who shall successfully pass the said examination and
12 shall present evidence showing that they have served an

13 internship in a hospital approved for intern training. The
14 board shall also examine the application of any one or more
15 osteopathic physicians or surgeons for the formation of an
16 osteopathic medical corporation, filed pursuant to the pro-
17 visions of section nine-a of this article, and issue a certi-
18 ficate of authorization therefor to any applicant or applicants
19 legally entitled to receive the same. The board shall also
20 have authority to authorize osteopathic medical corpora-
21 tions, in accordance with the provisions of sections nine-a
22 and nine-b of this article, to practice osteopathic medicine
23 and surgery through duly licensed osteopathic physicians and
24 surgeons.

25 The board shall have the power to certify and establish
26 standards for employment of assistants to osteopathic physi-
27 cians and surgeons.

28 No license shall be issued under the provisions of this
29 section until the person applying therefor shall have paid
30 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.**

1 When one or more osteopathic physicians or surgeons duly
2 licensed to practice osteopathic medicine in the state of West
3 Virginia wish to form an osteopathic medical corporation,
4 such osteopathic physician or surgeon, or osteopathic physi-
5 cians or surgeons, shall file a written application with the
6 board on a form prescribed by the board, and shall furnish
7 proof satisfactory to the board that the signer or all of the
8 signers of such application is or are a duly licensed osteo-
9 pathic physician or surgeon or osteopathic physicians or
10 surgeons. A fee of twenty-five dollars shall accompany each
11 such application, no part of which shall be returnable.

12 If the board finds that the signer or all of the signers of
13 such application are duly licensed, the board shall notify the
14 secretary of state that a certificate of authorization has been
15 issued to the individual or individuals signing such applica-
16 tion.

17 When the secretary of state receives notification from the
18 board that a certain individual or individuals has or have

19 been issued a certificate of authorization, he shall attach
20 such authorization to the corporation application and upon
21 compliance by the corporation with chapter thirty-one of this
22 code shall notify the incorporators that such corporation,
23 through a duly licensed osteopathic physician or surgeon or
24 duly licensed osteopathic physicians and surgeons, may engage
25 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.

1 (a) An osteopathic medical corporation may practice osteo-
2 pathic medicine and surgery only through individual osteo-
3 pathic physicians and surgeons duly licensed to practice
4 osteopathic medicine or surgery in the state of West Virginia,
5 but such osteopathic physicians and surgeons may be em-
6 ployees rather than shareholders of such corporation, and
7 nothing herein contained shall be construed to require a
8 license for or other legal authorization of any individual
9 employed by such corporation to perform services for which
10 no license or other legal authorization is otherwise required.
11 Nothing contained in sections five and nine-a and this sec-
12 tion of this article is meant or intended to change in any way
13 the rights, duties, privileges, responsibilities and liabilities in-
14 cident to the osteopathic physician-patient relationship nor is
15 it meant or intended to change in any way the personal char-
16 acter of the osteopathic physician-patient relationship. A cor-
17 poration holding such certificate of authorization shall register
18 biennially on or before the thirtieth day of June, on a form
19 prescribed by the board, and shall pay an annual registration
20 fee of fifty dollars.

21 (b) An osteopathic medical corporation holding a certifi-
22 cate of authorization shall cease to engage in the practice of
23 osteopathic medicine and surgery upon being notified by
24 the board that any of its shareholders is no longer a duly
25 licensed osteopathic physician or surgeon, or when any
26 shares of such corporation have been sold or disposed of to
27 a person who is not duly licensed osteopathic physician or
28 surgeon: *Provided*, That the personal representative of a de-
29 ceased shareholder shall have a period, not to exceed twelve
30 months from the date of such shareholder's death, to dispose

31 of such shares; but nothing contained herein shall be con-
32 strued as affecting the existence of such corporation or
33 its right to continue to operate for all lawful purposes
34 other than the practice of osteopathic medicine and
35 surgery.

36 (c) No corporation shall practice osteopathic medicine
37 or surgery, or any of its branches, or hold itself out as
38 being capable of doing so, without a certificate from the
39 board; nor shall any corporation practice osteopathic medi-
40 cine or surgery or any of its branches, or hold itself out
41 as being capable of doing so, after its certificate has been
42 revoked, or if suspended, during the term of such suspen-
43 sion. A certificate signed by the secretary of the board to
44 which is affixed the official seal of the board to the effect
45 that it appears from the records of the board that no such
46 certificate to practice osteopathic medicine or surgery or
47 any of its branches in the state has been issued to any such
48 corporation specified therein or that such certificate has
49 been revoked or suspended shall be admissible in evidence
50 in all courts of this state and shall be prima facie evidence
51 of the facts stated therein.

52 (d) Any officer, shareholder or employee of such corpora-
53 tion who participates in a violation of any provision of this
54 section shall be guilty of a misdemeanor, and, upon
55 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.**

1 (a) The board may either refuse to issue or may suspend or
2 revoke any license for any one or more of the following
3 causes:

4 (1) Conviction of a felony, as shown by a certified copy of
5 the record of the trial court;

6 (2) Conviction of a misdemeanor involving moral turpi-
7 tude;

8 (3) Violation of any provision of this article regulating
9 the practice of osteopathic physicians and surgeons;

10 (4) Fraud, misrepresentation or deceit in procuring or
11 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 prerequisite; effect of failure to renew; reinstatement.

1 All holders of certificates of license to practice as os-
2 teopathic physicians and surgeons in this state shall renew
3 them annually on or before July first, by the payment of a
4 renewal fee of ten dollars to the secretary of the board. The
5 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 As a prerequisite to renewal of a certificate of license
9 issued by the board, each holder of such a certificate shall
10 furnish annually to the secretary of the board satisfactory
11 evidence of having completed a two-day educational refresher
12 training course conducted by the West Virginia Osteopathic
13 Society, Incorporated, under the supervision and control of
14 the board or conducted by its equivalent as determined by
15 the board.

16 The failure to renew a certificate of license shall operate
17 as an automatic suspension of the rights and privileges granted
18 by its issuance.

19 A certificate of license suspended by a failure to make an
20 annual renewal thereof may be reinstated by the board
21 upon compliance of the certificate holder with the following
22 requirements: (a) Presentation to the board of satisfactory
23 evidence of educational refresher training of quantity and
24 standard approved by the board; (b) payment of all fees
25 that would have been paid had the certificate holder main-
26 tained his certificate in good standing; and (c) payment to
27 the board of a reinstatement fee of not to exceed twenty-
28 five dollars as determined by the board.

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.

§30-15-1. Definitions.

§30-15-2. Licenses required.

§30-15-3. Qualifications for licensing.

§30-15-4. Applications; fee.

§30-15-5. Form of licenses; annual registration fee.

§30-15-6. Suspension or revocation of licenses.

§30-15-7. Limitations of authority.

§30-15-8. Penalties.

§30-15-1. Definitions.

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 licenses without the privilege of renewal.

§30-15-3. Qualifications for licensing.

1 Persons shall be granted licenses who shall provide evidence
2 upon their application that they: (a) Are a registered professional nurse registered by the board; (b) are a graduate of a
3 school of midwifery approved by the american college of nurse-midwifery; and (c) are certified by the american college of
4 nurse-midwives.

§30-15-4. Applications; fee.

1 Persons may make applications for licensing as a nurse-midwife by completion of an application upon forms to be provided by the board. Such forms shall require the applicant to
2 state their name, address, age, and their qualifications for
3 licensing. The board may require reasonable supporting documentation and information demonstrating that the applicant
4 meets the qualifications for licensure. Such completed applications shall be submitted to the board together with the sum
5 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 executive 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
2 following reasons:

3 (1) Failure to remain current in annual registration;

4 (2) Gross negligence in performance of service as pro-
5 vided by the statement of functions, standards, and qualifica-
6 tions by the american college of nurse-midwives or failure to
7 perform such duties as may be required by the West Virginia
8 board of health;

9 (3) The commission of a crime in association with the
10 practice of nurse-midwifery.

11 Before any license shall be revoked or suspended, the
12 accused shall be furnished with a written statement of the
13 reasons for such suspension or revocation and shall be given
14 reasonable notice of, and be entitled to, a hearing before the
15 board, in person, or by attorney, according to the provisions
16 of chapter twenty-nine-a of the code of West Virginia, one
17 thousand nine hundred thirty-one, as amended.

§30-15-7. Limitations of authority.

1 The license to practice nurse-midwifery shall entitle the
2 holder to practice such profession according to the functions,
3 standards, and qualifications of the american college of
4 midwives, and such holder shall be required to practice under
5 the supervision of or in association with a licensed physician
6 engaged in family practice or the specialized field of gynecology or obstetrics, or as a member of the staff of any
7 maternity, newborn or family planning service approved by
8 the West Virginia board of health, who, as such, shall practice
9 midwifery under the supervision of a board-certified obstetri-
10 cian, gynecologist, or the primary-care physician normally di-
11 rectly responsible for the obstetric care in said area of practice.

§30-15-8. Penalties.

1 Any person practicing midwifery in this state without com-
2 plying with the provisions of this article shall be guilty of a
3 misdemeanor, and, upon conviction thereof, shall be fined not
4 more than five hundred dollars, or imprisoned in the county
5 jail not more than one year, or both fined and imprisoned.

CHAPTER 107

(Com. Sub. for Senate Bill No. 227—By Mr. Brotherton, Mr. President)

[Passed March 27, 1973; in effect from passage. Approved by the Governor.]

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.

1 (a) To be eligible for a license as a landscape architect, the
2 applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Not, within the next preceding twelve months, have
6 had his application for a license or a certificate or for reg-
7 istration to engage in the practice of landscape architecture
8 or as a landscape architect refused, suspended or revoked
9 in any state of the United States;

10 (4) Either (i) be a holder of an undergraduate degree or
11 graduate degree in landscape architecture from an accredited
12 institution of higher learning, with adequate course study at
13 such institution in landscape architecture, the adequacy of
14 any such course study to be determined by the board, and

15 when the degree held is an undergraduate degree, have had
16 at least two years' experience subsequent to receiving such
17 degree in the practice of landscape architecture under the
18 supervision of a landscape architect or a person having
19 qualifications acceptable to the board and similar to the
20 qualifications of a landscape architect, and, when the de-
21 gree held is a graduate degree, have had at least one year's
22 experience subsequent to receiving such graduate degree in
23 the practice of landscape architecture under the supervision
24 of a landscape architect or a person having qualifications
25 acceptable to the board and similar to the qualifications of
26 a landscape architect; or (ii) have had at least ten years'
27 experience in the practice of landscape architecture, of a
28 grade and character to qualify him to assume responsi-
29 bility for the work involved in the practice of landscape
30 architecture, at least six years of which shall have been
31 under the supervision of a landscape architect or a person
32 having qualifications acceptable to the board and similar to
33 the qualifications of a landscape architect; and

34 (5) Have passed the examination prescribed by the board,
35 which examination shall cover the theory and practice of land-
36 scape architecture.

37 (b) The following persons shall be eligible for a license as
38 a landscape architect without examination:

39 (1) Any person who was once licensed under the pro-
40 visions of this article, who temporarily abandoned the prac-
41 tice of landscape architecture and did not renew his license,
42 provided he satisfies the board that he remains qualified to
43 engage in the practice of landscape architecture; and

44 (2) Any person who holds a license or certificate or is
45 registered to engage in the practice of landscape architecture
46 issued by or effected in any other state, the requirements for
47 which license, certificate or registration are found by the board
48 to be at least as great as those provided in this article.

49 (c) Any person meeting the qualifications set forth in sub-
50 divisions (1), (2) and (3), subsection (a) of this section
51 who submits evidence satisfactory to the board that for at
52 least one year prior to the effective date of this article he
53 regularly engaged in the practice of landscape architecture

54 as a principal livelihood shall be entitled to be licensed un-
55 der the provisions of this article, without meeting the qualifi-
56 cations set forth in subdivisions (4) and (5), subsection (a) of
57 this section, if he files such application with the board within
58 three years from and after the effective date of this article.

59 (d) Any applicant for any such license shall submit an
60 application therefor at such time (subject to the time limi-
61 tation set forth in subsection (c) of this section), in such
62 manner, on such forms and containing such information as
63 the board may from time to time by reasonable rule and
64 regulation prescribe, and pay to the board a license fee of
65 forty dollars, which fee shall be returned to the applicant
66 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 thereto a new article, designated article twenty-four, relating to professions and occupations; relating to qualification of certain armed forces health technicians for certain civilian health occupations; setting forth certain legislative findings and a rule of construction; 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 license 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 qualification 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
2 many veterans returning to civilian life from active duty in
3 the armed forces who had extensive academic training and
4 experience while in the armed forces in various health oc-
5 cupations; that in many instances, the level of academic
6 training and experience is equal to or exceeds that re-
7 ceived by a student studying and training for a similar
8 health occupation in civilian life; that such veterans should
9 not be required to undergo further educational training or
10 obtain additional experience in civilian life before being
11 eligible for examination for licensing or registration in a com-
12 parable civilian health occupation; that in the public interest,
13 however, it is necessary that the competency of such vet-
14 erans be determined and evaluated by examination before
15 they are so licensed or registered; and that certain academic
16 training and experience of such veterans in the armed forces
17 should be sufficient to permit such examination or examina-
18 tions as may be required for the licensing or registration as
19 a registered nurse, licensed practical nurse, dental hygienist,
20 professional sanitarian or physical therapist. This article is en-
21 acted in view of these findings and shall be liberally con-
22 strued in the light thereof.

§30-24-2. Qualification for examination for license as a registered professional nurse.

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 medical specialist
5 advanced, medical service technician or advanced hospital
6 corpsman technician, or other equivalent rating in his partic-
7 ular branch of the armed forces, and whose service in the
8 armed forces was under honorable conditions, may submit to
9 the West Virginia board of examiners for registered profes-
10 sional nurses, a photostatic copy of the certificate issued
11 to him certifying successful completion of such course of in-
12 struction, a photostatic copy of his discharge from the armed
13 forces, an application for a license as a registered profes-
14 sional nurse and the prescribed license fee.

15 If the certificate and discharge, as evidenced by the
16 photostatic copies thereof, the application and prescribed
17 license fee are in order, and if the veteran meets all of the
18 requirements of article seven of this chapter, except the re-
19 quirement therein specified requiring an applicant to have
20 completed an accredited program of registered professional
21 nursing education and to hold a diploma from a school
22 accredited by such board, the veteran shall be permitted,
23 notwithstanding any provision of said article seven to the
24 contrary, to take the same examination or examinations as
25 are required under section six of said article seven for ap-
26 plicants who do not apply for a license under the provi-
27 sions of this article twenty-four. If the veteran passes such
28 examination or examinations, he shall be licensed as a regis-
29 tered professional nurse, and such veteran shall thereafter be
30 subject to all of the provisions of said article seven. If the
31 veteran does not pass such examination or examinations, the
32 provisions of said article seven relating to reexaminations shall
33 apply to such veteran the same as they apply to a person who
34 does not apply for a license under the provisions of this article
35 twenty-four.

§30-24-3. Qualification for examination for license as a licensed practical nurse.

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
4 required to qualify him for rating as a medical specialist
5 advanced, medical service technician, advanced hospital corps-
6 man technician, medical corpsman, medical service specialist
7 or class A hospital corpsman, or other equivalent rating in his
8 particular branch of the armed forces, and whose service in
9 the armed forces was under honorable conditions, may sub-
10 mit to the West Virginia state board of examiners for licensed
11 practical nurses, a photostatic copy of the certificate issued
12 to him certifying successful completion of such course of in-
13 struction, a photostatic copy of his discharge from the armed
14 forces, an application for license as a licensed practical nurse
15 and the prescribed fee.

16 If the certificate and discharge, as evidenced by the photo-
17 static copies thereof, the application and prescribed fee are in
18 order, and if the veteran meets all of the requirements of
19 article seven-a of this chapter, except the requirements there-
20 in specified requiring an applicant to have completed a course
21 of study in an accredited school for practical nurses as de-
22 fined by such board, to hold a diploma therefrom and to have
23 completed such other general educational requirements as may
24 be prescribed by such board, the veteran shall be permitted,
25 notwithstanding any provision of said article seven-a to the
26 contrary, to take the same examination or examinations as are
27 required under section six of said article seven-a for applicants
28 who do not apply for a license under the provisions of this
29 article twenty-four. If the veteran passes such examination or
30 examinations, he shall be licensed as a licensed practical nurse,
31 and such veteran shall thereafter be subject to all of the pro-
32 visions of said article seven-a. If the veteran does not pass
33 such examination or examinations, the provisions of said article
34 seven-a relating to reexaminations (by cross-reference to sec-
35 tion six, article one of this chapter) shall apply to such veteran
36 the same as they apply to a person who does not apply for a
37 license under the provisions of this article twenty-four.

**§30-24-4. Qualification for examination for license as a dental
hygienist.**

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

4 required to qualify him for rating as a dental specialist, pre-
5 ventive dentistry technician or dental technician, class A dental
6 technician school, or other equivalent rating in his particular
7 branch of the armed forces, and whose service in the armed
8 forces was under honorable conditions, may submit to the
9 West Virginia board of dental examiners, a photostatic copy
10 of the certificate issued to him certifying successful completion
11 of such course of instruction, a photostatic copy of his dis-
12 charge from the armed forces, an application for license as a
13 dental hygienist and the prescribed fee.

14 If the certificate and discharge, as evidenced by the photo-
15 static copies thereof, the application and prescribed fee are
16 in order, and if the veteran meets all of the requirements of
17 article four of this chapter, except the requirement therein
18 specified requiring an applicant to be a graduate of and
19 possess an acceptable diploma in dental hygiene from a
20 school having a course in dental hygiene approved by such
21 board, the veteran shall be permitted, notwithstanding any
22 provision of said article four to the contrary, to take the
23 same examination or examinations as are required under
24 section fourteen of said article four for applicants who do
25 not apply for a license under the provisions of this article
26 twenty-four. If the veteran passes such examination or ex-
27 aminations, he shall be licensed as a dental hygienist, and
28 such veteran shall thereafter be subject to all of the pro-
29 visions of said article four relating to dental hygienists. If
30 the veteran does not pass such examination or examinations,
31 the provisions of said article four relating to reexaminations
32 shall apply to such veteran the same as they apply to a
33 person who does not apply for a license under the provisions
34 of this article twenty-four.

**§30-24-5. Qualification for examination for registration as a sani-
tarian.**

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 food inspection special-
5 ist or a preventive medical specialist, or other equivalent
6 rating in his particular branch of the armed forces, and
7 whose service in the armed forces was under honorable con-
8 ditions, may submit to the West Virginia board of sanitari-

9 ans, a photostatic copy of the certificate issued to him
10 certifying successful completion of such course of instruction,
11 a photostatic copy of his discharge from the armed forces,
12 an application for registration as a professional sanitarian
13 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-

20 quirement therein specified requiring an applicant to be a
21 graduate of a school of physical therapy approved by the
22 American Physical Therapy Association and the board, the
23 veteran shall be permitted, notwithstanding any provision of
24 said article twenty to the contrary, to take the same exam-
25 ination or examinations as are required under section five of
26 said article twenty for applicants who do not apply for a
27 license under the provisions of this article twenty-four. If
28 the veteran passes such examination or examinations, he
29 shall be licensed as a licensed physical therapist, and such
30 veteran shall thereafter be subject to all of the provisions
31 of said article twenty. If the veteran does not pass such
32 examination or examinations, any provisions of said article
33 twenty relating to reexaminations shall apply to such veteran
34 the same as they apply to a person who does not apply
35 for a license under the provisions of this article twenty-four.

§30-24-7. Records required to be kept; reports to Legislature.

1 Each board referred to in the preceding sections of this
2 article shall prepare and maintain records as to (1) the
3 number of veterans who apply to such boards for license or
4 registration under the provisions of this article and the per-
5 centage thereof who pass the required examination or ex-
6 aminations; and (2) the number of persons who apply to
7 such boards for license other than under the provisions of
8 this article and the percentage thereof who pass the re-
9 quired examination or examinations. Each such board shall
10 render a report to the Legislature each year, during the first
11 ten days of each regular session thereof, collating and sum-
12 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.

1 Those public employers who are participating in the West
2 Virginia public employees retirement system and elected to
3 participate after the first day of July, one thousand nine
4 hundred sixty-one, and those employers who are eligible but
5 who have not elected to participate, may elect to cover their
6 employees retroactively for the period of their prior employ-
7 ment by such employer to the first day of July, one thousand
8 nine hundred sixty-one, under the following terms and rules
9 and regulations to be promulgated by the board of trustees of
10 the retirement system:

11 (a) The participating employer, in order to provide the
12 benefits set forth herein, shall pay an additional contribution
13 to the retirement system as shall be the actuarial equivalent of
14 the amount which would have been contributed, together
15 with earnings thereon, by the employer had the employee to
16 receive retroactive credit been covered during the period of
17 the retroactive service credit; such contribution may be made
18 by the employer either in one lump sum or at the election of
19 the employer by level term payments over a period not in
20 excess of fifteen years or by both such lump sum payments
21 and level term payments all of which shall be as determined

22 by the employer and such board of trustees under rules and
23 regulations promulgated by such board;

24 (b) The additional service credit shall be applicable to
25 employees working for the participating employer on the
26 effective date of the change of date of participation;

27 (c) There shall be no increase in benefits and annuities
28 paid to former members of the system who were retired prior
29 to the effective date of this section;

30 (d) Such employees before becoming entitled to such retro-
31 active service credit under the provisions of this section shall
32 make such additional contribution to the retirement system
33 as shall be the actuarial equivalent of the amount which
34 would have been contributed, together with earnings thereon,
35 by the employee had the employee been covered during the
36 period of the retroactive service credit;

37 (e) Each employer and employee shall be required to pay
38 into the retirement system in the manner hereinafter provided
39 the amount necessary for the additional service credit provided
40 by this section, based upon an actuarial study of each em-
41 ployer that elects to participate in the retirement system
42 under this section and as determined by the board of trustees;

43 (f) The actuarial basis for determining the additional con-
44 tributions shall be that currently in effect for the valuation of
45 the retirement system on the effective date of the employer's
46 election;

47 (g) Any new participating employer and any participating
48 employer which is currently a participant and who began
49 participating after the first day of July, one thousand nine
50 hundred sixty-one, who desires additional service credit must
51 elect to provide such service credit within one year following
52 the effective date of this section;

53 (h) Any participating employer requesting additional ser-
54 vice credit as provided by this section shall provide such
55 employee data as may be requested from the board of trustees
56 of the retirement system for the determination of the
57 employer's contributions; and

58 (i) The consulting actuary's fees for computing the addi-
59 tional contribution rates under this section shall be paid
60 directly by the participating employer to the consulting actuary
61 selected by the board of trustees of the retirement system.

CHAPTER 110

(Senate Bill No. 2069—Originating in the Committee on Finance)

[Passed April 12, 1973; in effect July 1, 1973. Approved by the Governor.]

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 de-
2 partment of public safety, which shall, in addition to the
3 personnel provided for in section two of this article, consist
4 of four companies or platoons. They shall be designated as
5 companies "A," "B," "C" and "D." Each company or pla-
6 toon shall be composed of one captain, one lieutenant, one
7 first sergeant, seven sergeants, not more than seventeen cor-
8 porals and such number of troopers and troopers first class
9 as the superintendent may decide best, but such number of
10 troopers and troopers first class in any company or platoon
11 shall not at any time be less than twenty-five.

12 The superintendent shall provide adequate facilities for the
13 training of all members of the department and shall pre-
14 scribe a basic training course for newly enlisted members.
15 He shall also provide advanced or in-service training from
16 time to time for all members of the department. The super-
17 intendent shall hold training classes for other peace officers

18 in the state without cost to such officers, except actual ex-
19 penses for food, lodging and school supplies.

20 Members of the department shall receive salaries, as fol-
21 lows:

22 The inspector shall receive an annual salary of thirteen
23 thousand four hundred sixty-four dollars; the major shall re-
24 ceive an annual salary of twelve thousand ninety-one dollars;
25 captains shall each receive an annual salary of ten thousand
26 eight hundred twenty-four dollars; lieutenants shall each re-
27 ceive an annual salary of ten thousand two hundred seven-
28 teen dollars; the master sergeants and first sergeants shall
29 each receive an annual salary of nine thousand five hundred
30 forty-four dollars; sergeants shall each receive an annual
31 salary of nine thousand two hundred forty dollars; corporals
32 shall each receive an annual salary of eight thousand eight
33 hundred thirty-one dollars; troopers first class shall receive
34 an annual salary of eight thousand five hundred forty dollars;
35 and each newly enlisted trooper shall receive a salary of five
36 hundred eighty-seven dollars during the period of his basic
37 training, and upon the satisfactory completion of such train-
38 ing and assignment to active duty each trooper shall receive,
39 during the remainder of his first year's service a salary of six
40 hundred fifty-eight dollars monthly. During the second year
41 of his service in the department each trooper shall receive an
42 annual salary of eight thousand sixty-five dollars; during the
43 third year of his service each trooper shall receive an annual
44 salary of eight thousand two hundred thirty-seven dollars;
45 and during the fourth and fifth years of his service and for
46 each year thereafter each trooper shall receive an annual
47 salary of eight thousand three hundred ninety-five dollars.
48 Each member of the department entitled thereto by the pro-
49 visions hereof shall receive an increase in salary over that
50 hereinbefore set forth in this section, for grade and rank,
51 based on length of service, including that heretofore and here-
52 after served, with the department, as follows: At the end of
53 five years of service with the department, such member of
54 the department shall receive a salary increase of three hundred
55 dollars per year to be effective during his next three years of
56 service and like increases at three-year intervals thereafter,

57 until a total of six such increases shall be received and such
58 increases shall be cumulative.

59 In applying the foregoing salary schedule where salary in-
60 creases are provided for length of service, members of the
61 department in service at the time this article becomes ef-
62 fective shall be given credit for prior service and shall be
63 paid such salaries as the same length of service will entitle
64 them to receive under the provisions hereof.

65 Each member of the department of public safety, except
66 the superintendent and civilian employees, shall, before en-
67 tering upon the discharge of his duties, execute a bond with
68 security in the sum of three thousand five hundred dollars
69 payable to the state of West Virginia, conditioned for the
70 faithful performance of his duties as such, and such bond
71 shall be approved as to form by the attorney general, and
72 as to sufficiency by the governor, and the same shall be
73 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.

§15-2-30. Employment of legal counsel.

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

4 choice to act in proceedings wherein criminal charges are
5 brought against such member of the department because of
6 action in line of duty. For such attorney services an amount
7 determined by the judge in whose court the action is pending,
8 not to exceed two thousand dollars, may be expended in any
9 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

24. Public Service Commission.

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.

1 (a) No public utility, person or corporation shall begin
2 construction of a high voltage transmission line of two hun-
3 dred thousand volts or over, which line is not an ordinary
4 extension of an existing system in the usual course of busi-
5 ness as defined by the public service commission, unless and
6 until it or he shall have obtained from the public service
7 commission a certificate of public convenience and necessity
8 approving the construction and proposed location of such
9 transmission line.

10 (b) The application for such certificate shall be in such
11 form as the commission may prescribe and shall contain:

12 (1) A description, in such detail as the commission may
13 prescribe, of the location and type of line facilities which the
14 applicant proposes to construct;

15 (2) A statement justifying the need for such facilities;

16 (3) A statement of the environmental impact of such line
17 facilities; and

18 (4) Such other information as the applicant may deem
19 relevant or the commission may require.

20 (c) Upon the filing of such application, the applicant shall
21 publish, in such form as the commission shall direct, as a
22 Class II legal advertisement in compliance with the pro-
23 visions of article three, chapter fifty-nine of this code, the
24 publication area for such publication to be each county in
25 which any portion of the proposed transmission line is to
26 be constructed, a notice of the filing of such application and
27 that the commission may approve the same unless within
28 fifteen days after completion of publication a written request
29 for a hearing thereon has been received by the commission
30 from a person or persons alleging that the proposed transmis-
31 sion line or its location is against the public interest. If such
32 request be timely received, the commission shall set the matter
33 for hearing on a date within sixty days from completion of said

34 publication, and shall require the applicant to publish notice of
35 the time and place of hearing in the same manner as is herein
36 required for the publication of notice of the filing of the
37 application.

38 (d) Within sixty days after the filing of said application,
39 or if hearing shall be held thereon, within ninety days after
40 final submission on oral argument or brief, the commission
41 may approve the application if it shall find and determine
42 that the proposed transmission line:

43 (1) Will economically, adequately and reliably contribute to
44 meeting the present and anticipated requirements for electric
45 power of the customers served by the applicant or is necessary
46 and desirable for present and anticipated reliability of service
47 for electric power for its service area or region; and

48 (2) Will result in an acceptable balance between reasonable
49 power needs and reasonable environmental factors.

50 (e) The commission may impose conditions upon its ap-
51 proval of the application, or modify the applicant's proposal,
52 to achieve an acceptable balance between reasonable power
53 needs and reasonable environmental factors.

54 (f) The provisions of this section shall not apply to the
55 construction of line facilities which will be part of a trans-
56 mission line for which any right-of-way has been acquired
57 prior to the first day of January, one thousand nine hundred
58 seventy-three.

59 (g) The commission shall prescribe such rules and regula-
60 tions as it may deem proper for the administration and en-
61 forcement of the provisions of this section, which rules and
62 regulations shall be promulgated in accordance with the appli-
63 cable provisions of chapter twenty-nine-a of this code as if
64 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.

1 In addition to the requirements set forth in section two of
2 this article, a public utility, person or corporation required

3 under section eleven-a, article two, chapter twenty-four of
4 this code to obtain a certificate of public convenience and
5 necessity for the construction and location of a high voltage
6 transmission line, shall file a certified or attested copy of
7 such certificate with its petition to condemn real or personal
8 property for the construction of such high voltage trans-
9 mission line. Failure to file such certified or attested copy
10 of such certificate shall result in dismissal of the petition.

CHAPTER 113

(Senate Bill No. 72—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed March 13, 1973; in effect July 1, 1973. Approved by the Governor.]

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
2 broker's license shall be fifty dollars.

3 The original fee and annual renewal fee for each real estate
4 salesman's license shall be twenty-five dollars.

5 If any applicant for a real estate broker's or salesman's
6 license shall fail to pass the required examination, he may

7 be eligible to take the next or succeeding examination without
8 payment of an additional fee.

9 (1) It shall be the duty of all persons licensed who practice
10 as a real estate broker or salesman to register annually with
11 the commission and to pay for each such annual registration
12 the fees set forth above. Said application for renewal of real
13 estate broker's license shall be made to the commission an-
14 nually no later than June thirtieth of each succeeding year.

15 (2) For each additional office or place of business an addi-
16 tional annual fee of five dollars shall be collected.

17 (3) For each change of office or place of business, an addi-
18 tional fee of one dollar shall be collected.

19 (4) For each duplicate or transfer of salesman's license, an
20 additional fee of one dollar shall be collected.

21 (5) For each duplicate license where the original license is
22 lost or destroyed and affidavit made thereof, a fee of two dol-
23 lars shall be collected.

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.**

1 The refunding bonds may be issued in one or more series,
2 may bear such date or dates, may mature at such time or
3 times not exceeding the period of usefulness of the enterprise,
4 as determined by the governing body in its discretion, not in
5 any event exceeding forty years from their respective dates;
6 may bear interest at such rate or rates not exceeding the
7 maximum rate of interest borne by the notes, bonds or other
8 obligations refinanced thereby; may be in such denomina-
9 tion or denominations, may be in such form either coupon
10 or registered, may carry such registration and conversion
11 privileges, may be executed in such manner, may be pay-
12 able in such medium of payment, at such place or places,
13 may be subject to such terms of redemption, with or with-
14 out a premium, may be declared or become due before
15 the maturity date thereof, may provide for the replacement
16 of mutilated, destroyed, stolen or lost bonds, may be authen-
17 ticated in such manner and upon compliance with such con-
18 ditions; and may contain such other terms and covenants,
19 as may be provided by resolution or resolutions of the
20 governing body of the public body: *Provided*, That if the
21 refinancing is for the sole purpose of discharging at less
22 than their face or par value all of the outstanding notes,
23 bonds or other obligations of a Class I or Class II city,
24 as defined in chapter eight of this code, and such notes,
25 bonds or other obligations are to be refinanced, then such
26 refunding bonds may bear interest at any rate or rates, not
27 exceeding eight percent per annum, which results in a total
28 interest cost of not more than the total amount of interest,
29 including interest then in arrears, that would have been pay-
30 able from the date of such refinancing to maturity of the
31 notes, bonds or other obligations so refinanced: *Provided*,
32 *however*, That if the governing body determines that one
33 of the purposes of issuing such refunding bonds is to effect
34 the release, termination or modification of liens, restrictions,
35 conditions or limitations imposed in connection with the notes,
36 bonds or other obligations refinanced thereby, then such re-
37 funding bonds may be issued bearing interest at such rate
38 or rates as the governing body may determine, but such rate

39 or rates shall not exceed the maximum stated rate of in-
40 terest which the notes, bonds or other obligations refinanced
41 thereby could bear if they were being issued as of the date
42 of issuance of such refunding bonds, and notwithstanding any
43 other limitations contained in this article, such refunding
44 bonds may not be sold or exchanged at a price which would
45 result in a net interest cost, herein defined to mean the total
46 amount of interest to accrue on the refunding bonds from
47 the date thereof to their respective maturities without regard
48 to any retained options of redemption plus the amount of
49 any discount below par or less the amount of any premium
50 above par at which the bonds may be sold or exchanged,
51 in excess of the maximum net interest cost which the out-
52 standing notes, bonds or other obligations to be refinanced
53 thereby could be sold or exchanged for if they were being
54 issued as of the date of issuance of such refunding bonds.

55 Notwithstanding the form or tenor thereof, and in the
56 absence of an express recital on the face thereof that the
57 bond is nonnegotiable, all refunding bonds shall at all times
58 be, and shall be treated as, negotiable instruments for all pur-
59 poses.

CHAPTER 115

(Senate Bill No. 2067—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-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.

1 Refunding bonds issued under this article may be exchanged
2 for not less than a like principal amount of the revenue
3 bonds to be refunded, or may be sold at public or private
4 sale, or may be exchanged in part and sold in part, in such
5 manner and upon such terms as may be determined by the
6 governing body to be for the best interests of the public
7 body: *Provided*, That such refunding bonds shall not be sold
8 or exchanged at a price lower than a price which will show
9 a net saving to the issuer after deducting all expenses of
10 the refunding: *Provided, however*, That if the governing
11 body determines that one of the purposes of issuing such
12 refunding bonds is to effect the release, termination or
13 modification of liens, restrictions, conditions or limitations
14 imposed in connection with the bonds which are to be re-
15 funded, then such refunding bonds may be issued without the
16 necessity of showing a net saving to the issuer, in which
17 event such refunding bonds shall bear interest at such rate or
18 rates as the governing body may determine, but such rate or
19 rates shall not exceed the maximum stated rate of interest
20 which the revenue bonds to be refunded thereby could bear if
21 they were being issued as of the date of issuance of such
22 refunding bonds, and such refunding bonds may not be sold
23 or exchanged at a price which would result in a net interest
24 cost in excess of the maximum net interest cost which the
25 revenue bonds to be refunded could be sold or exchanged for
26 if they were being issued as of the date of issuance of such
27 refunding bonds.

28 If any such refunding bonds are to be sold, they may be
29 issued in such principal amount as may be determined advis-
30 able by the governing body including, without limitation,
31 the aggregate principal amount of the revenue bonds to be
32 refunded, interest accrued and to accrue to the date or dates
33 on which the revenue bonds being refunded are scheduled to
34 mature or to be redeemed prior to maturity, any redemption
35 premiums which must be paid in order to refund such out-

36 standing revenue bonds and any costs and expenses of issuing
37 the refunding bonds and providing for retirement of revenue
38 bonds to be refunded. If sold, the net proceeds shall either be
39 immediately applied to the payment or redemption and retire-
40 ment of the revenue bonds to be refunded, or the net proceeds
41 of the refunding bonds may be invested at the discretion and
42 under the supervision of the escrow agent in whole, or in part,
43 (a) in direct obligations issued by the United States of America
44 or one of its agencies, (b) in obligations unconditionally guar-
45 anteed by the United States of America as to principal and in-
46 terest, or (c) in certificates of deposit of a banking corporation
47 or association which is a member of the federal deposit insur-
48 ance corporation, or successor; but any such certificates of de-
49 posit must be fully secured as to both principal and interest by
50 pledged collateral consisting of direct obligations of or obliga-
51 tions guaranteed by the United States of America having a
52 market value, excluding accrued interest, at all times at least
53 equal to the amount of the principal of an accrued interest on
54 such certificates of deposit. Any such investments must mature,
55 or be payable in advance of maturity at the option of the hold-
56 er, and must bear interest in such manner as to provide funds
57 which, together with uninvested money placed in the herein-
58 after mentioned escrow, will be sufficient to pay when due or
59 called for redemption the revenue bonds refunded, together
60 with interest accrued and to accrue thereon and redemption
61 premiums, if any, and such refunding bond proceeds or obli-
62 gations so purchased therewith shall, and with other funds
63 legally available to the public body for such purpose may, be
64 deposited in escrow with the state sinking fund commission to
65 be held in trust for the payment and redemption of the revenue
66 bonds refunded, and such money and obligations and any re-
67 investment thereof shall be held in trust by such escrow agent
68 for the payment of interest on the refunded bonds when due,
69 and principal thereof and applicable redemption premiums,
70 if any, when due, or upon the date or dates for which they
71 shall have been called for redemption, or upon an earlier
72 voluntary surrender at the option of the escrow agent; pro-
73 vided if interest earned by any investment in such escrow is
74 shown to be in excess of the amounts required from time to
75 time for the payment of interest on and principal of the

76 refunded revenue bonds, including applicable redemption pre-
77 mium, then such excess may be withdrawn from escrow and
78 disbursed by the public body as are other revenues of the
79 enterprise. Any moneys in the sinking or reserve funds or
80 other funds maintained for the outstanding revenue bonds to
81 be refunded may be applied in the same manner and for the
82 same purpose as are the net proceeds of refunding bonds or
83 may be deposited in the special fund or any reserve funds es-
84 tablished for account of the refunding bonds. The term "net
85 proceeds" as used above shall mean the gross proceeds of the
86 refunding bonds after the deduction therefrom of all accrued
87 interest, costs and expenses incurred in connection with the
88 authorization and issuance of the refunding bonds and the
89 retirement of the outstanding revenue bonds, and including all
90 costs and expenses resulting from price variations to par or
91 otherwise incurred in the purchase of obligations for escrow
92 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.

1 The commissioner shall be in charge of and responsible for

2 the selection, employment and effective organization of all
3 commission personnel for the entire state road and highway
4 program. He may establish such divisions, sections and other
5 functional and organizational units within the commission as
6 may be necessary and practical in the full and effective dis-
7 charge of the duties and responsibilities of his office. Except
8 as otherwise provided by law, all commission personnel shall
9 be classified pursuant to the job classification system and shall
10 be paid pursuant to the salary scale established by the com-
11 missioner.

12 The commissioner shall select and employ a business man-
13 ager assistant and one or more chief engineer assistants who
14 shall be registered professional engineers, and shall establish
15 such other offices, activities, divisions, sections and organi-
16 zational units as may be necessary and practical. The business
17 manager assistant shall be in charge of and responsible for
18 matters of finance and such other functions as may be assigned
19 to him from time to time by the commissioner. The chief engi-
20 neer assistant or, if the commissioner has selected and employ-
21 ed more than one chief engineer assistant, the chief engineer
22 assistants shall be in charge of and responsible for planning,
23 equipment, materials, construction, maintenance, and such
24 other functions as may be designated by the commissioner as
25 well as such other functions as may from time to time be
26 assigned to such chief engineer assistant or assistants by the
27 commissioner.

28 The commissioner shall require every employee who collects
29 fees or handles funds or who has custody or control of equip-
30 ment or supplies belonging to the state to give bond, with such
31 sureties and in such penal sum as may be approved by the
32 commissioner, for the faithful discharge of each such em-
33 ployee's duties and his accounting for all such fees, funds,
34 equipment and supplies coming into his hands or under his
35 custody or control. All such bonds, when approved by the com-
36 missioner, shall be filed in the office of the secretary of state.
37 Premiums on all such bonds shall be paid from commission
38 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.

§17-2A-8. Powers, duties and responsibilities of commissioner.

1 In addition to all other duties, powers and responsibilities
2 given and assigned to the commissioner in this chapter, the
3 commissioner may:

4 (1) Exercise general supervision over the state road pro-
5 gram and the construction, reconstruction, repair and main-
6 tenance of state roads and highways;

7 (2) Determine the various methods of road construction
8 best adapted to the various sections and areas of the state
9 and establish standards for the construction and maintenance
10 of roads and highways therein;

11 (3) Conduct investigations and experiments, hold hear-
12 ings and public meetings and attend and participate in
13 meetings and conferences within and without the state for
14 purposes of acquiring information, making findings and de-
15 termining courses of action and procedure relative to ad-
16 vancement and improvement of the state road and highway
17 system;

18 (4) Enter private lands to make inspections and surveys
19 for road and highway purposes;

20 (5) Acquire, in name of the department, by lease, grant,
21 right of eminent domain or other lawful means, all lands

22 and interests and rights in lands necessary and required for
23 roads, rights-of-way, cuts, fills, drains, storage for equip-
24 ment and materials, and road construction and maintenance
25 in general;

26 (6) Procure photostatic copies of any or all public records
27 on file at the state capital of Virginia which may be deemed
28 necessary or proper in ascertaining the location and legal
29 status of public road rights-of-way located or established in
30 what is now the state of West Virginia, which photostatic
31 copies, when certified by the commissioner, may be admitted
32 in evidence, in lieu of the original, in any of the courts of this
33 state;

34 (7) Plan for and hold annually a school of good roads,
35 of not less than three or more than six days' duration, for
36 instruction of his employees, which school shall be held in
37 conjunction with West Virginia University and may be held
38 at the university or at any other suitable place in the state;

39 (8) Negotiate and enter in reciprocal contracts and agree-
40 ments with proper authorities of other states and of the
41 United States relating to and regulating the use of roads
42 and highways with reference to weights and types of ve-
43 hicles, registration of vehicles and licensing of operators,
44 military and emergency movements of personnel and sup-
45 plies and all other matters of interstate or national interest;

46 (9) Classify and reclassify, locate and relocate, express-
47 way, trunkline, feeder and state local service roads, and
48 designate by number the routes within the state road
49 system;

50 (10) Create, extend or establish, upon petition of any
51 interested party or parties or on the commissioner's own
52 initiative, any new road or highway as may be found neces-
53 sary and proper;

54 (11) Exercise jurisdiction, control, supervision and author-
55 ity over local roads, outside the state road system, to the
56 extent determined by him to be expedient and practicable;

57 (12) Discontinue, vacate and close any road or highway,
58 or any part thereof, the continuance and maintenance of
59 which are found unnecessary and improper, upon petition

60 and hearing, or upon investigation initiated by the commis-
61 sioner;

62 (13) Close any state road while under construction or re-
63 pair and provide a temporary road during the time of such
64 construction or repair;

65 (14) Adjust damages occasioned by construction, recon-
66 struction or repair of any state road or the establishment of
67 any temporary road;

68 (15) Establish and maintain a uniform system of road signs
69 and markers;

70 (16) Fix standard widths for road rights-of-way, bridges
71 and approaches thereto and fix and determine grades and
72 elevations therefor;

73 (17) Test and standardize materials used in road con-
74 struction and maintenance, either by governmental testing and
75 standardization activities or through contract by private agen-
76 cies;

77 (18) Allocate the cost of retaining walls and drainage
78 projects, for the protection of a state road or its right-of-
79 way, to the cost of construction, reconstruction, improvements
80 or maintenance;

81 (19) Acquire, establish, construct, maintain and operate
82 in the name of the department, roadside recreational areas
83 along and adjacent to state roads and highways;

84 (20) Exercise general supervision over the construction
85 and maintenance of airports and landing fields under the
86 jurisdiction of the West Virginia state aeronautics commission,
87 of which the commissioner is a member, and make a study
88 and general plan of a state-wide system of airports and land-
89 ing fields;

90 (21) Provide traffic engineering services to municipalities
91 of the state upon request of the governing body of any such
92 municipality and upon such terms as may be agreeably
93 arranged;

94 (22) Institute complaints before the public service com-
95 mission or any other appropriate governmental agency re-
96 lating to freight rates, car service and movement of road
97 materials and equipment;

98 (23) Invoke any appropriate legal or equitable remedies
99 to enforce his orders, to compel compliance with require-
100 ments of law and to protect and preserve the state road and
101 highway system or any part thereof;

102 (24) Make and promulgate rules and regulations for the
103 government and conduct of personnel, for the orderly and
104 efficient administration and supervision of the state road
105 program and for the effective and expeditious performance
106 and discharge of the duties and responsibilities placed upon
107 him by law;

108 (25) Delegate powers and duties to his appointees and
109 employees who shall act by and under his direction and be
110 responsible to him for their acts;

111 (26) Designate and define such construction and main-
112 tenance districts within the state road system as may be
113 found expedient and practicable;

114 (27) Contract for the construction, improvement and main-
115 tenance of the roads;

116 (28) Have authority to comply with provisions of present
117 and future federal aid statutes and regulations, including
118 execution of contracts or agreements with and cooperation
119 in programs of the United States government and any proper
120 department, bureau or agency thereof relating to plans, sur-
121 veys, construction, reconstruction, improvement and main-
122 tenance of state roads and highways;

123 (29) Prepare budget estimates and requests;

124 (30) Establish a system of accounting covering and includ-
125 ing all fiscal and financial matters of the department;

126 (31) Have authority to establish and advance a right-
127 of-way acquisition revolving fund, a materials revolving fund
128 and an equipment revolving fund;

129 (32) Enter into contracts and agreements with and co-
130 operate in programs of counties, municipalities and other gov-
131 ernmental agencies and subdivisions of the state relating to
132 plans, surveys, construction, reconstruction, improvement,
133 maintenance and supervision of highways, roads, streets, and
134 other travel ways when and to the extent determined by the
135 department to be expedient and practical;

136 (33) Report, as provided by law, to the governor and the
137 Legislature;

138 (34) Purchase materials, supplies and equipment required
139 for the state road program and system;

140 (35) Dispose of all obsolete and unusable and surplus
141 supplies and materials, which cannot be used advantageously
142 and beneficially by the department in the state road program,
143 by transfer thereof to other governmental agencies and insti-
144 tutions by exchange, trade or sale thereof;

145 (36) Investigate road conditions, official conduct of de-
146 partment personnel and fiscal and financial affairs of the
147 department and hold hearings and make findings thereon or
148 on any other matters within the jurisdiction of the depart-
149 ment;

150 (37) Establish road policies and administrative practices;
151 and

152 (38) Take actions necessary to alleviate such conditions
153 as the governor may declare to constitute an emergency,
154 whether or not the emergency condition affects areas nor-
155 mally under the jurisdiction of the department of highways.

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.

1 The commissioner of highways is hereby authorized to in-
2 clude within the cost of highway construction the cost of relo-
3 cation necessarily incurred by any public utility in relocating
4 any public utility line or facility as a result of a federal aid
5 emergency relief project pursuant to the "Federal Aid High-
6 way Act of 1956," as amended, and all acts amendatory
7 and supplementary thereto.

8 For the purposes of this bill, the term, "cost of relocation,"
9 shall have the same meaning as in section seventeen-b of this
10 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

2 Better Roads Amendment of 1964, of the par value not to
3 exceed twenty million dollars during the fiscal year ending
4 the thirtieth day of June, one thousand nine hundred seventy-
5 four, are hereby authorized to be issued and sold for the
6 sole purpose of raising funds for the building and construc-
7 tion of state roads and highways as provided for by the con-
8 stitution and the laws enacted thereunder. Such bonds may
9 be issued by the governor in such denominations, at such
10 time, bearing such date or dates as the governor may deter-
11 mine, based upon an examination of the West Virginia
12 department of highways' yearly program which justifies the
13 issuance by the governor of said bonds, and shall become
14 due and payable serially, annually or semiannually, in such
15 amounts and mature in such years as the governor may
16 determine: *Provided*, That such bonds shall mature within
17 and not exceeding twenty-five years from their date: *Provided*,
18 *however*, That the governor must offer said bonds for com-
19 petitive bids from recognized financial investment institutions
20 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 ar-
2 range for the transfer of registered bonds and for each such
3 transfer a fee of fifty cents shall be charged by and paid to the
4 state of West Virginia, to the credit of the state road sinking
5 fund. Bonds taken in exchange shall be cancelled by the audi-
6 tor and treasurer and be carefully preserved by the treasurer.
7 The treasurer shall make provisions for registering "payable
8 to bearer" bonds, and for each bond registered a fee of fifty
9 cents, shall likewise be charged by and paid to the state of
10 West Virginia, to the credit of the state road sinking fund. All
11 such bonds shall be payable at the office of the treasurer of
12 the state of West Virginia, or, at the option of the holder, at a
13 bank in the city of New York to be designated by the governor,
14 or, at the option of the holder at such other bank or banks,
15 within the state as may be designated or approved by the gov-
16 ernor. The bonds shall bear interest, payable semiannually, to
17 bearer, at the office of the treasurer of the state of West Vir-
18 ginia, at the capitol of the state, or at the banks designated

19 and approved by the governor, upon presentation and sur-
20 render of interest coupons then due, in the case of coupon
21 bonds. For the payment of interest on registered bonds, the
22 treasurer of the state of West Virginia shall requisition a war-
23 rant from the auditor of the state to be drawn on the state
24 treasurer, and shall mail such warrant to the registered owner
25 at the address as shown by the record of registration. Both the
26 principal and interest of the bonds shall be made payable in
27 lawful money of the United States of America and the bonds
28 shall be exempt from taxation by the state of West Virginia, or
29 by any county, district or municipality thereof, which facts
30 shall appear on the face of the bonds as part of the contract
31 with the holder thereof.

§3. Form of bond.

1 The bonds shall be executed on behalf of the state of West
2 Virginia, by the manual or facsimile signature of the treasurer
3 thereof, under the great seal of the state or a facsimile thereof,
4 and countersigned by the manual or facsimile signature of the
5 auditor of the state: *Provided*, That one of said signatures on
6 said bonds shall be a manual signature and said bonds shall be
7 in the following form or to the following effect, as nearly as
8 may be, namely:

9 COUPON ROAD BOND
10 (or registered road bond, as the case may be)
11 OF THE
12 STATE OF WEST VIRGINIA
13 \$_____ NO._____

14 The state of West Virginia, under and by virtue of authority
15 of an amendment to the constitution, which was proposed by
16 House Joint Resolution No. 10, adopted the seventh day of
17 March, one thousand nine hundred sixty-three, and was
18 ratified by a vote of the people at the general election on the
19 third day of November, one thousand nine hundred sixty-four,
20 which is hereby made a part hereof as fully as if set forth
21 at length herein, acknowledges itself to be indebted to and
22 hereby promises to pay to the bearer hereof (in case of a
23 coupon bond) or to _____ or assigns (the

24 owner of record, in case of registered bonds) on the _____
25 day of _____, 19____, in lawful money of
26 the United States of America at the office of the treasurer of
27 the state of West Virginia at the capitol of said state, or, at
28 _____ bank in the city of New York, or, at
29 _____ bank, at the option of the holder, the
30 sum of _____ dollars, with interest thereon at
31 _____ percent a year from the date, payable semiannually in
32 like lawful money of the United States of America at the
33 treasurer's office or banks aforesaid, on the first day of
34 _____ 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
38 surrender of such coupons. This bond (in case of a coupon
39 bond) may be exchanged for a registered bond of like tenor
40 upon application to the treasurer of the state of West Virginia.

41 (Redemption provisions, if any, to be inserted here)

42 To secure the payment of the principal and interest of this
43 bond, the state of West Virginia covenants and agrees with the
44 holder as follows: (1) That this bond shall constitute a direct
45 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
51 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
54 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
57 corporation thereof.

58 In testimony whereof, witness the manual or facsimile
59 signature of the treasurer of the state of West Virginia, and the
60 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 _____,

63 and the seal of the state of West Virginia or a facsimile
64 thereof.

65

66 _____
Treasurer of the State of West Virginia

67 (SEAL)

68 Countersigned:

69 _____

70 Auditor of the State of West Virginia

§4. Form of coupon.

1 The form of coupon shall be substantially as follows, to wit:

2 STATE OF WEST VIRGINIA

3 Bond No. _____ Coupon No. _____

4 On the first day of _____, 19 _____, the state of
5 West Virginia will pay to the bearer, in lawful money of the
6 United States of America, at the office of the treasurer of the
7 state, or, at _____ bank in the city of New York,
8 or, at _____, at the option of the holder,
9 the sum of _____ dollars, the same being
10 semiannual interest on Road Bond No. _____.

11

12 _____
Treasurer of the State of West Virginia

13 The signature of the treasurer to such coupon shall be by
14 his facsimile signature and the coupons shall be numbered in
15 the order of their maturity, from number one consecutively.
16 The bonds and coupons may be signed, as provided in this
17 act, by the present treasurer and auditor, or by any of their
18 respective successors in office, and the bonds signed by the
19 persons now in the office may be sold by the governor or his
20 successor in office without being signed by the successor in
21 office of the present treasurer or auditor.

§5. Listing by auditor.

1 All coupons and registered bonds issued under this act shall
2 be separately listed by the auditor of the state in books pro-
3 vided for the purpose, in each case giving the date, number,
4 character and amount of obligations issued, and in case of
5 registered bonds, the name and post-office address of the per-
6 son, firm or corporation registered as the owner thereof.

§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
2 from any and all appropriations made by the state from the
3 state road fund for the purpose of paying the interest on such
4 bonds or paying off and retiring the bonds, from transfer and
5 registration fees as herein provided, and from any other source
6 whatsoever which is made liable by law for the payment of
7 the principal of such bonds or the interest thereon.

8 All such funds shall be kept by the treasurer in a separate
9 account, under the designation aforesaid, and all money be-
10 longing to the fund shall be deposited in the state treasury to
11 the credit thereof.

12 Such fund shall be applied by the treasurer of the state first
13 to the payment of the semiannual interest on such bonds as it
14 shall become due as herein provided. The remainder of the
15 fund shall be turned over by the state treasurer to the state
16 sinking fund commission, whose duty it shall be to invest the
17 same in obligations of the government of the United States,
18 bonds of the state of West Virginia, or any political subdivision
19 thereof: *Provided*, That bonds or other obligations so purchas-
20 ed by the state sinking fund commission shall mature so as to
21 provide sufficient money to pay off all bonds herein provided
22 to be issued as they become due; and the money so paid into
23 the state road sinking fund under the provisions of this act
24 shall be expended for the purpose of paying the interest and
25 principal of the bonds hereby provided for as they severally
26 become due and payable and for no other purpose except that
27 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
2 holders of the bonds issued pursuant hereto as follows: (1)
3 That such bonds shall constitute a direct and general obliga-
4 tion of the state of West Virginia; (2) that the full faith and
5 credit of the state is hereby pledged to secure the payment
6 of the principal and interest of such bonds; (3) that an
7 annual state tax shall be collected in an amount sufficient
8 to pay as it may accrue the interest on such bonds and the

9 principal thereof; and (4) that such tax shall be levied in
10 any year only to the extent that the moneys in the state road
11 fund irrevocably set aside and appropriated for and applied
12 to the payment of the interest on and principal of said bonds
13 becoming due and payable in such year are insufficient there-
14 for.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at such
2 time or times as he may determine necessary to provide funds
3 for the building and construction of state roads and high-
4 ways, as herein provided, upon the recommendation of the
5 West Virginia commissioner of highways, and after reviewing
6 the program of the West Virginia department of highways
7 and subject to the limitations contained in this act. All sales
8 shall be at not less than par and accrued interest. All interest
9 coupons becoming payable prior to the sale date shall be
10 cancelled by the treasurer and rendered ineffective, before
11 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
2 be paid into a separate and distinct account in the state road
3 fund and shall be used and appropriated solely for the
4 building and construction of state roads and highways pro-
5 vided for by the state constitution and the laws enacted
6 thereunder. Except for such sums necessary for current
7 operating balances, such accounts shall be invested and re-
8 invested in short-term obligations of the United States treasury:
9 *Provided*, That no such investment or reinvestment shall
10 adversely affect the current operating balances of such ac-
11 count.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the bonds
2 authorized by this act are produced or made shall be the
3 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
2 issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim cer-
2 tificates to be issued to the purchasers of such bonds to be
3 held by them in lieu of permanent bonds. When interim
4 certificates are so issued, they shall become full and legal
5 obligations of the state of West Virginia under all of the
6 provisions of this act just as fully and completely as the
7 permanent bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
2 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 representa-
2 tive, shall serve as bond counsel and shall be responsible for
3 the issuance of a final approving opinion regarding the
4 legality of the sale of such bonds.

§15. Approval and payment of all necessary expenses.

1 All necessary expenses, including legal expenses approved
2 by the attorney general, incurred in the execution of this act
3 shall be paid out of the state road fund on warrants of the
4 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.

1 Bonds of the state of West Virginia, under authority of the
2 Roads Development Amendment of 1968, of the par value not
3 to exceed twenty million dollars during the fiscal year ending
4 the thirtieth day of June, one thousand nine hundred seventy-
5 four, are hereby authorized to be issued and sold for the sole
6 purpose of raising funds for the building and construction of
7 free state roads and highways as provided for by the con-
8 stitution and the laws enacted thereunder. Such bonds may be
9 issued by the governor in such amounts, in coupons or regis-
10 tered form, in such denominations, at such time, bearing such
11 date or dates as the governor may determine, based upon an
12 examination of the West Virginia department of highways'
13 yearly program which justifies the issuance by the governor
14 of said bonds, and shall become due and payable serially, an-
15 nually or semiannually, in such amounts and mature in such
16 years as the governor may determine: *Provided*, That such
17 bonds shall mature within and not exceeding twenty-five years
18 from their date: *Provided, however*, That the governor must
19 offer said bonds for competitive bids from recognized financial
20 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 ar-
2 range for the transfer of registered bonds and for each such
3 transfer a fee of fifty cents shall be charged by and paid to
4 the state of West Virginia, to the credit of the state road sink-
5 ing fund. Bonds taken in exchange shall be cancelled by the
6 auditor and treasurer and be carefully preserved by the trea-
7 surer. The treasurer shall make provisions for registering "pay-
8 able to bearer" bond and for each bond registered a fee of
9 fifty cents shall likewise be charged by and paid to the state
10 of West Virginia, to the credit of the state road sinking fund.
11 All such bonds shall be payable at the office of the treasurer
12 of the state of West Virginia, or, at the option of the holder
13 at a bank in the city of New York to be designated by the
14 governor, or, at the option of the holder at such other bank or
15 banks, within the state, as may be designated or approved by
16 the governor. The bonds shall bear interest, payable semi-

22 promises to pay to the bearer hereof (in case of a coupon
23 bond) or to _____
24 or assigns (the owner of record, in case of registered bonds)
25 on the _____ day of _____,
26 19_____, in lawful money of the United States of America
27 at the office of the treasurer of the state of West Virginia
28 at the capitol of said state, or, at _____
29 bank in the city of New York, or, at _____
30 bank, at the option of the holder, the sum of _____
31 dollars, with interest thereon at _____ percent a
32 year from the date, payable semiannually in like lawful money
33 of the United States of America at the treasurer's office or
34 banks aforesaid, on the first day of _____
35 and the first day of _____ of each year (and in
36 the case of coupon bonds) according to the tenor of the an-
37 nexed coupons bearing the facsimile signature of the treasurer
38 of the state of West Virginia, upon surrender of such coupons.
39 This bond (in case of a coupon bond) may be exchanged
40 for a registered bond of like tenor upon application to the
41 treasurer of the state of West Virginia.

42 To secure the payment of the principal and interest of this
43 bond, the state of West Virginia covenants and agrees with the
44 holder as follows: (1) That this bond shall constitute a direct
45 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 an
48 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
51 to the extent that the moneys in the state road fund irrevoc-
52 ably set aside and appropriated for and applied to the payment
53 of the interest on and principal of this bond becoming due
54 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
57 corporation thereof.

58 In testimony whereof, witness the manual or facsimile
59 signature of the treasurer of the state of West Virginia, and
60 the manual or facsimile countersignature of the auditor of
61 the state, hereto affixed according to law, dated the _____

62 day of _____, one thousand nine
63 hundred _____, and the seal of the state
64 of West Virginia or a facsimile thereof.

65 _____
66 Treasurer of the State of West Virginia
67 (SEAL)

68 Countersigned:

69 _____
70 Auditor of the State of West Virginia.

§4. Form of coupon.

1 The form of coupon shall be substantially as follows, to wit:

2 STATE OF WEST VIRGINIA

3 Bond No. _____ Coupon No. _____

4 On the first day of _____, 19____, the state of
5 West Virginia will pay to the bearer, in lawful money of the
6 United States of America, at the office of the treasurer of the
7 state, or, at _____ bank in the city of New York,
8 or, at _____, at the option of the holder,
9 the sum of _____ dollars, the same being
10 semiannual interest on Road Bond No. _____.

11 _____
12 Treasurer of the State of West Virginia

13 The signature of the treasurer to such coupon shall be by
14 his facsimile signature and the coupons shall be numbered in
15 the order of their maturity, from number one consecutively.
16 The bonds and coupons may be signed, as provided in this act,
17 by the present treasurer and auditor, or by any of their
18 respective successors in office, and the bonds signed by the
19 persons now in the office may be sold by the governor or his
20 successor in office without being signed by the successor in
21 office of the present 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 case

5 of registered bonds, the name and post-office address of the
6 person, firm or corporation registered as the owner thereof.

**§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
2 money from any and all appropriations made by the state from
3 the state road fund for the purpose of paying the interest on
4 such bonds or paying off and retiring the bonds, from transfer
5 and registration fees as herein provided, and from any other
6 source whatsoever which is made liable by law for the payment
7 of the principal of such bonds or the interest thereon.

8 All such funds shall be kept by the treasurer in a separate
9 account, under the designation aforesaid, and all moneys be-
10 longing to the fund shall be deposited in the state treasury to
11 the credit thereof.

12 Such fund shall be applied by the treasurer of the state
13 first to the payment of the semiannual interest on such bonds
14 as it shall become due as herein provided. The remainder of
15 the fund shall be turned over by the state treasurer to the state
16 sinking fund commission, whose duty it shall be to invest the
17 same in obligations of the government of the United States,
18 bonds of the state of West Virginia, or any political subdivi-
19 sion thereof: *Provided*, That the bonds or other obligations so
20 purchased by the state sinking fund commission shall mature
21 so as to provide sufficient money to pay off all bonds herein
22 provided to be issued as they become due; and the moneys so
23 paid into the state road sinking fund under the provisions of
24 this act shall be expended for the purpose of paying the inter-
25 est and principal of the bonds hereby provided for as they
26 severally become due and payable and for no other purpose
27 except that the fund may be invested until needed, as herein
28 provided.

§7. Covenants of state.

1 The state of West Virginia covenants and agrees with the
2 holders of the bonds issued pursuant hereto as follows: (1) That
3 such bonds shall constitute a direct and general obligation of
4 the state of West Virginia; (2) that the full faith and credit
5 of the state is hereby pledged to secure the payment of the

6 principal and interest of such bonds; (3) that an annual state
7 tax shall be collected in an amount sufficient to pay as it may
8 accrue the interest on such bonds and the principal thereof;
9 and (4) that such tax shall be levied in any year only to the
10 extent that the moneys in the state road fund irrevocably set
11 aside and appropriated for and applied to the payment of the
12 interest on and principal of said bonds becoming due and pay-
13 able in such year are insufficient therefor.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at such
2 time or times as he may determine necessary to provide funds
3 for the building and construction of free state roads and high-
4 ways, as herein provided, upon the recommendation of the
5 West Virginia commissioner of highways, and after reviewing
6 the program of the West Virginia department of highways and
7 subject to the limitations contained in this act. All sales shall
8 be at not less than par and accrued interest. All interest cou-
9 pons becoming payable prior to the sale date shall be can-
10 celled by the treasurer and rendered ineffective, before the
11 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
2 be paid into a separate and distinct account in the state road
3 fund and shall be used and appropriated solely for the building
4 and construction of free state roads and highways provided for
5 by the state constitution and the laws enacted thereunder.
6 Except for such sums necessary for current operating balances,
7 such account shall be invested and reinvested in short-term
8 obligations of the United States treasury: *Provided*, That no
9 such investment or reinvestment shall adversely affect the
10 current operating balances, of such account.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the bonds
2 authorized by this act are produced or made shall be the
3 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

2 issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim cer-
2 tificates to be issued to the purchasers of such bonds to be
3 held by them in lieu of permanent bonds. When interim
4 certificates are so issued, they shall become full and legal
5 obligations of the state of West Virginia under all of the
6 provisions of this act just as fully and completely as the
7 permanent bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
2 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 represen-
2 tative, shall serve as bond counsel and shall be responsible for
3 the issuance of a final approving opinion regarding the legality
4 of the sale of such bonds.

§15. Approval and payment of all necessary expenses.

1 All necessary expenses, including legal expenses approved
2 by the attorney general, incurred in the execution of this act
3 shall be paid out of the state road fund on warrants of the
4 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, chapter 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 counties to the treasurers of the county boards of education; concerning the collection and disbursement of, and settlement for, the various tax revenues and other funds intended for expenditure 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, designated section six; and that section nine, article four, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

Chapter

6. General Provisions Respecting Officers.

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
2 of the several districts thereof, and the word or designation
3 "sheriff" whenever used in this code shall, unless the context
4 otherwise requires, be held to include the sheriff as ex officio
5 treasurer of the county and of the several districts thereof.
6 Between the fifteenth and thirty-first days of December of the
7 year in which a sheriff's term of office expires, such sheriff
8 shall make up a list of all uncollected taxes and shall make a
9 complete settlement with the county court, or tribunal in lieu
10 thereof, and the board of education in such county, in the
11 manner provided by law for settlements required at the end of
12 the fiscal year. The sheriff shall receive credit in such settle-
13 ment for the amount of taxes, remaining unpaid, and such
14 list of taxes remaining unpaid shall be turned over to his
15 successor in office January first. It shall be the duty of such
16 successor to collect such taxes and to make up a delinquent list
17 as provided and required by law; also to make settlement at the
18 end of the fiscal year with the county court, or tribunal in lieu
19 thereof, and the county board of education, in the manner
20 provided by law. Every sheriff shall, on the first of January
21 immediately following the expiration of his term of office,
22 turn over to his successor all public moneys. Every sheriff
23 who is appointed to fill a vacancy shall make such settlement
24 with the county court, or tribunal in lieu thereof, and the
25 county board of education, immediately upon the qualification
26 of his successor, and at such time turn over to such successor
27 all public moneys.

§6-8-7. Settlements by sheriff for school funds.

1 The county court of each county shall appoint a time im-

2 mediately following the first day of July in each year, and in
3 any event within thirty days thereafter, and within thirty days
4 following the expiration of the term of office of any sheriff, for
5 the settlement of the school funds of the county. At the time
6 so fixed, the school board of that county and the treasurer of
7 the county board of education, unless the sheriff has been
8 designated treasurer of the county board pursuant to section
9 six, article nine, chapter eighteen of this code, shall meet with
10 the county court. The sheriff of the county shall attend such
11 meeting and lay before the county court and such board of
12 education his account of school funds for the county, which
13 account shall be then and there settled. The county court
14 shall give at least five days' notice of the time fixed for the
15 settlement of the county school funds to the county board of
16 education, the treasurer of the county board of education and
17 the sheriff.

§6-8-8. Same—With what sheriff to be charged.

1 In his settlement of school funds the sheriff shall be charged
2 with the amount of taxes and of general school fund appor-
3 tioned to each county and the amount of taxes levied by the
4 board of education upon the property of the county and for all
5 school funds, and for any other money received by him during
6 the current year on account of the free schools of the county.

§6-8-9. Same—With what sheriff to be credited.

1 The sheriff shall be credited in such settlements with the
2 amount of delinquent school tax in the county that has been
3 duly certified by the clerk of the county court to the county
4 board of education; and with all orders paid and produced by
5 him, if found to be correct by the board of education. He shall
6 receive no other credits.

§6-8-10. Same—Method of settlement.

1 In making such settlement it shall be the duty of the sheriff
2 to prepare and present to the county board of education, in
3 duplicate, separate lists of all the credits claimed by him
4 against each of the several school funds collected by him,
5 showing the amount, date and number of each voucher or
6 order, and to whom payable, together with statements of the
7 proper debits to the several funds to which he is chargeable;

8 which lists and statements, together with the vouchers claim-
9 ed as credits by the sheriff, shall, if found correct by such
10 board, be endorsed by the treasurer of the board on the back
11 of each with the words, "Settled by the board of education,"
12 under which the treasurer shall sign his name and enter the
13 date of the settlement, and such statements and lists, after
14 being corrected, if corrections are necessary, shall be signed
15 by the sheriff and by the president and treasurer of the board
16 of education in duplicate, one copy to be retained by such
17 board, and the other, together with the vouchers and orders,
18 to be turned over to the county court. Exceptions may be tak-
19 en to such settlement as provided in section two of this article,
20 which exceptions shall be heard and decided by the county
21 court. If the county court finds the settlement to be correct,
22 or after it has corrected the same, it shall be confirmed and
23 made a matter of record by the clerk of the county court in a
24 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.

1 The sheriff shall be ex officio county treasurer and as such
2 treasurer shall receive, collect and disburse all moneys due
3 such county or any district thereof, and shall also receive, col-
4 lect and disburse to the treasurer of the county board of edu-
5 cation all school money for the county, unless the sheriff is
6 designated by the board as its treasurer, as provided in sec-
7 tion six, article nine, chapter eighteen of this code. The sheriff
8 shall keep his office at the courthouse for the county, in a
9 suitable room or rooms provided for that purpose by the
10 county court, in which all money and property in his pos-
11 session shall be kept, unless deposited by him in a county de-
12 pository, in which case an accurate daily deposit account
13 thereof shall be kept at his office. He shall keep in his office

14 a fair and accurate account of all receipts and disbursements
15 by him, showing the time when, from whom, to whom and on
16 what account received and paid, and he shall so arrange his
17 books that the amount received and paid on account of separate
18 and distinct funds, or specific appropriations, shall be exhibit-
19 ed in separate and distinct accounts, and he shall also keep
20 separate and distinct accounts for the funds of each fiscal
21 year.

22 When any money is paid to the sheriff, except for taxes, the
23 sheriff shall give to the person paying the same duplicate re-
24 cepts therefor, stating briefly the fund or account for which
25 paid; one of which receipts such person shall forthwith de-
26 posit with the clerk of the county court, who shall, in a well-
27 bound book to be kept by him in his office for the purpose,
28 charge the sheriff therewith and preserve such receipt in his
29 office.

30 The sheriff and his sureties on his official bond shall be
31 held liable for all public moneys coming into his hands as
32 ex officio treasurer from every source whether or not the
33 same shall be deposited in a bank.

§7-5-10. County orders receivable for taxes and fees.

1 Every officer charged with the collection of taxes for any
2 fiscal year and officers' fees shall receive in payment thereof,
3 at par, any county order or draft issued in payment of any claim
4 arising during said fiscal year for which were levied the taxes
5 for the payment of which such draft is offered drawn on such
6 officer pursuant to law, to the amount that such taxes are levied
7 for the same fund against which such draft or order is drawn,
8 if such draft be then due and payable, and if the person
9 offering the same in payment be the person entitled thereto at
10 the time it is so offered.

11 And if the amount due on such order or draft be more than
12 the amount to be collected for the fund against which the draft
13 is drawn from the person so offering the same in payment, the
14 officer shall pay the balance due thereon if he have in his hands
15 any money applicable to such payment; and if not he shall en-
16 dorse thereon the amount of taxes or fees held by him against
17 such person for which the draft is acceptable and that he has no

18 money in his hands applicable to the payment of the balance
19 thereof, and thereupon the holder of such order shall have the
20 right to have issued to him new orders; one for the amount of
21 the taxes endorsed on the original order, and the other for the
22 remainder of such original order, and such original order shall
23 be canceled. No such officer shall be required to accept in pay-
24 ment in whole or in part of any taxes for any fund, any order or
25 draft drawn in any year preceding the fiscal year for which
26 said taxes were levied and are being collected.

ARTICLE 6. COUNTY DEPOSITORIES.

§7-6-4. Deposit and disbursement of moneys by sheriff.

1 The sheriff, upon receipt of a certified copy of the order of
2 the county court, showing that a depository has been designated
3 and bond accepted in compliance with the provisions of this
4 article, and naming the depository or depositories, shall deposit
5 therein to the credit of the county treasurer all public money in
6 his possession, except such as may be necessary to meet current
7 demands; and, thereafter, he shall make daily deposits in the
8 public depositories of all public money received by him, except
9 as hereinafter provided, the deposit of such money to be made
10 as early as practicable after the receipt or collection thereof,
11 and such money shall be payable by the depository only on an
12 order issued by the county court, after such order has been
13 endorsed by the county treasurer directing payment by the
14 depository. If at any time the cash in the hands of the sheriff
15 is not sufficient to meet current demands, he is authorized to
16 withdraw sufficient cash from the depository to meet such
17 current demands, such withdrawals to be made by check
18 drawn by the sheriff and countersigned by the county clerk.
19 Such current demands shall not be anticipated more than a
20 week in advance. All moneys due the sheriff are to be drawn
21 from the depository on an order issued by the sheriff. At the
22 end of each month the president and clerk of the county court
23 shall sign proper orders on the sheriff, in his favor, to pay him
24 the moneys due him. All moneys belonging to the state, or any
25 municipality, or board of education, shall be disbursed from the
26 depository on a check drawn by the sheriff, payable to the
27 auditor of the state of West Virginia, or to the treasurer of the
28 municipality or to the treasurer of the county board of edu-

29 cation, unless the sheriff is designated as the treasurer, as
30 provided in section six, article nine, chapter eighteen of this
31 code.

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

§11A-1-13. Accounts to be kept by sheriff.

§11A-1-15. Payments by sheriff to municipal and county board of education treasuries.

§11A-1-13. Accounts to be kept by sheriff.

1 The sheriff shall keep separate accounts in a permanent
2 book, in form prescribed by the tax commissioner, of all the
3 taxes received and disbursed by him, for the different pur-
4 poses for which the taxes were levied. Each of such accounts
5 shall be kept so as to show the total receipts and disburse-
6 ments up to the close of business on each day; and in a sepa-
7 rate column opposite such totals the sheriff shall ascertain and
8 note in figures, at the close of each day's transactions, the bal-
9 ance due from or to him, as the case may be, on account of
10 such funds. The account book shall be subject to inspection
11 at any time by the tax commissioner, members of the county
12 court, the clerk thereof, the prosecuting attorney, the mayor
13 or treasurer of any municipality, or the treasurer of the county
14 board of education.

§11A-1-15. Payment by sheriff to municipal and county board of education treasuries.

1 Each month the sheriff shall pay all moneys collected for
2 any municipal corporation and the county board of education
3 into the respective treasuries of such municipal corporation
4 and county board of education, payment to be made on or be-
5 fore the tenth day of each month of all moneys collected dur-
6 ing the preceding month for such municipal corporation and
7 the county board of education: *Provided*, That the sheriff
8 shall not be required to make such monthly payments to the
9 county board of education, if the county board has designated
10 the sheriff as its treasurer pursuant to section six, article nine,
11 chapter eighteen of this code. For the faithful performance of
12 this duty, he shall execute a bond, to be approved by the muni-

13 cipal council or board of education, in the penalty to be fixed
14 by the council or board, not to exceed the amount of municipi-
15 pal or school taxes which it is estimated he will collect within
16 any period of two months. The premium on such bond shall
17 be paid by the municipality or board of education. Every
18 sheriff who fails to make any payment when due shall be
19 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 When such bonds have been retired the state sinking fund
9 commission shall certify the fact of the retirement of such
10 bonds to the treasurer of the board of education of the county.
11 Such funds shall be used in the same manner as other funds
12 now to the credit of, or which may hereafter be placed to
13 the credit of, the school current fund by the respective county
14 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

4 designated treasurer of the county board pursuant to section
5 six, article nine, chapter eighteen of this code. He shall keep
6 accounts of the money belonging to the several funds and shall
7 credit and charge every amount to the fund to which it belongs.
8 The treasurer of the board of education shall pay money only
9 upon the order of the board. The order shall specify the a-
10 mount to be paid, the purpose for which it is paid, and the
11 fund to which it shall be charged. The order shall be signed
12 by the president and shall be countersigned by the secretary:
13 *Provided*, That such signatures authorizing the payment of
14 such orders may be made by means of such mechanical or
15 electrical device as the board may select. Such mechanical or
16 electrical device for the making of the signatures of the presi-
17 dent and secretary shall be safely kept so that no one shall have
18 access thereto except the president and the secretary of the
19 board and such of their respective employees as may be autho-
20 rized to have access thereto. If any person shall sign the
21 names of the president or secretary of the board of education,
22 without having authority so to do, by the use of any mech-
23 anical or electrical device, or otherwise, or use the facsimile of
24 the signature of either of them on any order, he shall be guilty
25 of forgery; and if any person shall utter or attempt to employ
26 as true such forged order, knowing the same to be forged, he
27 shall, in either event, be guilty of a felony, and, upon convic-
28 tion, shall be confined in the penitentiary not less than two
29 nor more than ten years.

§18-9-4. Nonpayment of order; liability of treasurer of county board.

1 If, when an order of any county board of education is pre-
2 sented to the treasurer of the board, there are no funds to pay
3 the same, the person entitled to receive the sum of money spec-
4 ified in such order may require the treasurer to endorse there-
5 on, or write across the face thereof, the words "presented for
6 payment," with the proper date, and sign the same; and the
7 order, if it was due at the time of presentment, shall in such
8 case be payable with legal interest from such date.

9 Any such order not paid when presented as aforesaid shall
10 again be presented to the treasurer of the county board for
11 payment by the person entitled to receive the money thereon
12 not later than the first day of December after such endorse-

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

17 thirtieth day of June, of the year in which the board of edu-
18 cation appoints a treasurer other than the sheriff, shall be
19 transferred by the sheriff to the county board of education not
20 later than the tenth day of the following month.

21 On or before the first Monday in May each county board of
22 education shall upon recommendation of the county superin-
23 tendent appoint a treasurer for the board. Such treasurer shall
24 be the fiscal officer of the board, or an employee commonly
25 designated as the person in charge of the financial affairs of
26 the county board, or the county sheriff: *Provided*, That once
27 a board of education has appointed a treasurer other than the
28 sheriff, the sheriff shall not be named treasurer of the board
29 in a subsequent year. Upon appointment this person shall be
30 titled and referred to as treasurer of the board of education.
31 For the faithful performance of this duty, he shall execute a
32 bond, to be approved by the board of education, in the pen-
33 alty to be fixed by the board of education, not to exceed the
34 amount of school funds which it is estimated he will handle
35 within any period of two months. The premium on such bond
36 shall be paid by the board of education.

37 The board of education may open a bank account, or ac-
38 counts, as required to adequately and properly transact the
39 business of the district in a depository, or banks, within the
40 county. Such depositories, or banks, shall provide bond to
41 cover the maximum amount to be deposited at any one time.
42 On and after the first day of July, one thousand nine hundred
43 seventy-three, all levies and any other school moneys received
44 by the sheriff and paid to the treasurer of the county board of
45 education shall be deposited in these accounts and all proper
46 payments from such funds shall be made by the designated de-
47 pository or bank upon order or draft presented for payment
48 and signed by the duly authorized signatories of the board of
49 education: *Provided, however*, That in determining the de-
50 pository for board of education funds a board member who
51 has a pecuniary interest in a bank within the county shall not
52 participate in the determination of the depository for such
53 funds.

54 If it be deemed that sufficient funds are on hand in any
55 account at any one time which may be more than are nor-
56 mally required for the payment of incurred expenses, such

57 funds in the amount so deemed available may be invested by
58 the treasurer of the county board with the state sinking fund
59 commission, or in guaranteed certificates of deposit issued by
60 the depository or bank, or other guaranteed investments such
61 as treasury bills, treasury notes or certificates of deposit issued
62 by either the United States government or a banking institu-
63 tion in which federal or state guarantees are applicable. Interest
64 earned in such investments is to be credited to the fund from
65 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.

1 Teachers and all other employees whose salaries or wages
2 are payable out of the school current fund shall be paid for
3 their services by orders duly signed by the president and sec-
4 retary of the board in accordance with the following provis-
5 ions: Notwithstanding any other provisions of this chapter and
6 chapter eighteen, the number of pays to be made during the
7 school year to the various classes of employees shall be deter-
8 mined by the board: *Provided*, That the sum of such pays for
9 any employee does not exceed the equivalent of an annual
10 salary based upon twelve calendar months. In the event a
11 teacher or other employee is not paid the full salary or wage
12 earned in the fiscal year in which the work is performed, the
13 unpaid amount may be paid during July and August of the
14 following fiscal year. Adjustments for time loss due to absence
15 may be made in the next pay check following such time loss.
16 The county board may withhold the pay of any teacher or
17 employee until he has made the reports required by the board
18 or the state superintendent.

CHAPTER 122

(House Bill No. 1101—By Mr. Polan and Mr. Lohr)

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

AN ACT to amend and reenact section thirteen-e, article two, chapter
eighteen of the code of West Virginia, one thousand nine hun-

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 hun-
2 dred sixty-one, supervision and control of all of the real pro-
3 perty, heretofore administered by the commissioner of public
4 institutions containing one hundred eighty-four and one-half
5 acres, more or less, located in Guyandotte district, Cabell
6 County, and known as the "West Virginia Home for Aged and
7 Infirm Colored Men and Women" shall be transferred to
8 the supervision and control of the West Virginia board of re-
9 gents. The West Virginia board of regents shall be authorized
10 to use the property for any purpose it may deem advisable in
11 connection with the educational program of Marshall Univer-
12 sity. The title to all such property is hereby vested in the West
13 Virginia board of regents, which board may at any time sell
14 or otherwise dispose of all or any part of such property, how-
15 ever, the proceeds of any such sale or sales, less costs of sale,
16 shall be utilized for capital improvements or expansion of the
17 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.]

AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of

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.

§18-5-13. Authority of boards generally.

- 1 The boards, subject to the provisions of this chapter and the
- 2 rules and regulations of the state board, shall have authority:
- 3 (1) To control and manage all of the schools and school
- 4 interests for all school activities and upon all school property,
- 5 whether owned or leased by the county, including the authority
- 6 to require that records be kept of all receipts and disbursements
- 7 of all funds collected or received by any principal, teacher,
- 8 student or other person in connection therewith, any pro-
- 9 grams, activities or other endeavors of any nature operated
- 10 or carried on by or in the name of the school, or any organi-
- 11 zation or body directly connected with the school, to audit
- 12 such records and to conserve such funds, which shall be
- 13 deemed quasi-public moneys, including securing surety bonds
- 14 by expenditure of board moneys;
- 15 (2) To establish schools, from preschool through high
- 16 school, inclusive of vocational schools; and to establish schools
- 17 and programs, or both, for post high school instruction, subject
- 18 to approval of the state board of education;
- 19 (3) To close any school which is unnecessary and to assign
- 20 the pupils thereof to other schools: *Provided*, That such
- 21 closing shall be officially acted upon and teachers and service
- 22 personnel involved notified on or before the first Monday in
- 23 May, in the same manner as provided in section four of this
- 24 article, except in an emergency, subject to the approval of the
- 25 state superintendent, or under subdivision (5);
- 26 (4) To consolidate schools;
- 27 (5) To close any elementary school whose average daily
- 28 attendance falls below twenty pupils for two months in succes-
- 29 sion, and send the pupils to other schools in the district or to
- 30 schools in adjoining districts. If the teachers in the school so

31 closed are not transferred or reassigned to other schools, they
32 shall receive one month's salary;

33 (6) (a) To provide at public expense adequate means of
34 transportation, including transportation across county lines,
35 for all children of school age who live more than two miles
36 distance from school by the nearest available road and to
37 provide at public expense and according to such regulations as
38 the board may establish, adequate means of transportation for
39 school children participating in board-approved curricular and
40 extracurricular activities; and provide in addition thereto, by
41 rules and regulations and within the available revenues, trans-
42 portation for those within two miles distance: *Provided*, That in
43 all cases the buses or other transportation facilities owned by
44 the board of education shall be driven or operated only by driv-
45 ers regularly employed by the board of education: *Provided*,
46 *however*, That buses shall be used for extracurricular activities
47 as herein provided only when the insurance provided for by this
48 section shall have been effected;

49 (b) To enter into agreements with one another to provide,
50 on a cooperative basis, adequate means of transportation
51 across county lines for children of school age subject to the
52 conditions and restrictions of subdivisions (6) and (7) of
53 this section;

54 (7) To provide at public expense for insurance against the
55 negligence of the drivers of school buses, trucks or other
56 vehicles operated by the board; and if the transportation of
57 pupils be let out to contract, then the contract therefor shall
58 provide that the contractor shall carry insurance against
59 negligence in such an amount as the board shall specify;

60 (8) To employ and to provide in-service training for
61 teacher aides, the training to be in accordance with rules and
62 regulations of the state board;

63 (9) To establish and conduct a self-supporting dormitory
64 for the accommodation of the pupils attending a high school
65 or participating in a post high school program and of persons
66 employed to teach therein;

67 (10) To employ legal counsel;

68 (11) To provide, at public expense, adequate public
69 liability insurance, including professional liability insurance for
70 board employees;

71 (12) No policy or contract of public liability insurance
72 providing coverage for public liability shall be purchased as
73 provided herein, unless it shall contain a provision or endorse-
74 ment whereby the company issuing such policy waives, or
75 agrees not to assert as a defense to any claim covered by the
76 terms of such policy, the defense of governmental immunity.
77 In any action against the board, its officers, agents or em-
78 ployees, in which there is in effect liability insurance coverage
79 in an amount equal to or greater than the amount sued for, the
80 attorney for such board, the attorney for such insurance carrier,
81 or any other attorney who may appear on behalf of the board,
82 its agents, officers or employees shall not set up the defense of
83 governmental immunity in any such action.

84 "Quasi-public funds" as used herein are defined as any
85 money received by any principal, teacher, student or other per-
86 son for the benefit of the school system as a result of curricular
87 or noncurricular activities.

88 The board of any district shall expend under such regulations
89 as it establishes for each child an amount not to exceed the
90 proportion of all school funds of the district that each child
91 would be entitled to receive if all the funds were distributed
92 equally among all the children of school age in the district
93 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
2 fix enrollment, tuition and other fees for each semester or
3 school term for the different classes or categories of students
4 enrolling at the state educational institutions, and may in-
5 clude among such fees any one or more of the following:
6 (1) Health service fees; (2) infirmary fees; (3) student
7 activities, recreational, athletic and extracurricular fees, which
8 said fees may be used to finance a students' attorney to perform
9 legal services for students in civil matters at the state univer-
10 sities and state colleges: *Provided*, That such legal services
11 shall be limited to only those types of cases, programs or
12 services approved by the administrative head of the state edu-
13 cational institution where such legal services are to be per-
14 formed; and (4) graduate center fees, and branch college
15 fees, or either, if the establishment and operation of graduate
16 centers or branch colleges are otherwise authorized by law. All
17 fees collected under (1), (2) and (3) shall be paid into special
18 funds and shall be used only for the purposes for which the fees
19 are collected; and all fees collected at any graduate center or at
20 any branch college shall be paid into special funds and shall be
21 used solely for the maintenance and operation of the
22 graduate center or branch college at which they were col-
23 lected: *Provided*, That except in the case of graduate cen-
24 ter fees or branch college fees, the minimum tuition fee
25 for full-time resident students shall be twenty-five dol-
26 lars per semester and the minimum tuition fee for full-
27 time nonresident students shall be one hundred seventy-
28 five dollars per semester at all state institutions of higher
29 education except West Virginia University: *Provided, how-*
30 *ever*, 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.

CHAPTER 125

(House Bill No. 854—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

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

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
2 appoint bona fide residents of this state to act as security offi-
3 cers upon any premises owned or leased by the state of West
4 Virginia and under the jurisdiction of the board of regents,
5 subject to the conditions and restrictions hereinafter imposed.
6 Before entering upon the performance of his duties as such
7 security officer in any county, each person so appointed shall
8 qualify therefor in the same manner as is required of constab-
9 les by the taking and filing of an oath of office as required by
10 article one, chapter six of this code and by the posting of an
11 official bond as required by article two, chapter six of this
12 code. No such person shall have authority to carry a gun or
13 any other dangerous weapon until he shall have obtained a
14 license therefor in the manner prescribed by section two, arti-
15 cle seven, chapter sixty-one of this code.

16 It shall be the duty of any person so appointed and quali-
17 fied to preserve law and order on any premises under the jur-

18 isdiction of the board of regents to which he may be assigned
19 by the president of the college or university. For this purpose
20 he shall as to offenses committed on such premises have and
21 may exercise all the powers and authority and shall be subject
22 to all the responsibilities of regularly elected constables of the
23 county. The assignment of security officers to any premises
24 under the jurisdiction of the board shall not be deemed to
25 supersede in any way the authority or duty of other peace of-
26 ficers to preserve law and order on such premises. In addition,
27 the security officers appointed under provisions of this section
28 shall have authority to assist local peace officers on public
29 highways in the control of traffic in and around premises own-
30 ed by the state of West Virginia whenever such traffic is gen-
31 erated as a result of athletic or other activities conducted or
32 sponsored by a state college or university.

33 The salary of all such security officers shall be paid by the
34 board of regents. Each institution may furnish each such se-
35 curity officer with an official uniform to be worn while on duty
36 and shall furnish and require each such officer while on duty
37 to wear a shield with an appropriate inscription and to carry
38 credentials certifying to his identity and to his authority as a
39 security officer.

40 The board of regents may at its pleasure revoke the author-
41 ity of any such officer and the president of the college or
42 university shall report the termination of employment of any
43 such security officer by filing a notice to that effect in the
44 office of the clerk of each county in which his oath of office
45 was filed, and in the case of officers licensed to carry a gun
46 or other dangerous weapon by notifying the clerk of the cir-
47 cuit court of the county in which the license therefor was
48 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
2 contract with an educational institution or institutions outside
3 the state that offer training in optometry, by the terms of
4 which the board of regents may obligate itself to pay such
5 institution within the limits of any appropriation made for
6 the purpose, a stated amount per year for each West Vir-
7 ginia student the institution will agree to accept for training
8 in optometry.

9 The board of regents shall each year send to any institution
10 with which such contract is made a certified list of all
11 persons, applying to the board for training in optometry,
12 who are bona fide citizens and residents of this state prior
13 to the filing of their applications, and who have completed
14 either within or without the state the course of study required
15 by such institution as a prerequisite to the study of optometry.

16 Any person who receives state aid under this section shall,
17 upon graduation from an educational institution for study of
18 optometry, be required to practice optometry for a period of
19 two years in this state, or in lieu thereof shall, within sixty
20 days from the date of graduation, reimburse the board of
21 regents for any tuition advanced by it in his behalf.

CHAPTER 127

(House Bill No. 1126—By Mr. Goodwin and Mr. Copenhaver)

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

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
2 and service personnel who enters into a new contract of em-
3 ployment with the board shall be granted continuing contract
4 status. The continuing contract of any such employee shall
5 remain in full force and effect except as modified by mutual
6 consent of the school board and the employee, unless and until
7 terminated with written notice, stating cause or causes, to the
8 employee, by a majority vote of the full membership of the
9 board before the first day of April of the then current year,
10 or by written resignation of the employee before that date.
11 The affected employee shall have the right of a hearing
12 before the board, if requested, before final action is taken by
13 the board upon the termination of such employment.

14 Those employees who have completed three years of ac-
15 ceptable employment as of the effective date of this legislation
16 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.

1 Schools shall not be kept open on any Saturday nor on the
2 following days which are designated as legal school holidays,
3 namely: Independence Day, Labor Day, Veterans Day,
4 Thanksgiving Day, Christmas Day, New Year's Day, Memorial
5 Day and any day on which a primary election, general elec-
6 tion or special election is held throughout the state or school
7 district and any day appointed and set apart by the president
8 or the governor as a holiday of special observance by the
9 people of the state. When any such holidays falls within the
10 employment term, it shall be considered as a day of the em-
11 ployment term and the full-time school personnel shall receive
12 his pay for same. When any of the above designated holidays,
13 except a special election, falls on Saturday, the schools shall
14 be closed on the preceding Friday; when any such falls on
15 Sunday, the schools shall be closed on the following Monday.

16 Special classes may be conducted on Saturdays, provided
17 they are conducted on a voluntary basis, for pupils and by
18 teachers and service personnel, and that such teachers and

19 service personnel shall be remunerated in ratio to the regular-
20 ly contracted pay.

21 Any school or schools may be closed by proper authorities
22 on account of the prevalence of contagious disease, conditions
23 of weather or any other calamitous cause over which the board
24 has no control. Under any or all of the above provisions, the
25 time lost by the closing of schools shall be counted as days of
26 employment and as meeting a part of the requirements of the
27 minimum term of one hundred eighty days of instruction. On
28 such day or days, county boards of education may provide
29 appropriate alternate work schedules for professional, auxiliary
30 and service personnel affected by the closing of any school or
31 schools under any or all of the above provisions. Professional,
32 auxiliary and service personnel shall receive pay the same as if
33 school were in session. Insofar as funds are available or can be
34 made available during the school year, the board may extend
35 the employment term for the purpose of making up time that
36 might affect the instructional term.

37 In addition to any other provisions of this chapter, the
38 board is further authorized to provide in its annual budget for
39 meetings, workshops, vacation time or other holidays through
40 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 co-operative 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
2 this chapter shall not apply to any of the following classes of
3 securities:

4 (a) Any security issued or guaranteed by the United
5 States or any territory or insular possession thereof, or by the
6 District of Columbia, or by any state or political subdivision
7 or agency thereof;

8 (b) Any security issued by a national bank or by any
9 federal land bank or by a corporation created or acting as
10 an instrumentality of the government of the United States
11 pursuant to authority granted by the Congress of the United
12 States, or any security issued by provisions of the federal
13 laws: *Provided*, That such corporation is subject to super-
14 vision or regulation by the government of the United States;

15 (c) Any security issued or guaranteed either as to princi-
16 pal, interest or dividends by a corporation owning or operating
17 a railroad engaged in interstate commerce and under super-
18 vision of the interstate commerce commission; any security
19 issued or guaranteed either as to principal, interest or dividend
20 by a corporation owning or operating any public service utility
21 other than a railroad, provided the issuance of such security
22 is supervised or regulated by a public commission, board or
23 officer of the government of the United States or of any state,
24 territory or insular possession of the United States, or of the
25 District of Columbia or of the Dominion of Canada or any
26 province thereof; and any equipment security based on chattel
27 mortgages, leases or agreements for conditional sale of cars,
28 motive power or other rolling stock or equipment mortgaged,
29 leased or sold to or furnished for the use of or upon a rail-
30 road or other public service utility corporation, or equipment
31 securities where the ownership or title of such equipment is
32 pledged or retained in accordance with the provisions of the
33 laws of the United States or of any state, or of the Dominion
34 of Canada, to secure the payment of such equipment securities;

35 (d) Any security issued by a person organized and oper-
36 ated exclusively for educational, benevolent, fraternal, chari-
37 table or reformatory purposes and not for pecuniary profit,
38 and no part of the net earnings of which inures to the bene-
39 fit of any person, private stockholder or individual;

40 (e) Any security which, at the time of the sale, is listed
41 on the New York Stock Exchange, the American Stock Ex-
42 change or the Midwest Stock Exchange, pursuant to authoriz-
43 ation by any such exchange, and additional amounts of any
44 such securities when regularly approved for listing upon the
45 issuance thereof and securities senior to the securities so listed:
46 *Provided*, That the commissioner shall have power and author-
47 ity at any time to withdraw such exemption for any security
48 or group of securities so listed, pending an investigation and
49 hearing on securities included in such order. A date for
50 hearing shall be set by the commissioner not more than twenty
51 days after such withdrawal order. The commissioner, by rul-
52 ing, may grant this same exemption to securities listed on any
53 other exchange following an application from such exchange
54 and after an investigation and examination has been made by
55 him. The expense of all hearings, investigations and examina-
56 tions shall be paid by the exchange making application or
57 receiving a hearing;

58 (f) Any security issued by a state bank, trust company,
59 building and loan association or savings institution, incorpor-
60 ated under the laws of and subject to the examinations, super-
61 vision and control of any state or territory of the United
62 States or any insular possession thereof;

63 (g) Any insurance or endowment policy or annuity contract
64 or optional annuity contract, issued by a person licensed and
65 supervised by the insurance commissioner of this state;

66 (h) Any security other than common stock outstanding
67 and in the hands of the public for a period of not less than three
68 years upon which no default in payment of principal, interest
69 or dividend exists and upon which no such default has
70 occurred for a continuous immediately preceding period of
71 three years: *Provided*, That the issuer of such securities has
72 continued such payments of principal, interest or dividends
73 as provided at the time of original issue: *Provided further*,
74 That no plan or proposal of recapitalization, reorganization,

75 rearrangement of capitalization, or other form of readjust-
76 ment of issuer's finances, has been made or a petition of
77 voluntary or involuntary bankruptcy has been filed in any court
78 by or for such issuer within the preceding period of three
79 years;

80 (i) Any securities bought or sold upon customers' orders:
81 *Provided*, That such securities are bought or sold on an ex-
82 change which, at the time of such transaction, is registered as a
83 national exchange by the securities and exchange commission:
84 *Provided further*, That no solicitation is made of the orders so
85 executed;

86 (j) Any note, draft, bill of exchange or bankers accept-
87 ance which arises out of a current transaction or the proceeds
88 of which have been or are to be used for a current trans-
89 action, is not the subject of a public offering, has at the
90 time of issuance a definite maturity (after all days of grace,
91 if any) of not exceeding one year, is payable in cash only,
92 and is not convertible into and does not carry an option or
93 right to receive payment or any bonus in any other security;
94 and

95 (k) Any security issued by an agricultural cooperative
96 association operating in this state that is organized under
97 article four, chapter nineteen of this code, or as a foreign
98 cooperative association organized under the laws of another
99 state that has been duly qualified to transact business in this
100 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

26. State Benevolent Institutions.

28. State Correctional and Penal Institutions.

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

2 women is hereby established at Sweet Springs, Monroe County,
3 West Virginia, to be known as Andrew S. Rowan Memorial
4 Home, and shall be managed, directed and controlled as pro-
5 vided in article one, chapter twenty-five of this code. The chief
6 executive officer thereof shall be a superintendent who must
7 be a citizen of the state and a person of good executive ability
8 and who shall be appointed by the governor by and with the
9 advice and consent of the Senate.

§26-3-2. Admission of inmates.

1 Any man or woman shall be eligible for admission to said
2 home who:

3 (1) Has attained the age of sixty years;

4 (2) Has resided in the state for at least one year immedi-
5 ately preceding the application;

6 (3) Has not made an assignment or transfer of property
7 for the purpose of qualifying for public assistance;

8 (4) Is in need of continuing institutional care because of
9 his physical or mental condition;

10 (5) Is actually in need and has not sufficient income or
11 other resources to provide a subsistence compatible with dec-
12 ency and health; and

13 (6) Has no children, father, brothers, sisters or mother of
14 sufficient financial ability to support such person in the man-
15 ner required by the department of welfare.

16 No person shall be admitted to said home except upon the
17 recommendation of the department of welfare, or unless such
18 person be qualified to admission to said home under the pro-
19 visions 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
2 established and located at Industrial, in Harrison County,
3 shall be continued, and shall be exclusively charged with
4 the care, training and reformation of girls committed to its
5 custody. It shall be managed, directed and controlled as pre-
6 scribed in article one, chapter twenty-five of this code. All
7 officers, agents and servants for the internal management of
8 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
2 twelve and eighteen years, may be committed to the West
3 Virginia industrial home for girls:

4 (a) By any juvenile or domestic relations court of com-
5 petent jurisdiction for any of the causes and in the manner
6 prescribed in article two, chapter forty-nine of this code for
7 dealing with delinquent children;

8 (b) By any court of record of competent jurisdiction of
9 this state or of the United States for the districts of West
10 Virginia, in the manner provided in section three of this
11 article.

12 But no girl shall be committed to such home as an inmate
13 thereof who is of unsound mind, or imbecilic, or idiotic, or
14 epileptic: *Provided*, That any girl who has been adjudged
15 delinquent and placed on probation by a court of competent
16 jurisdiction prior to her eighteenth birthday may be com-
17 mitted to the West Virginia industrial home for girls for any
18 act or omission amounting to a violation of any condition
19 of her probation which said act or omission occurred prior
20 to the expiration of the period of her probation and prior to
21 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
2 the age of eighteen years, shall have been convicted in any
3 court of record of this state of a felony, or of a misdemeanor

4 punishable by imprisonment, the judge of such court, in his
5 discretion, instead of sentencing such girl to be confined in the
6 penitentiary or the county jail, may order her to be removed
7 to and confined in the West Virginia industrial home for girls,
8 there to remain until she shall have attained the age of twenty-
9 one years, unless sooner discharged or paroled by the state
10 commissioner of public institutions. Any girl, who is a resident
11 of this state and under the age of eighteen years, convicted in
12 any of the courts of the United States for the districts of West
13 Virginia of any offense punishable by imprisonment, may also
14 be received into such home upon such regulations and terms
15 as to her maintenance and support as may be agreed upon by
16 the state commissioner of public institutions and the proper
17 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; removing the requirement that the applicant has no children, father, brothers, sisters or mother of sufficient financial ability to support such person; and removing the requirement that an applicant 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
2 women, heretofore established, shall be continued at Sweet
3 Springs, Monroe County, West Virginia, to be known as
4 Andrew S. Rowan Memorial Home, and shall be managed,
5 directed and controlled as provided in article one, chapter
6 twenty-five of this code. The chief executive officer thereof
7 shall be a superintendent who must be a citizen of the state
8 and a person of good executive ability, and who shall be ap-
9 pointed by the governor by and with the advice and consent
10 of the Senate.

§26-3-2. Admission of inmates.

1 Any man or woman shall be eligible for admission to said
2 home who:
3 (1) Has attained the age of sixty-two years;
4 (2) Has resided in the state for at least one year imme-
5 diately preceding the application;
6 (3) Has not made an assignment or transfer of property
7 for the purpose of qualifying for public assistance;
8 (4) Is in need of continuing institutional care because of his
9 physical or mental condition;
10 (5) Is actually in need and has not sufficient income or
11 other resources to provide a subsistence compatible with de-
12 cency 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.]

AN ACT to amend and reenact section ten, article two, chapter two of the code of West Virginia, one thousand nine hundred

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
2 statutes, unless a different intent on the part of the Legislature
3 be apparent from the context:

4 (a) A word importing the singular number only may be
5 applied to several persons or things, as well as to one person
6 or thing; a word importing the plural number only may be
7 applied to one person or thing as well as to several; and a
8 word importing the masculine gender only may be applied to
9 females as well as males;

10 (b) Words purporting to give a joint authority to three
11 or more persons confer such authority upon a majority of
12 them, and not upon any less number;

13 (c) The words "written" or "in writing" include any repre-
14 sentation of words, letters or figures, whether by printing, en-
15 graving, writing or otherwise. But when the signature of any
16 person is required, it must be in his own proper handwriting,
17 or his mark, attested, proved or acknowledged;

18 (d) The words "preceding," "succeeding" or "following"
19 used in reference to any section or sections of a chapter or
20 statute, mean next preceding, next succeeding or next follow-
21 ing that in which such reference is made, unless a different in-
22 terpretation be required by the context;

23 (e) An officer shall be deemed to have qualified when he
24 has done all that the law required him to do before he pro-
25 ceeds to exercise the authority and discharge the duties of his
26 office;

27 (f) The words "the governor" are equivalent to "the execu-
28 tive of the state" or "the person having the executive power";

29 (g) "Justice" or "justices" as used in article one, chapter
30 fifty-one of this code and in other references to a member
31 or members of the supreme court of appeals shall mean and
32 apply to a judge or the judges of said court as provided for in
33 the constitution of the state. The word "justice" in any other
34 context is equivalent to the words "justice of the peace," and
35 the word "notary" is equivalent to "notary public";

36 (h) The word "state," when applied to a part of the United
37 States and not restricted by the context, includes the District
38 of Columbia and the several territories, and the words "United
39 States" also include the said district and territories;

40 (i) The word "person" or "whoever" shall include corpora-
41 tions, societies, associations and partnerships, if not restricted
42 by the context;

43 (j) The words "personal representative" include the execu-
44 tor of a will, the administrator of the estate of a deceased per-
45 son, the administrator of such estate with the will annexed,
46 the administrator de bonis non of such estate, whether there be
47 a will or not, the sheriff or other officer lawfully charged with
48 the administration of the estate of a deceased person, and every
49 other curator or committee of a decedent's estate for or
50 against whom suits may be brought for causes of action which
51 accrued to or against such decedent;

52 (k) The word "will" embraces a testament, a codicil, an
53 appointment by will or writing in the nature of a will in exer-
54 cise of a power, also any other testamentary disposition;

55 (l) The word "judgment" includes decrees and orders for
56 the payment of money or the conveyance or delivery of land
57 or personal property, or some interest therein, or any under-
58 taking, bond or recognizance which has the legal effect of a
59 judgment;

60 (m) The words "under disability" include persons under
61 the age of eighteen years, insane persons, and convicts while
62 confined in the penitentiary;

63 (n) The words "insane person" include everyone who is an
64 idiot, lunatic, non compos or deranged;

65 (o) The word "convict" means a person confined in the
66 penitentiary of this or any other state, or of the United States;

67 (p) The word "land" or "lands" and the words "real estate"
68 or "real property" include lands, tenements and hereditaments,
69 and all rights thereto and interests therein except chattel in-
70 terests;

71 (q) The words "personal estate" or "personal property" in-
72 clude goods, chattels, real and personal, money, credits, invest-
73 ments and the evidences thereof;

74 (r) The word "property" or "estate" embraces both real and
75 personal estate;

76 (s) The word "offense" includes every act or omission for
77 which a fine, forfeiture or punishment is imposed by law;

78 (t) The expression "laws of the state" includes the consti-
79 tution of the state and the constitution of the United States,
80 and treaties and laws made in pursuance thereof;

81 (u) The word "town" includes a city, village or town, and
82 the word "council," any body or board, whether composed of
83 one or more branches, who are authorized to make ordinances
84 for the government of a city, town or village;

85 (v) When a council of a town, city or village, or any board,
86 number of persons or corporations, are authorized to make or-
87 dinances, bylaws, rules, regulations or orders, it shall be under-
88 stood that the same must be consistent with the laws of this
89 state;

90 (w) The words "county court" include any existing tribunal
91 created in lieu of a county court; the words "ocmmissioner of
92 the county court" and "county commissioner" mean, and have
93 reference to, the commissioners, or one of them, composing the
94 county court, in pursuance of section twenty-two, article eight
95 of the constitution as amended, or any existing tribunal created
96 in lieu of a county court;

97 (x) The word "horse" embraces a stallion, a mare and a
98 gelding;

99 (y) The words "railroad" and "railway" shall be construed
100 by the courts of this state to mean the same thing in law; and, in
101 any proceeding wherein a railroad company or a railway com-
102 pany is a party, it shall not be deemed error to call a railroad
103 company a railway company or vice versa; nor shall any de-
104 murrer, plea or any other defense be set up to a motion, plead-
105 ing 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

145 code applies to all reenactments, revisions or amendments
146 thereof;

147 (ee) If a statute refers to a series of numbers or letters, the
148 first and the last numbers or letters in the series are deemed
149 to be included.

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.

1 On and after the first day of July, one thousand nine

2 hundred seventy-eight, the topographical quadrangle maps
3 filed pursuant to section six of this article shall include the
4 boundaries of the magisterial districts of the state, as such
5 boundaries existed on the first day of January, one thousand
6 nine hundred sixty-nine, which magisterial districts shall be
7 designated on said maps as "tax districts": *Provided*, That
8 in a county in which the county court has exercised the power
9 formerly granted it under chapter one hundred seventeen,
10 acts of the Legislature, regular session, one thousand nine
11 hundred seventy-two, by designating that county's magisterial
12 districts as tax districts, the term "tax districts" shall mean
13 the magisterial districts of that county as they existed on the
14 first day of July, one thousand nine hundred seventy-three.
15 On and after the first day of July, one thousand nine hundred
16 seventy-eight, the boundary lines reflected on such maps shall
17 constitute the official boundary lines between tax districts
18 of the state, as defined in section one-a, article three, chapter
19 eleven of this code.

CHAPTER 11. TAXATION.

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-1a. Magisterial districts as tax districts; legislative findings; terms defined.

1 The Legislature recognizes that several counties have re-
2 districted their magisterial districts in order to achieve as
3 nearly as practicable equal numbers of population within
4 each such district; that if the land books and personal prop-
5 erty books of any such county must be changed following
6 each such redistricting so as to reflect the newly established
7 districts, very substantial costs to the counties would be
8 occasioned thereby; that if the land books must be changed
9 following each such redistricting so as to reflect the newly
10 established districts, problems would arise in searching and
11 abstracting titles to real property; and that there is no reason
12 to require the land books and personal property books of a
13 county for tax purposes to be on a magisterial district
14 basis as such districts are established for voting purposes.
15 Consequently, the terms "tax district" or "district," or the
16 plural thereof, as used in this chapter, shall mean the

17 magisterial district or districts and the subdivisions thereof
18 as the same existed in any county on the first day of January,
19 one thousand nine hundred sixty-nine: *Provided*, That in a
20 county in which the county court has exercised the power
21 formerly granted it under chapter one hundred seventeen, acts
22 of the Legislature, regular session, one thousand nine hundred
23 seventy-two, by designating that county's magisterial districts
24 as tax districts, the term "tax districts" shall mean the
25 magisterial districts of that county as they existed on the first
26 day of July, one thousand nine hundred seventy-three.

CHAPTER 134

(House Bill No. 806—By Mr. Shifflet 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. Recordation of plat or designation of land use not to be basis for assessment.

1 The recordation of a plan or plat, or the designation of
2 proposed land use by a county or municipal planning authority
3 shall not be used by the assessor as a basis in the valuation or
4 assessment of real property for the purposes of taxation until
5 such time as the actual use of such real property or any part
6 thereof, has changed to correspond to the plan, plat or proposed
7 use.

CHAPTER 135

(Senate Bill No. 139—By Mr. Fanning and Mr. Hubbard)

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

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
2 Virginia to maintain reasonable standards of purity and
3 quality of the water of the state and a reasonable degree of
4 purity of the air resources of the state. In the exercise
5 of the police power of the state to protect the environment
6 and promote the public health, safety and general welfare,
7 the Legislature has heretofore enacted the Water Pollution
8 Control Act as article five-a, chapter twenty of this code and
9 the Air Pollution Control Act as article twenty, chapter six-
10 teen thereof. It is recognized and declared by the Legislature
11 that pollution control facilities, as hereinafter defined, are
12 required for the protection and benefit of the environment
13 and the general welfare of the people, are nonproductive, do

14 not add to the economic value of a business enterprise and
15 do not have a market value after installation in excess of
16 salvage value.

§11-6A-2. Definition.

1 As used in this article, "pollution control facility" means
2 any personal property designed, constructed or installed pri-
3 marily for the purpose of abating or reducing water or air
4 pollution or contamination by removing, altering, disposing,
5 treating, storing or dispersing the concentration of pollutants,
6 contaminants, wastes or heat in compliance with air or water
7 quality or effluent standards prescribed by or promulgated un-
8 der the laws of this state or the United States, the design, con-
9 struction and installation of which personal property was ap-
10 proved as a pollution control facility by the water resources
11 division of the department of natural resources or the air pollu-
12 tion control commission, as the case may be.

§11-6A-3. Tax treatment of pollution control facilities.

1 The value of a pollution control facility first placed in
2 operation subsequent to July one, one thousand nine hundred
3 seventy-three, shall, for the purpose of ad valorem property
4 taxation under this chapter, be deemed to be its salvage value,
5 that is to say, the price for which such facility would sell in
6 place if voluntarily offered for sale by the owner thereof.

§11-6A-4. Regulations.

1 The state tax commissioner shall have the power and auth-
2 ority to promulgate regulations for the administration of this
3 article. Such regulations may provide, among other things, for
4 the identification and certification of pollution control facil-
5 ities, the determination of the date upon which such facilities
6 were first placed in operation, the determination of whether
7 such facilities are real or personal property, a method for the
8 allocation or separation of values where the pollution control
9 facility produces a profitable by-product or where a part of
10 such facility is required for the operation of the business with-
11 out regard to the requirements of state or federal air or water
12 quality standards and such other matters as may be related to
13 the administration of this article.

CHAPTER 136

(Senate Bill No. 256—By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed March 21, 1973; in effect ninety days from passage. Approved by the Governor.]

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.

§11-14A-4. Computation of tax.

1 Computation of the tax is based upon the amount of gal-
2 lons of gasoline or special fuel used in the operation of any
3 motor carrier within this state and shall be in such propor-
4 tion of the total amount of such gasoline or special fuel used
5 in any person's operations within and without this state as
6 the total number of miles traveled within this state bears to
7 the total number of highway miles traveled within and with-
8 out this state.

CHAPTER 137

(House Bill No. 1310—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 nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the determination of the meaning of terms used in the West Virginia personal income tax act.

Be it enacted by the Legislature of West Virginia:

That section nine, article twenty-one, chapter eleven of the code

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

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-9. Meaning of terms.

1 Any term used in this article shall have the same meaning
2 as when used in a comparable context in the laws of the
3 United States relating to income taxes, unless a different
4 meaning is clearly required. Any reference in this article to
5 the laws of the United States shall mean the provisions of the
6 Internal Revenue Code of 1954, as amended, and such other
7 provisions of the laws of the United States as relate to the
8 determination of income for federal income tax purposes.
9 All amendments made to the laws of the United States prior
10 to the first day of January, one thousand nine hundred
11 seventy-three, shall be given effect in determining the taxes
12 imposed by this article for the tax period beginning the first
13 day of January, one thousand nine hundred seventy-three,
14 and thereafter, but no amendment to the laws of the United
15 States made on or after the first day of January, one thousand
16 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.

1 **(a) General.**—The West Virginia adjusted gross income
2 of a resident individual means his federal adjusted gross
3 income as defined in the laws of the United States for the
4 taxable year with the modifications specified in this section.

5 **(b) Modifications increasing federal adjusted gross in-**
6 **come.**—There shall be added to federal adjusted gross in-
7 come:

8 (1) Interest income on obligations of any state other
9 than this state, or of a political subdivision of any such other
10 state unless created by compact or agreement to which this
11 state is a party;

12 (2) Interest or dividend income on obligations or secur-
13 ities of any authority, commission or instrumentality of the
14 United States, which the laws of the United States exempt
15 from federal income tax but not from state income taxes;

16 (3) Income taxes imposed by this state or any other
17 taxing jurisdiction, to the extent deductible in determining
18 federal adjusted gross income and not credited against federal
19 income tax; and

20 (4) Interest on indebtedness incurred or continued to
21 purchase or carry obligations or securities the income from
22 which is exempt from tax under this article, to the extent
23 deductible in determining federal adjusted gross income.

24 **(c) Modifications reducing federal adjusted gross income.**
25 —There shall be subtracted from federal adjusted gross
26 income:

27 (1) Interest income on obligations of the United States
28 and its possessions to the extent includible in gross income
29 for federal income tax purposes;

30 (2) Interest or dividend income on obligations or securi-
31 ties of any authority, commission or instrumentality of the
32 United States to the extent includible in gross income for
33 federal income tax purposes but exempt from state income
34 taxes under the laws of the United States;

35 (3) Any gain from the sale or other disposition of prop-
36 erty having a higher fair market value on the first day of
37 January, one thousand nine hundred sixty-one, than the
38 adjusted basis at said date for federal income tax purposes:
39 *Provided*, That the amount of this adjustment is limited to
40 that portion of any such gain which does not exceed the
41 difference between such fair market value and such adjusted
42 basis: *Provided, however*, That if such gain is considered a
43 long-term capital gain for federal income tax purposes, the
44 modification shall be limited to fifty per centum of such
45 portion of the gain;

46 (4) The amount of any refund or credit for overpayment
47 of income taxes imposed by this state, or any other taxing
48 jurisdiction, to the extent properly included in gross income
49 for federal income tax purposes;

50 (5) Retirement benefits received from any source pay-
51 able to persons above the age of sixty-five: *Provided*, That such
52 deduction for retirement benefits received from such source
53 shall be limited to an amount not to exceed four thousand
54 dollars; and

55 (6) Any pay or allowances received after the thirty-first
56 day of December, one thousand nine hundred seventy-three, by
57 West Virginia residents as compensation for active service in
58 the armed forces of the United States: *Provided*, That such
59 deduction shall be limited to an amount not to exceed four
60 thousand dollars.

61 (d) *Modification for West Virginia fiduciary adjustment.*
62 —There shall be added to or subtracted from federal ad-
63 justed gross income, as the case may be, the taxpayer's share,
64 as beneficiary of an estate or trust, of the West Virginia
65 fiduciary adjustment determined under section nineteen.

66 (e) *Partners*.—The amounts of modifications required to
67 be made under this section by a partner, which relate to
68 items of income, gain, loss or deduction of a partnership,
69 shall be determined under section seventeen.

70 (f) *Husband and wife*.—If husband and wife determine
71 their federal income tax on a joint return but determine their
72 West Virginia income taxes separately, they shall determine
73 their West Virginia adjusted gross incomes separately as if
74 their federal adjusted gross incomes had been determined
75 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.

§11-24-3. Meaning of terms.

1 (a) *General*.—Any term used in this article shall have the
2 same meaning as when used in a comparable context in the
3 laws of the United States relating to federal income taxes, un-
4 less a different meaning is clearly required by the context or
5 by definition in this article. Any reference in this article to the
6 laws of the United States or to the Internal Revenue Code or
7 to the federal income tax law shall mean the provisions of the

8 laws of the United States as relate to the determination of in-
9 come for federal income tax purposes. All amendments made
10 to the laws of the United States prior to the first day of Jan-
11 uary, one thousand nine hundred seventy-three, shall be given
12 effect in determining the taxes imposed by this article for the
13 tax period beginning the first day of July, one thousand nine
14 hundred seventy-three, and thereafter, but no amendment to
15 laws of the United States made on or after the first day of
16 January, one thousand nine hundred seventy-three, shall be
17 given effect.

18 (b) *Certain terms defined.*—For purposes of this article:

19 (1) The term “tax commissioner” means the tax commis-
20 sioner of the state of West Virginia or his delegate.

21 (2) The term “corporation” means and includes a joint-
22 stock company or any association which is taxable as a cor-
23 poration under the federal income tax law.

24 (3) The term “domestic corporation” means any corpora-
25 tion organized under the laws of West Virginia.

26 (4) The term “foreign corporation” means any corporation
27 other than a domestic corporation.

28 (5) The term “state” means any state of the United States,
29 the District of Columbia, the Commonwealth of Puerto Rico,
30 any territory or possession of the United States, and any for-
31 eign country or political subdivision thereof.

32 (6) The term “taxable year” means the taxable year for
33 which the taxable income of the taxpayer is computed under
34 the federal income tax law.

35 (7) The term “taxpayer” means a corporation subject to
36 the tax imposed by this article.

37 (8) The term “tax” includes, within its meaning, interest
38 and penalties unless the intention to give it a more limited
39 meaning is disclosed by the context.

40 (9) The term “commercial domicile” means the principal
41 place from which the trade or business of the taxpayer is di-
42 rected or managed.

43 (10) The term “compensation” means wages, salaries, com-
44 missions and any form of remuneration paid to employees for
45 personal services.

46 (11) The term "West Virginia taxable income" means the
47 taxable income of a corporation as defined by the laws of the
48 United States for federal income tax purposes, adjusted as
49 provided in section six: *Provided*, That in the case of a cor-
50 poration having income from business activity which is taxable
51 without this state, its "West Virginia taxable income" shall be
52 such portion of its taxable income as so defined and adjusted
53 as is allocated or apportioned to this state under the provisions
54 of section seven.

55 (12) The term "business income" means income arising
56 from transactions and activity in the regular course of the tax-
57 payer's trade or business and includes income from tangible
58 and intangible property if the acquisition and disposition of
59 the property constitute integral parts of the taxpayer's regular
60 trade or business operations.

61 (13) "Nonbusiness income" means all income other than
62 business income.

63 (14) The term "public utility" means any business activity
64 to which the jurisdiction of the public service commission of
65 West Virginia extends under section one, article two, chapter
66 twenty-four of the code of West Virginia.

67 (15) The term "this code" means the code of West Vir-
68 ginia, one thousand nine hundred thirty-one, as amended.

69 (16) The term "this state" means the state of West Vir-
70 ginia.

CHAPTER 140

(House Bill No. 671—By Mr. Myles)

[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
2 who was entitled to pay the taxes on, any real estate
3 purchased by an individual, may redeem at any time before
4 April first of the second year following the sale. In order to
5 redeem, he must pay to the purchaser, his heirs or assigns,
6 the following amounts: (1) The amount of purchase money
7 paid to the sheriff, with interest at the rate of twelve percent
8 per annum from the date of sale. (2) All other taxes thereon,
9 which have since been paid by the purchaser, his heirs or
10 assigns, with interest at the rate of twelve percent per annum
11 from the date of payment. (3) Such additional expenses as
12 may have been incurred in procuring the survey or report
13 provided for in sections twenty-one and twenty-two of this
14 article; and for the examination of the title in order to prepare
15 the list of those to be served with notice and giving the
16 notice required by sections twenty-three and twenty-four of
17 this article, but the amount he shall be required to pay for
18 the expenses incurred in preparing the list of those to be
19 served with notice to redeem, required by sections twenty-
20 three and twenty-four of this article, shall not exceed fifty
21 dollars.

22 The person redeeming shall be given duplicate receipts for
23 the payment. If the purchaser, his heirs or assigns, shall
24 refuse or fail to sign and give such receipts when lawfully
25 required to do so, he or they shall pay to the person re-
26 deemng twice the amount of such payment, which may be
27 recovered by action on the case in any court of competent
28 jurisdiction. One of such receipts shall be filed with the clerk
29 of the county court on or before the day on which the right
30 to redeem expires. The clerk shall endorse on both receipts
31 the fact and time of such filing, and shall note the fact of
32 redemption on his record of delinquent lands. If the receipt

33 is not filed on or before such date, the redemption shall be
34 void as to creditors and subsequent bona fide purchasers from
35 the purchaser, his heirs or assigns. If, however, the receipt is
36 filed after the date required, it shall operate as notice from
37 and after the date of filing. In April of each year the clerk
38 of the county court shall prepare and certify to the auditor
39 a list of all redemptions from sales to individual purchasers,
40 which have not been included in any former list.

41 Any person who, by reason of the fact that no provision is
42 made for partial redemption of real estate purchased by an
43 individual, is compelled in order to protect himself to redeem
44 all of such real estate when it belongs in whole or in part to
45 some other person, shall have a lien on the interest of such
46 other person for the amount paid to redeem such interest. He
47 shall lose his right to the lien, however, unless within thirty
48 days after payment he shall file with the clerk of the county
49 court his claim in writing against the owner of such interest,
50 together with the receipt provided for in this or the following
51 section. The clerk shall docket the claim on the judgment lien
52 docket in his office and properly index the same. Such lien
53 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-

ployers; 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.**

§23-4-1a. Report of injuries by employee.

§23-4-1b. Report of injuries by employers.

§23-4-1c. Payment of temporary total disability benefits directly to claimant.

§23-4-6. Classification of disability benefits.

§23-4-14. Computation of benefits.

§23-4-15. Application of benefits.

§23-4-18. Mode of paying benefits generally; exemptions of compensation from legal process.

§23-4-1a. Report of injuries by employee.

1 Every employee who sustains an injury subject to this chap-
2 ter, or his representative, shall immediately on the occurrence
3 of such injury or as soon thereafter as practicable give or
4 cause to be given to the employer or any of his agents a writ-
5 ten notice of the occurrence of such injury, with like notice or
6 a copy thereof to the commissioner, stating in ordinary lan-
7 guage the name and address of the employer, the name and
8 address of the employee, the time, place, nature and cause of
9 the injury, and whether temporary total disability has resulted
10 therefrom. Such notice shall be given personally to the employ-
11 er or any of his agents, or may be sent by registered mail ad-
12 dressed to the employer at his last known residence or place
13 of business. Such notice may be given to the commissioner
14 personally or by mail.

§23-4-1b. Report of injuries by employers.

1 It shall be the duty of every employer to report to the com-
2 missioner every injury sustained by any person in his employ.
3 Such report shall be on forms prescribed by the commissioner;
4 and shall be made within ten days of the employer's receipt
5 of the employee's notice of injury, required by section one-a of
6 this article, or within ten days after the employer has been
7 notified by the commissioner that a claim for benefits has been
8 filed on account of such injury, whichever is sooner. The
9 employer's report of injury shall include a statement as to
10 whether or not, on the basis of the information then available,
11 the employer disputes the compensability of the injury or

12 objects to the payment of temporary total disability benefits
13 in connection therewith. Such statements by the employer shall
14 not prejudice the employer's right thereafter to contest the
15 compensability of the injury, or to object to any subsequent
16 finding or award, in accordance with article five of this chap-
17 ter; but an employer's failure to make timely report of an
18 injury as required herein, or statements in such report to the
19 effect that the employer does not dispute the compensability
20 of the injury or object to the payment of temporary total dis-
21 ability benefits for such injury, shall be deemed to be a waiver
22 of the employer's right to object to any interim payment of
23 temporary total disability benefits paid by the commissioner
24 with respect to any period from the date of injury to the date
25 of the commissioner's receipt of any objection made thereto by
26 the employer.

§23-4-1c. Payment of temporary total disability benefits directly to claimant.

1 In any case of injury in which the employer has failed to
2 make report of an injury as required in section one-b of this
3 article, or has made such report of an injury but has not
4 stated therein that he disputes the compensability of the in-
5 jury or objects to the payment of temporary total disability
6 benefits in connection therewith, the commissioner, upon a
7 finding that a claimant has sustained a compensable injury
8 within the meaning of section one of this article, and upon
9 proof by proper physician's report, or otherwise, that dis-
10 ability will last longer than three days as provided in section
11 five of this article, shall immediately commence payment of
12 temporary total disability benefits to the claimant in the
13 amounts provided for in sections six and fourteen, of this
14 article, without waiting for the expiration of the thirty-day
15 period during which objections may be filed to such findings
16 as provided in section one, article five of this chapter. The
17 commissioner shall give immediate notice to the employer of
18 his findings and of the commencement of such payments.

19 Where the employer is a subscriber to the workmen's com-
20 pensation fund under the provisions of article three of this
21 chapter, and upon the findings aforesaid, the commissioner
22 shall mail all workmen's compensation checks paying such

23 interim temporary total disability benefits directly to the clai-
24 mant and not to the employer for delivery to the claimant.

25 Where the employer has elected to carry his own risk under
26 section nine, article two of this chapter, and upon the findings
27 aforesaid, the commissioner shall immediately issue a pay order
28 directing the employer to pay such amounts as are due the
29 claimant for temporary total disability benefits.

30 Upon the filing of timely objection to any finding or order
31 of the commissioner, as provided in section one, article five
32 of this chapter, with respect to the payment or continued pay-
33 ment of temporary total disability benefits as provided herein,
34 the commissioner shall immediately cease said payments until
35 such objection has been finally determined as provided in
36 article five of this chapter. If the claim is later determined not
37 to be compensable, the employer's account is not to be charged
38 for temporary total disability payments made, and the claimant
39 will not be required to refund to the commissioner temporary
40 total disability payments he has received, unless fraud has
41 been employed in securing such benefits.

§23-4-6. Classification of disability benefits.

1 Where compensation is due an employee under the provi-
2 sions of this chapter for personal injury, such compensation
3 shall be as provided in the following schedule:

4 (a) The expressions "average weekly wage earnings,
5 wherever earned, of the injured employee, at the date of
6 injury" and "average weekly wage in West Virginia," as used
7 in this chapter, shall have the meaning and shall be computed
8 as set forth in section fourteen of this article.

9 (b) If the injury causes temporary total disability, the
10 employee shall receive during the continuance thereof weekly
11 benefits as follows: A maximum weekly benefit to be
12 computed on the basis of sixty-six and two-thirds percent of
13 the average weekly earnings, wherever earned, of the injured
14 employee, at the date of injury, not to exceed the percentage
15 of the average weekly wage in West Virginia, as follows:
16 On or after July one, one thousand nine hundred sixty-nine,
17 forty-five percent; on or after July one, one thousand nine
18 hundred seventy, fifty percent; on or after July one, one

19 thousand nine hundred seventy-one, fifty-five percent; on or
20 after July one, one thousand nine hundred seventy-three, sixty
21 percent.

22 The minimum weekly benefits paid hereunder shall not be
23 less than twenty-six dollars per week for injuries occurring on
24 or after July one, one thousand nine hundred sixty-nine; not
25 less than thirty-five dollars per week for injuries occurring on
26 or after July one, one thousand nine hundred seventy-one and
27 not less than forty dollars per week for injuries occurring
28 on or after July one, one thousand nine hundred seventy-three.

29 (c) Subdivision (b) shall be limited as follows: Aggregate
30 award for a single injury causing temporary disability shall be
31 for a period not exceeding two hundred eight weeks.

32 (d) If the injury causes permanent disability, the per-
33 centage of disability to total disability shall be determined and
34 the award computed on the basis of four weeks compensation
35 for each percent of disability determined and the maximum
36 or minimum weekly benefits as provided in subdivision (b) of
37 this section for temporary total disability benefits shall be
38 payable.

39 For a disability of eighty-five percent or more, benefits
40 shall be payable during the remainder of life at the maximum or
41 minimum weekly benefits as provided in subdivision (b) of this
42 section for temporary total disability.

43 (e) If the injury results in the total loss by severance of
44 any of the members named in this subdivision, the percentage
45 of disability shall be determined in accordance with the fol-
46 lowing table, and award made as provided in subdivision (d)
47 of this section:

48 The loss of a great toe shall be considered a ten percent
49 disability.

50 The loss of a great toe (one phalanx) shall be considered
51 a five percent disability.

52 The loss of other toes shall be considered a four percent
53 disability.

54 The loss of other toes (one phalanx) shall be considered a
55 two percent disability.

56 The loss of all toes shall be considered a twenty-five percent
57 disability.

58 The loss of forepart of foot shall be considered a thirty
59 percent disability.

60 The loss of foot shall be considered a thirty-five percent
61 disability.

62 The loss of a leg shall be considered a forty-five percent
63 disability.

64 The loss of thigh shall be considered a fifty percent
65 disability.

66 The loss of thigh at hip joint shall be considered a sixty
67 percent disability.

68 The loss of a little or fourth finger (one phalanx) shall be
69 considered a three percent disability.

70 The loss of little or fourth finger shall be considered a
71 five percent disability.

72 The loss of ring or third finger (one phalanx) shall be
73 considered a three percent disability.

74 The loss of ring or third finger shall be considered a five
75 percent disability.

76 The loss of middle or second finger (one phalanx) shall be
77 considered a three percent disability.

78 The loss of middle or second finger shall be considered a
79 seven percent disability.

80 The loss of index or first finger (one phalanx) shall be
81 considered a six percent disability.

82 The loss of index or first finger shall be considered a ten
83 percent disability.

84 The loss of thumb (one phalanx) shall be considered a
85 twelve percent disability.

86 The loss of thumb shall be considered a twenty percent
87 disability.

88 The loss of thumb and index finger shall be considered a
89 thirty-two percent disability.

90 The loss of index and middle finger shall be considered a
91 twenty percent disability.

92 The loss of middle and ring finger shall be considered a
93 fifteen percent disability.

94 The loss of ring and little finger shall be considered a ten
95 percent disability.

96 The loss of thumb, index and middle finger shall be con-
97 sidered a forty percent disability.

98 The loss of index, middle and ring finger shall be considered
99 a thirty percent disability.

100 The loss of middle, ring and little finger shall be considered
101 a twenty percent disability.

102 The loss of four fingers shall be considered a thirty-two
103 percent disability.

104 The loss of hand shall be considered a fifty percent
105 disability.

106 The loss of forearm shall be considered a fifty-five percent
107 disability.

108 The loss of arm shall be considered a sixty percent
109 disability.

110 The total and irrecoverable loss of the sight of one eye
111 shall be considered a thirty-three percent disability. For the
112 partial loss of vision in one, or both eyes, the percentage of
113 disability shall be determined by the commissioner, using
114 as a basis the total loss of one eye.

115 The total and irrecoverable loss of the hearing of one ear
116 shall be considered a fifteen percent disability, and the in-
117 jured employee shall be entitled to compensation for a period
118 of sixty weeks. The total and irrecoverable loss of hearing
119 of both ears shall be considered a forty-five percent dis-
120 ability, and the injured employee shall be entitled to com-
121 pensation for a period of one hundred eighty weeks.

122 For the partial loss of hearing in one, or both ears, the
123 percentage of disability shall be determined by the com-
124 missioner, using as a basis the total loss of hearing in both
125 ears.

126 Should a claimant sustain a compensable injury which
127 results in the total loss by severance of any of the bodily
128 members named in this subdivision, die from sickness or
129 noncompensable injury before the commissioner makes the
130 proper award for such injury, the commissioner shall make
131 such award to claimant's dependents as defined in this
132 chapter, if any; such payment to be made in the same install-
133 ments that would have been paid to claimant if living:
134 *Provided*, That no payment shall be made to any widow of

135 such claimant after her remarriage, and that this liability
136 shall not accrue to the estate of such claimant and shall
137 not be subject to any debts of, or charges against, such
138 estate.

139 (f) Should a claimant to whom has been made a per-
140 manent partial award of from one percent to eighty-four
141 percent, both inclusive, die from sickness or noncompensable
142 injury, the unpaid balance of such award shall be paid to
143 claimant's dependents as defined in this chapter, if any;
144 such payment to be made in the same installments that
145 would have been paid to claimant if living: *Provided,*
146 *however,* That no payment shall be made to any widow
147 of such claimant after her remarriage, and that this liability
148 shall not accrue to the estate of such claimant and shall
149 not be subject to any debts of, or charges against, such
150 estate.

151 (g) The award for permanent disabilities intermediate
152 to those fixed by the foregoing schedule and permanent
153 disability of from one percent to eighty-four percent shall
154 be in the same proportion and shall be computed and allowed
155 by the commissioner.

156 (h) The percentage of all permanent disabilities other
157 than those enumerated in subdivision (e) of this section
158 shall be determined by the commissioner, and awards made
159 in accordance with the provisions of subdivision (d) of
160 this section. Where there has been an injury to a member
161 as distinguished from total loss by severance of that member,
162 the commissioner in determining the percentage of dis-
163 ability may be guided by but shall not be limited to the
164 disabilities enumerated in subdivision (e) of this section.

165 (i) Compensation payable under any subdivision of this
166 section shall be limited as follows: Not to exceed the
167 maximum nor to be less than the minimum weekly benefits
168 specified in subdivision (b) of this section.

169 (j) Temporary total disability benefits payable under
170 subdivision (b) of this section shall not be deductible from
171 permanent partial disability awards payable under sub-
172 divisions (d) and (e) of this section. Compensation, either
173 total temporary or permanent partial, under this section
174 shall be payable only to the injured employee and the

175 right thereto shall not vest in his or her estate, except that
176 any unpaid compensation which would have been paid or
177 payable to the employee up to the time of his death, if he
178 had lived, shall be paid to the dependents of such injured
179 employee if there be such dependents at the time of death.

180 (k) The following permanent disabilities shall be con-
181 clusively presumed to be total in character:

182 Loss of both eyes or the sight thereof.

183 Loss of both hands or the use thereof.

184 Loss of both feet or the use thereof.

185 Loss of one hand and one foot or the use thereof.

186 In all other cases permanent disability shall be deter-
187 mined by the commissioner in accordance with the facts
188 in the case, and award made in accordance with the pro-
189 visions of subdivision (d).

190 (l) A disability which renders the injured employee unable
191 to engage in substantial gainful activity requiring skills or
192 abilities comparable to those of any gainful activity in which
193 he has previously engaged with some regularity and over
194 a substantial period of time shall be considered in deter-
195 mining the issue of total disability.

§23-4-14. Computation of benefits.

1 The average weekly wage earnings, wherever earned, of the
2 injured person at the date of injury, and the average weekly
3 wage in West Virginia as determined by the commissioner of
4 employment security, in effect at the date of injury, shall be
5 taken as the basis upon which to compute the benefits.

6 In cases involving occupational pneumoconiosis or other
7 occupational diseases, the "date of injury" shall be the date
8 of the last exposure to the hazards of occupational pneumo-
9 coniosis or other occupational diseases.

10 In computing benefits payable on account of occupational
11 pneumoconiosis, the commissioner shall deduct the amount of
12 all prior workmen's compensation benefits paid to the same
13 claimant on account of silicosis, but a prior silicosis award
14 shall not, in any event, preclude an award for occupational
15 pneumoconiosis otherwise payable under this article.

16 The expression "average weekly wage earnings, wherever

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, which-
20 ever is most favorable to the injured employee.

21 The expression "average weekly wage in West Virginia,"
22 within the meaning of this chapter, shall be the average weekly
23 wage in West Virginia as determined by the commissioner of
24 employment security in accordance with the provisions of sec-
25 tions ten and eleven, article six, chapter twenty-one-a of the
26 code of West Virginia, one thousand nine hundred thirty-one,
27 as amended, and other applicable provisions of said chapter
28 twenty-one-a.

29 In any claim for injuries, including occupational pneumo-
30 coniosis and other occupational diseases, occurring on or after
31 July one, one thousand nine hundred seventy-one, any award
32 for temporary total, permanent partial or permanent total dis-
33 ability benefits or for dependent benefits, shall be paid at the
34 weekly rates or in the monthly amount in the case of depen-
35 dent benefits applicable to the claimant therein in effect on the
36 date of such injury. If during the life of such award for temp-
37 orary total, permanent partial or permanent total disability bene-
38 fits or for dependent benefits, the weekly rates or the monthly
39 amount in the case of dependent benefits are increased or de-
40 creased, the claimant shall receive such increased or decreased
41 benefits beginning as of the effective date of said increase or
42 decrease.

§23-4-15. Application for benefits.

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
4 application therefor must be made on the form or forms pre-
5 scribed by the commissioner and filed in the office of the com-
6 missioner within two years from and after the injury or death,
7 as the case may be, and all proofs of dependency in fatal cases
8 must likewise be filed with the commissioner within two years
9 from and after the death. In case the employee is mentally or
10 physically incapable of filing such application, it may be filed
11 by his attorney or by a member of his family.

12 To entitle any employee to compensation for occupational
13 pneumoconiosis under the provisions hereof, the application
14 therefor must be made on the form or forms prescribed by the
15 commissioner and filed in the office of the commissioner with-
16 in three years from and after the last day of the last continuous
17 period of sixty days or more during which the employee was
18 exposed to the hazards of occupational pneumoconiosis or
19 within three years from and after the employee's occupational
20 pneumoconiosis was made known to him by a physician or
21 which he should reasonably have known, whichever shall last
22 occur, or, in the case of death, the application shall be filed as
23 aforesaid by the dependent of such employee within two years
24 from and after such employee's death.

25 To entitle any employee to compensation for occupational
26 disease other than occupational pneumoconiosis under the pro-
27 visions hereof, the application therefor must be made on the
28 form or forms prescribed by the commissioner and filed in the
29 office of the commissioner within three years from and after
30 the day on which the employee was last exposed to the parti-
31 cular occupational hazard involved or within three years from
32 and after the employee's occupational disease was made known
33 to him by a physician or which he should reasonably have
34 known, whichever shall last occur, or, in case of death, the
35 application shall be filed as aforesaid by the dependent of such
36 employee within two years from and after such employee's
37 death.

§23-4-18. Mode of paying benefits generally; exemptions of compensation from legal process.

1 Except by this section provided compensation shall be paid
2 only to such employees or their dependents, and shall be
3 exempt from all claims of creditors and from any attachment,
4 execution or assignment other than compensation to counsel
5 for legal services, under the provisions of, and subject to the
6 limitations contained in section five, article five of this chapter.
7 Payments may be made in such periodical installments as may
8 seem best to the commissioner in each case, not exceeding
9 two weeks apart. In all cases where compensation is awarded
10 or increased, the amount thereof shall be calculated and paid
11 from the date of disability.

ARTICLE 4A. DISABLED WORKMEN'S RELIEF FUND.

§23-4A-1. Disabled workmen's relief fund created.

§23-4A-2. To whom benefits paid.

§23-4A-3. Computation of benefits.

§23-4A-1. Disabled workmen's relief fund created.

1 For the relief of persons who are receiving workmen's com-
2 pensation benefits by virtue of and under the laws of this
3 state in amounts less than the minimum amount payable under
4 the laws in effect on July one, one thousand nine hundred
5 sixty-seven, there is hereby created a separate fund to be known
6 as the "Disabled Workmen's Relief Fund," which fund shall
7 consist of such sums as are from time to time made available to
8 carry out the objects and purposes of this article. Said fund
9 shall be in the custody of the state treasurer and disbursements
10 therefrom shall be made upon requisition signed by the com-
11 missioner to those persons entitled to participate therein and in
12 such amounts to each participant as is provided in section
13 three of this article.

§23-4A-2. To whom benefits paid.

1 In order to participate in the disabled workmen's relief
2 fund, an individual must be receiving workmen's compensation
3 benefits by virtue of and under the laws of this state in
4 amounts less than the minimum amount payable under the
5 laws in effect on July one, one thousand nine hundred sixty-
6 seven, and be receiving such benefits under a permanent
7 total disability award or be receiving such benefits because of
8 the death of an employee.

§23-4A-3. Computation of benefits.

1 Each individual entitled to participate in the disabled
2 workmen's relief fund shall be entitled to receive payments
3 without application (except that an application shall be re-
4 quired under section five of this article) from said fund of an
5 amount equal to the difference between the minimum amount
6 payable under the rates in effect as of July one, one thousand
7 nine hundred sixty-seven, and the amount said individual is in
8 fact receiving by virtue of and under the laws of this state.
9 The first such payment shall be made concurrently with the
10 payment to him of workmen's compensation for the period next

11 following the expiration of the twelfth calendar week after this
12 section, as amended, becomes effective and subsequent pay-
13 ments shall be made during the period thereafter in which such
14 participant shall be entitled to workmen's compensation benefits
15 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.

1 The commissioner shall have full power and authority to
2 hear and determine all questions within his jurisdiction, but
3 upon the making or refusing to make any award, or upon the
4 making of any modification or change with respect to former
5 findings or orders, as provided by section sixteen, article four
6 of this chapter, the commissioner shall give notice, in writing,
7 to the employer, employee, claimant or dependent, as the case
8 may be, of his action, which notice shall state the time allow-
9 ed for filing an objection to such finding, and such action of
10 the commissioner shall be final unless the employer, employee,
11 claimant or dependent shall, within thirty days after the re-
12 ceipt of such notice, object, in writing, to such finding. Upon
13 receipt of such objection the commissioner shall, within fif-
14 teen days from receipt thereof, set a time and place for the
15 hearing of evidence. Any such hearing may be conducted by
16 the commissioner or his duly authorized representative at the
17 county seat of the county wherein the injury occurred, or at
18 any other place which may be agreed upon by the interested
19 parties, and in the event the interested parties cannot agree,
20 and it appears in the opinion of the commissioner that the
21 ends of justice require the taking of evidence elsewhere, then
22 at such place as the commissioner may direct, having due re-
23 gard for the convenience of witnesses. Both the employer and
24 claimant shall be notified of such hearing at least ten days in
25 advance, and the hearing shall be held within thirty days after
26 the filing of objection to the commissioner's findings as herein-
27 above provided, unless such hearing be postponed by agree-
28 ment of the parties or by the commissioner for good cause.

29 The evidence taken at such hearing shall be transcribed and
30 become part of the record of the proceedings, together with the
31 other records thereof in the commissioner's office. At any
32 time within thirty days after hearing, if the commissioner is
33 of the opinion that the facts have not been adequately develop-
34 ed at such hearing, he may order supplemental hearing upon
35 due notice to the parties. After final hearing the commissioner
36 shall, within thirty days, render his decision affirming, revers-
37 ing or modifying, his former action, which shall be final:
38 *Provided*, That the claimant or the employer may apply to the
39 appeal board herein created for a review of such decision; but
40 no appeal or review shall lie unless application therefor be
41 made within thirty days of receipt of notice of the commis-
42 sioner's final action, or in any event within sixty days of the
43 date of such final action, regardless of notice.

44 After protest by the employer only to any finding or deter-
45 mination of the commissioner made on or after July one, one
46 thousand nine hundred seventy-one, and the employer does
47 not prevail in its protest and, in the event the claimant is re-
48 quired to attend a hearing by subpoena or agreement of coun-
49 sel or at the express direction of the commissioner, then such
50 claimant in addition to reasonable traveling and other expenses
51 shall be reimbursed for loss of wages incurred by him in at-
52 tending such hearing.

**§23-5-5. Fees of attorney for claimant; unlawful charging or re-
ceiving of attorney fees.**

1 On or after the first day of July, one thousand nine hundred
2 seventy-one, no attorney's fee in excess of twenty-five percent
3 of any award granted shall be charged or received by an
4 attorney for a claimant or dependent. In no case shall the
5 fee received by the attorney of such claimant or dependent be
6 in excess of twenty-five percent of the benefits to be paid
7 during a period of two hundred eight weeks. This paragraph
8 shall not apply to awards made prior to the first day of July,
9 one thousand nine hundred seventy-one: *Provided*, That the
10 interest on disability or dependent benefits as provided for
11 in this chapter shall not be considered as part of the award
12 in determining any such attorney's fee. However, any con-
13 tract entered into in excess of twenty-five percent of the

14 benefits to be paid during a period of two hundred eight
15 weeks, as herein provided, shall be unlawful and unenforce-
16 able as contrary to the public policy of this state and any
17 fee charged or received by an attorney in violation thereof
18 shall be deemed an unlawful practice and render the attorney
19 subject to disciplinary action.

CHAPTER 142

(House Bill No. 1097—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 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 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-2. Coal-workers' pneumoconiosis fund established.

§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-8. Separable from workmen's compensation fund.

§23-4B-1. Purpose.

1 The purpose of this article is to establish a fund to provide
2 benefits to coal miners who are totally disabled by pneumoco-
3 niosis and to eligible dependents of coal miners whose deaths
4 were due to pneumoconiosis or who were totally disabled from

5 pneumoconiosis at the time of their deaths. The further pur-
6 pose of this article is to provide a readily available insurer of
7 liability created by Title IV of the Federal Coal Mine Health
8 and Safety Act of 1969, as amended.

§23-4B-2. Coal-workers' pneumoconiosis fund established.

1 For the relief of persons who are entitled to receive bene-
2 fits by virtue of Title IV of the Federal Coal Mine Health and
3 Safety Act of 1969, as amended, there is hereby established a
4 fund to be known as the coal-workers' pneumoconiosis fund,
5 which fund shall be separate from the workmen's compensa-
6 tion fund. The coal-workers' pneumoconiosis fund shall con-
7 sist of premiums and other funds paid thereto by employers,
8 subject to the provisions of Title IV of the Federal Coal Mine
9 Health and Safety Act of 1969, as amended, who shall elect
10 to subscribe to such fund to insure the payment of benefits
11 required by such Act.

12 The state treasurer shall be the custodian of the coal-work-
13 ers' pneumoconiosis fund, and all premiums, deposits or other
14 moneys paid thereto shall be deposited in the state treasury
15 to the credit of the coal-workers' pneumoconiosis fund. Dis-
16 bursements from such fund shall be made upon requisition
17 signed by the commissioner to those persons entitled to parti-
18 cipate therein. The West Virginia state board of investments
19 shall have authority to invest any surplus, reserve or other
20 moneys belonging to the coal-workers' pneumoconiosis fund in
21 accordance with article six, chapter twelve of this code.

§23-4B-3. To whom benefits paid.

1 Only those classes of persons who are entitled to benefits
2 under Title IV of the Federal Coal Mine Health and Safety
3 Act of 1969, as amended, are eligible to participate in the
4 coal-workers' pneumoconiosis fund.

§23-4B-4. Who may subscribe.

1 Only those employers who are subject to the provisions of
2 Title IV of the Federal Coal Mine Health and Safety Act of
3 1969, as amended, may elect to subscribe to the coal-workers'
4 pneumoconiosis fund to insure such liability as may be im-
5 posed upon such employers under the provisions of Title IV of
6 said Act.

§23-4B-5. Payment of benefits.

1 Upon receipt of an order of compensation issued pursuant
2 to a claim for benefits filed under the provisions of Title IV of
3 the Federal Coal Mine Health and Safety Act of 1969, as
4 amended, the commissioner shall disburse the coal-workers'
5 pneumoconiosis fund in such amounts and to such persons as
6 said order shall direct.

§23-4B-6. Coal-workers' pneumoconiosis fund; how funded.

1 For the purpose of creating the coal-workers' pneumoconio-
2 sis fund, each employer, who shall elect to subscribe to such
3 fund, shall pay premiums based upon and being such a per-
4 centage of the payroll of such employer as the commissioner
5 may determine. It shall be the duty of the commissioner to
6 fix and maintain the lowest possible rates of premiums con-
7 sistent with the maintenance of a solvent fund and the crea-
8 tion and maintenance of a reasonable surplus after providing
9 for payment to maturity of all liability insured pursuant to
10 Title IV of the Federal Coal Mine Health and Safety Act of
11 1969, as amended. Such premium rates shall be adjusted an-
12 nually, or more often as may in the opinion of the commis-
13 sioner be necessary.

14 The commissioner may by rule and regulation classify sub-
15 scribers into groups or classes according to the nature of the
16 hazards incident to the business thereof, and assign premium
17 rates thereto. In addition, the commissioner may by rule and
18 regulation prescribe procedures for subscription, payroll re-
19 porting, premium payment, termination of subscription, rein-
20 statement and other matters pertinent to such subscribers' con-
21 tinuing participation in the coal-workers' pneumoconiosis fund.

§23-4B-7. Administration.

1 The coal-workers' pneumoconiosis fund shall be administer-
2 ed by the state workmen's compensation commissioner, who
3 shall employ such employees as may be necessary to discharge
4 his duties and responsibilities under this article. All payments
5 of salaries and expenses of such employees and all expenses
6 peculiar to the administration of this article shall be made by
7 the state treasurer from the coal-workers' pneumoconiosis fund
8 upon requisitions signed by the commissioner.

§23-4B-8. Separable from workmen's compensation fund.

1 No disbursements shall be made from the workmen's com-
2 pensation fund on account of any provision of this article:
3 *Provided, however,* That the Legislature may at any time
4 merge, consolidate, alter or liquidate this fund as it may
5 determine and in no instance shall the operation of this
6 article be construed as creating any contract which would
7 deprive any injured employee of future benefits or increases
8 awarded by an act of Congress, nor shall this section operate
9 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
2 shelter in Hancock county, hereinafter referred to as the board

3 of trustees which shall be composed of nine members. Three
4 members of the board of trustees shall be the commissioners of
5 the county court of Hancock county and six remaining mem-
6 bers shall be two residents from the Weirton area, two residents
7 from the New Cumberland-New Manchester area, and two
8 residents from the Chester-Newell area, to be appointed by
9 the county court of Hancock county. The terms of office
10 for each of the six members shall be six years; and shall
11 continue to be in rotation as they have been in the past; also
12 all present members shall serve out their respective terms.
13 Should any appointed member remove his residence from the
14 area from which he is appointed, his office shall be deemed
15 vacated. The county court shall fill all vacancies that may
16 arise from time to time for the unexpired terms. All ap-
17 pointments of trustees shall be made upon recommenda-
18 tion of the board of trustees. No more than three of the
19 noncounty court members of the board shall belong to the
20 same political party.

§5. Same—Powers and duties; rules and regulations; budget.

1 The board of trustees shall be responsible to the county court
2 of Hancock county for the performance of its duties. The
3 members of the board of trustees shall serve without com-
4 pensation except such as may be fixed by the board from time
5 to time for the secretary and treasurer and approved by the
6 county court; the board of trustees shall formulate policy
7 and adopt administrative procedures; it shall provide for the
8 employment and shall have the power to remove and fix the
9 compensation of such persons as in its opinion may be
10 necessary for the operation, maintenance, administration and
11 management of the property under its control, subject how-
12 ever, to the appropriation of funds for such purposes. The
13 power and authority to manage and control shall include the
14 power to make rules and regulations and to enforce such
15 rules and regulations as may be necessary for the management
16 of said home. The board shall prepare and submit to the
17 county court an annual budget for the operation of the home.
18 No expenditure in excess of said budget shall be made by the
19 board of trustees without prior approval by the county court.

CHAPTER 144

(House Bill No. 576—By Mr. Colombe and Mr. Kopp)

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

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
- 2 granted to the county court of Harrison County with respect to
- 3 the expenditure of unexpended sums and surpluses, such county
- 4 court is hereby authorized and empowered to use any unex-
- 5 pended sums and surpluses, presently or hereafter existing, in
- 6 the general fund or in any special fund of said county, for the
- 7 purpose of creating a special fund to be used for acquiring
- 8 a new fire fighters' school building, equipping the building, and
- 9 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.

HOUSE CONCURRENT RESOLUTION NO. 33

(By Mr. Morasco and Mr. Goodwin)

[Adopted April 13, 1973]

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.**

42. Continuing studies of the following: Aged Citizens Program, Civil Procedure, Coal Waste Disposal, Corporation Law Revision, Criminal Law, Environmental Agency Consolidation, Highway Safety, Juvenile Law, Legislative Data Processing, Manufacturing Employment, Mental Health, Mortality Tables, No-fault Insurance, Public School Support and State Tax Structure.
47. Job Classification of Elementary and Secondary School Personnel.
55. Workmen's Compensation.
60. Education of Exceptional Children.

Senate Concurrent

11. State Penal System.
12. Coal Mining Methods; Coal Reserves; Health, Safety and Environmental Regulations Governing Coal Mining; Coal Mine Employment and Productions.
19. State Park System.
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, one 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 unremarried 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-

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 nowise 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 nowise 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."

ACTS

FIRST EXTRAORDINARY SESSION

(May 22 - July 13, 1973)

CHAPTER 1

(House Bill No. 235—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 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

2	Other Personal Services	\$ 76,695.00
7	Total	\$ 76,695.00

—O—

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
4 total not to exceed \$34,500 for the Battle of Point Pleasant
5 Bicentennial Commission. Any unexpended balance remaining
6 in this account at the close of the fiscal year 1972-73 is hereby
7 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

8	Regional Education Service Agency	\$420,000.00
9	Administration of	\$200,000,000.00
10	Better School Buildings Amendment	
11	Total	\$420,000.00

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

CHAPTER 6

(House Bill No. 248—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 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 | |
| 3 | now operated under the sponsorship of the Southern West | |
| 4 | Virginia Regional Health Council, Inc., in the following | |
| 5 | counties: Fayette, Logan, McDowell, Mercer, Mingo, Mon- | |
| 6 | roe, 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
3 now operated under the sponsorship of the Southern West Vir-
4 ginia Regional Health Council, Inc., in the following counties:
5 Fayette, Logan, McDowell, Mercer, Mingo, Monroe, Raleigh,
6 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 Facil-
- 2 ities Center, if there is full compliance with all
- 3 of the provisions of this paragraph (a) _____\$ 950,000

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 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. 565, 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:

CONSERVATION AND DEVELOPMENT

100—*Department of Natural Resources*

Acct. No. 565

1 Dam Control Act\$ 200,000

CHAPTER 10

(House Bill No. 216—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 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

- | | | |
|---|--|------------|
| 1 | Total | \$ 575,000 |
| 2 | 10% matching required April 14, 1973, by Federal govern- | |
| 3 | ment to receive Federal grants for fiscal year 1973-74. | |

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

2 The above supplemental appropriation is to be used exclu-
3 sively for the purpose of paying a portion of the necessary cost
4 of operation for any daily passenger train operated by Amtrak,
5 the National Railroad Passenger Corporation, wholly or partly
6 within the state of West Virginia. Any money appropriated to
7 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-

maining 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

1	Personal Services	\$ 596,500
2	Current Expenses	143,500
3	Repairs and Alterations	100,000
4	Equipment	60,000
		<hr/>
5	Total	\$ 900,000

6 The above appropriation for the Greenbrier School for Men-
7 tally Retarded Children is for one of the fourteen comprehen-
8 sive regional mental health centers as provided in section one,
9 article two-a, chapter twenty-seven of the code.

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

—————○—————

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
6 of making use of available space at Pinecrest Hospital desig-
7 nated for the accommodation of patients that will be trans-
8 ferred to the hospital.

9 Any unexpended balance remaining in this appropriation at
10 the close of the fiscal year 1972-1973 is hereby reappropriated
11 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

- 2 Any unexpended balance remaining in the appropriation
3 "Commission on Post-Mortem Examination" at the close of
4 the fiscal year 1972-73 is hereby reappropriated for expendi-
5 ture 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, Act. 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

— 0 —

CHAPTER 17

(House Bill No. 221—By Mr. Seibert)

[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
- 3 upon full compliance with all of the provisions of paragraph
- 4 (a) hereof and unless there is full compliance with all of the
- 5 provisions of said paragraph (a), then the foregoing supple-
- 6 mentary appropriation shall be void with like effect as if this
- 7 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

CHAPTER 20

(Senate Bill No. 65—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 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
		<hr/>
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.]

AN ACT transferring amounts within the total appropriation and redesignating line items 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.

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 |
| 5 | Any unexpended balance remaining in this account at the | |
| 6 | close of the fiscal year 1972-73 is hereby reappropriated for | |
| 7 | expenditure during the fiscal year 1973-74. The foregoing | |
| 8 | constitutes transfer of amounts within the total appropriation | |
| 9 | of the designated spending unit. The amounts as itemized for | |
| 10 | expenditure during the fiscal year one thousand nine hundred | |
| 11 | seventy-three shall be available for expenditure upon the ef- | |
| 12 | fective 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 |
| 3 | The foregoing constitutes transfer of amounts from one item | |
| 4 | of appropriation to another item of appropriation within the | |
| 5 | total appropriation of the designated spending unit. The | |
| 6 | amounts as itemized for expenditure during the fiscal year | |
| 7 | one thousand nine hundred seventy-three shall be available | |
| 8 | 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 constitute a quorum and the number of members which must concur for action to be taken; relating to the management and control of the West Virginia community development authority 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 authority shall not be liable personally for any debt or obligation created by such authority or the operating loan fund; specifying the powers and duties of the West Virginia community development 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 authority 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 borrowing of money by such authority and the issuance of its notes or bonds as evidence thereof and making detailed provisions 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 authority; 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 authority's notes or bonds and moneys due and owing with respect 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.**

- §31-19-1. Short title.
- §31-19-2. Legislative findings and purposes.
- §31-19-3. Definitions.
- §31-19-4. Creation and establishment of authority.
- §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.
- §31-19-8. Corporate powers and duties.
- §31-19-9. Notes or bonds as general obligations of authority.
- §31-19-10. Notes and bonds as negotiable instruments.
- §31-19-11. Borrowing of money.
- §31-19-12. Sale of notes or bonds.
- §31-19-13. Authorizing resolutions.
- §31-19-14. Validity of any pledge, mortgage, deed of trust or security instrument.
- §31-19-15. Redemption of notes or bonds.
- §31-19-16. Disclaimer of any liability of state of West Virginia.
- §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.
- §31-19-19. Investment in notes and bonds.
- §31-19-20. Tax exemption.
- §31-19-21. Operating loan fund.
- §31-19-22. Authorized limit on borrowing.
- §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.
- §31-19-26. Annual audit.
- §31-19-27. Severability.

§31-19-1. Short title.

- 1 This article shall be known and may be cited as the "West
- 2 Virginia Community Development Authority Act."

§31-19-2. Legislative findings and purposes.

- 1 (a) The Legislature hereby finds and declares that increas-
- 2 ing requirements for essential public services and escalating
- 3 costs of providing such services have created inordinate
- 4 demands upon the financial resources of local governmental
- 5 units necessitating legislation to enable said governmental units
- 6 to attain a more competitive position in capital markets.
- 7 (b) The Legislature hereby finds and declares further that

8 it is in the public interest and is the responsibility of the
9 state of West Virginia to foster and promote by all lawful
10 means the provision of adequate capital markets and facilities
11 for borrowing money by local governmental units for the
12 financing of public improvements and the fulfillment of
13 public purposes, and to make it possible for local govern-
14 mental units to obtain new or additional sources of capital
15 funds at acceptable interest costs, including activities to
16 encourage investor interest in the purchase of bonds or notes
17 of governmental units as sound and preferred securities for
18 investment.

19 (c) The Legislature hereby finds and declares further that
20 it is in the public interest and is the responsibility of the
21 state of West Virginia to encourage local governmental units
22 to continue their independent undertakings of public improve-
23 ments and fulfillment of public purposes and the financing
24 thereof and to improve or enhance the possibilities of local
25 governmental units obtaining funds, to the extent possible, at
26 reduced interest costs, for orderly financing of public im-
27 provements and fulfillment of public purposes, particularly
28 those governmental units not otherwise able to borrow for
29 such purposes during periods of need.

30 (d) The Legislature hereby finds and declares further that
31 it is in the public interest, in order to implement and aid in
32 the discharge of the responsibilities aforesaid, that a state
33 instrumentality be created as a public body corporate with
34 full powers to borrow money and issue its bonds and notes
35 to the end that funds obtained thereby may be used for the
36 purchase by such state instrumentality of the bonds or notes
37 of local governmental units and that such state instrumentality
38 be granted all powers necessary or appropriate to accomplish
39 and to carry out the aforesaid public purposes and responsi-
40 bilities of the state of West Virginia in a manner to make it
41 possible for local governmental units to sell their municipal
42 bonds and borrow funds at as low an interest rate as said
43 instrumentality finds and determines to be feasible, con-
44 sistent with a self-supporting operation with no expectation
45 of subsidization with state funds.

46 (e) The Legislature further finds and declares that in
47 accomplishing these purposes, the West Virginia community

48 development authority, created and established by this article,
49 will be acting in all respects for the benefit of the people of
50 the state of West Virginia to serve the public purposes of
51 improving and otherwise promoting their health, education,
52 welfare, safety and prosperity, and that the West Virginia
53 community development authority, so created and established,
54 is empowered hereby to act on behalf of the state of West
55 Virginia and its people in serving the aforesaid public pur-
56 poses for the benefit of the general public of said state.

§31-19-3. Definitions.

1 As used in this article, unless the context otherwise re-
2 quires:

3 (1) "Authority" or "community development authority"
4 means the West Virginia community development authority
5 created and established by this article;

6 (2) "Bonds" means bonds of the authority issued under
7 this article;

8 (3) "Loan" means the purchase by the authority of
9 municipal bonds;

10 (4) "Local governmental unit" or "governmental unit"
11 means any county, municipality, public service district, school
12 district, or agency thereof, in this state, or any other public
13 body organized under the laws of this state;

14 (5) "Municipal bond" means a bond, note or other evi-
15 dence of debt of a governmental unit of the state of West
16 Virginia payable from funds derived from taxation or payable
17 from funds derived from sources other than taxation, but
18 does not include any bond, note or other evidence of debt
19 issued by any other state or any public body of any other
20 state;

21 (6) "Notes" means any notes of the authority issued under
22 this article;

23 (7) "Operating loan fund" means the operating loan fund
24 which may be established and operated by the community
25 development authority in accordance with section twenty-one
26 of this article;

27 (8) "Public body" means any public body corporate, or
28 any political subdivision of this state, established under any
29 law of this state which may issue its bonds or notes, whether
30 heretofore or hereafter established;

31 (9) "Revenues" means all fees, charges, moneys, profits,
32 payments of principal of or interest on municipal bonds and
33 other investments, gifts, grants, contributions and all other
34 income derived or to be derived by the authority under this
35 article; and

36 (10) "Temporary loan" means a temporary loan of
37 money to be used to defray the planning and development
38 costs of a public improvement, pending the receipt of a
39 federal grant or loan or long-term financing of such public
40 improvement.

§31-19-4. Creation and establishment of authority.

1 (a) There is hereby created and established as a govern-
2 mental instrumentality of the state of West Virginia, a public
3 body corporate to be known as the West Virginia community
4 development authority.

5 (b) The community development authority is created and
6 established to serve a public corporate purpose, to act for
7 the public benefit and as a governmental instrumentality of
8 the state of West Virginia, and to act on behalf of the state
9 and its people in improving and otherwise promoting their
10 health, education, welfare, safety and prosperity.

**§31-19-5. Board of directors; responsibilities; appointment, term,
etc., of private directors.**

1 (a) The community development authority shall be govern-
2 ed by a board of directors, consisting of the following five
3 members: The governor as chairman and the state treasurer as
4 treasurer, as public directors, and three members representing
5 the general public, as private directors. No more than two of the
6 private directors shall be members of the same political party.

7 (b) The board of directors shall be responsible for the
8 administration, management and implementation of the pro-
9 visions of this article except as is otherwise specifically pro-
10 vided herein.

11 (c) Upon organization of the community development
12 authority, the governor shall appoint, by and with the advice
13 and consent of the Senate, the private directors for terms of
14 four years: *Provided*, That of those private directors first ap-
15 pointed, one shall be appointed for a term of two years, one
16 shall be appointed for a term of three years, and one shall be
17 appointed for a term of four years, respectively, as the gover-
18 nor shall so designate. At the expiration of said terms and
19 for all succeeding terms, the governor shall appoint a suc-
20 cessor to the office of private director for a term of four
21 years in each case.

22 (d) In case of any vacancy in the office of a private direc-
23 tor, such vacancy shall be filled within sixty days by appoint-
24 ment by the governor for the unexpired term.

25 (e) The governor may remove any director whom he may
26 appoint in case of incompetency, neglect of duty, gross im-
27 morality or malfeasance in office; and he may declare his office
28 vacant and shall appoint a person for such vacancy as provided
29 in other cases of vacancy.

30 (f) The public and private directors shall receive no com-
31 pensation for their services, but shall be entitled to all rea-
32 sonable and necessary expenses actually incurred in discharg-
33 ing their duties under this article.

§31-19-6. Quorum; vote.

1 Three members of the board of directors shall constitute a
2 quorum. A vacancy in the membership of the board shall not
3 impair the right of a quorum to exercise all of the rights and
4 perform all of the duties of the board of directors. No ac-
5 tion shall be taken by the board of directors except upon the
6 affirmative vote of at least three of the directors.

§31-19-7. Management and control of authority; officers; bonding; liability.

1 (a) The management and control of the community de-
2 velopment authority shall be vested solely in the board of di-
3 rectors in accordance with the provisions of this article.

4 (b) The chairman shall be the chief executive officer of the
5 community development authority.

6 (c) The board of directors may appoint a chief administra-
7 tive officer and may fix his title, duties and compensation.

8 (d) The board of directors of the community de-
9 velopment authority shall annually appoint a secretary,
10 who need not be a member of the board, to keep a
11 record of the proceedings of the community development
12 authority.

13 (e) The treasurer of the community development author-
14 ity shall be custodian of all funds of the community devel-
15 opment authority and the operating loan fund and shall be
16 bonded in such amount as the other members of the board of
17 directors may designate. The board may require such addi-
18 tional bonding as it deems necessary. The surety on all such
19 bonds shall be a surety company authorized to do business in
20 this state. All costs of such surety bonds shall be paid by the
21 authority.

22 (f) The directors and officers of the community develop-
23 ment authority shall not be liable personally, either jointly or
24 severally, for any debt or obligation created by the West Vir-
25 ginia community development authority or the operating loan
26 fund.

§31-19-8. Corporate powers and duties.

1 The community development authority is hereby granted,
2 has and may exercise all powers necessary or appropriate to
3 carry out and effectuate its corporate purpose, including, but
4 not limited to, the following:

5 (1) To sue and be sued.

6 (2) To have a seal and alter the same at will.

7 (3) To make, and from time to time amend and repeal,
8 and enforce bylaws and rules and regulations for the conduct
9 of its business and for use of its services and facilities.

10 (4) To maintain an office and appoint such officers and
11 employ such employees and consultants as the authority deems
12 advisable and fix their compensation and prescribe their duties.

13 (5) To acquire, hold, use and dispose of its revenues, funds
14 and moneys.

15 (6) To acquire, rent, lease, hold, use and dispose of other
16 personal property for its purposes.

17 (7) To procure insurance against any losses in connection
18 with its property, operations or assets in such amounts and
19 from such insurers as the authority deems desirable.

20 (8) To borrow money and to issue its negotiable bonds or
21 notes and to provide for and secure the payment thereof, and
22 to provide for the rights of the holders thereof, and to pur-
23 chase, hold and dispose of any of its bonds or notes.

24 (9) To issue its bonds and notes payable solely from the
25 revenues or funds available to the authority therefor and to
26 otherwise assist governmental units as provided in this article;
27 and the authority may issue its bonds or notes in such prin-
28 cipal amounts as it shall deem necessary to provide funds for
29 any purposes under this article, including:

30 (a) The making of loans.

31 (b) The payment, funding or refunding of the principal of,
32 interest on, or redemption premiums on, any bonds or notes
33 issued by it whether the bonds, notes or interest to be funded
34 or refunded have or have not become due.

35 (c) The establishment or increase of reserves to secure or
36 to pay bonds or notes or the interest thereon and all other costs
37 or expenses of the authority incident to and necessary or con-
38 venient to carry out its corporate purposes and powers. Any
39 bonds or notes may be additionally secured by a pledge of any
40 revenues, funds or moneys of the authority from any source
41 whatsoever.

42 (10) To issue renewal notes, to issue bonds to pay notes
43 and, whenever it deems refunding expedient, to refund any
44 bonds by the issuance of new bonds, whether the bonds to be
45 refunded have or have not matured except that no such re-
46 newal notes shall be issued to mature more than ten years
47 from date of issuance of the notes renewed and no such re-
48 funding bonds shall be issued to mature more than fifty years
49 from the date of issuance.

50 (11) To apply the proceeds from the sale of renewal notes
51 or refunding bonds to the purchase, redemption or payment of
52 the notes or bonds to be refunded.

53 (12) To accept gifts or grants of property, funds, money,
54 materials, labor, supplies or services from the United States
55 of America or from any governmental unit or any person,
56 firm or corporation, and to carry out the terms or provisions
57 of, or make agreements with respect to, or pledge, any gifts or
58 grants, and to do any and all things necessary, useful, desirable
59 or convenient in connection with the procuring, acceptance or
60 disposition of gifts or grants.

61 (13) To purchase municipal bonds at such prices and in
62 such manner as the authority deems advisable, to hold munic-
63 ipal bonds, and to sell municipal bonds acquired or held by it
64 at such prices without relation to cost and in such manner as
65 the authority deems advisable.

66 (14) To determine which municipal bonds the authority
67 will purchase, and in making such determination, to con-
68 sider the need for and the desirability of the proposed sale by
69 the governmental unit, the ability of the governmental unit to
70 sell its bonds to others and the costs involved in a sale to
71 others, and the particular public improvement or purpose to
72 be financed with the proceeds of the municipal bonds proposed
73 to be purchased by the authority.

74 (15) To prescribe forms of application or procedure re-
75 quired of a governmental unit for, or in connection with, the
76 purchase by the authority of municipal bonds of a govern-
77 mental unit, and to fix the terms and conditions of such pur-
78 chase and to enter into agreements with governmental units
79 with respect to any such purchase.

80 (16) To establish any terms and provisions which the au-
81 thority shall determine with respect to any purchase of mu-
82 nicipal bonds by the authority, including date and maturities
83 of the municipal bonds, provisions as to redemption or pay-
84 ment prior to maturity, and any other matters which are nec-
85 essary, desirable or advisable in the judgment of the authority.

86 (17) To enter into and enforce all contracts, other instru-
87 ments or other transactions necessary, convenient or desirable
88 for the purposes of the authority or pertaining to any purchase
89 or sale of municipal bonds or any investments or to the per-
90 formance of its duties and the execution or carrying out of any
91 of its powers under this article.

92 (18) To fix and collect reasonable fees and charges for its
93 expenses and services in reviewing or considering any proposed
94 purchase of municipal bonds of a governmental unit, including
95 charging therefor whether or not the municipal bonds are
96 purchased.

97 (19) To the extent permitted under its contracts with the
98 holders of bonds or notes of the authority, to consent to any
99 modification of the rate of interest, time of payment of any
100 installment of principal or interest, security or any other term
101 of any bond, note or contract or agreement of any kind to
102 which the authority is a party.

103 (20) To provide technical, consultative and public im-
104 provement assistance services; and to fix and collect fees and
105 charges for the use of its services or facilities.

106 (21) To invest any funds or moneys of the authority not
107 then required for the purchase of municipal bonds in any of the
108 following securities:

109 (a) Direct obligations of or obligations guaranteed by the
110 United States of America;

111 (b) Bonds, debentures, notes or other evidences of indebt-
112 edness issued by any of the following agencies: "Bank for
113 Cooperatives; Federal Intermediate Credit Banks; Federal
114 Home Loan Bank System; Export-Import Bank of the United
115 States; Federal Land Banks; the Federal National Mortgage
116 Association or the Government National Mortgage Asso-
117 ciation";

118 (c) Public housing bonds issued by public agencies or
119 municipalities and fully secured as to the payment of both
120 principal and interest by a pledge of annual contributions un-
121 der an annual contributions contract or contracts with the
122 United States of America; or temporary notes issued by public
123 agencies or municipalities or preliminary loan notes issued by
124 public agencies or municipalities, in each case, fully secured
125 as to the payment of both principal and interest by a requis-
126 ition or payment agreement with the United States of America;

127 (d) Certificates of deposit secured by obligations of the
128 United States of America;

129 (e) Direct obligations of or obligations guaranteed by the
130 state of West Virginia;

131 (f) Direct and general obligations of any other state within
132 the territorial United States, to the payment of the principal
133 of and interest on which the full faith and credit of such state
134 is pledged, if at the time of their purchase, such obligations
135 are rated in either of the two highest rating categories by a
136 nationally recognized bond rating agency; and,

137 (g) Any fixed interest bond, note or debenture of any cor-
138 poration organized and operating within the United States:
139 *Provided*, That such corporation shall have a minimum net
140 worth of fifteen million dollars and its securities or its parent
141 corporation's securities are listed on one or more of the na-
142 tional stock exchanges: *Provided, however*, That (i) such cor-
143 poration has earned a profit in eight of the preceding ten fis-
144 cal years as reflected in its statements, and (ii) such corpora-
145 tion has not defaulted in the payment of principal or inter-
146 est on any of its outstanding funded indebtedness during its
147 preceding ten fiscal years, and (iii) the bonds, notes or deben-
148 tures of such corporation to be purchased are rated "AA" or
149 the equivalent thereof or better than "AA" or the equivalent
150 thereof by at least two or more nationally recognized rating
151 services, such as Standard and Poor's, Dun & Bradstreet, or
152 Moody's.

153 (22) To make temporary loans, with or without interest,
154 but with such security for repayment as the community de-
155 velopment authority determines reasonably necessary and prac-
156 ticable, from the operating loan fund, if established and oper-
157 ated in accordance with the provisions of section twenty-one
158 of this article.

159 (23) To do anything authorized by this article, through its
160 officers, agents or employees or by contracts with any person,
161 firm or corporation.

162 (24) To do all things necessary, convenient or desirable to
163 carry out the powers expressly granted or necessarily implied
164 in this article.

§31-19-9. Notes or bonds as general obligations of authority.

1 Except as may otherwise be provided by the community

2 development authority, every issue of its notes or bonds shall
3 be general obligations of the community development author-
4 ity payable out of any revenues or moneys of the community
5 development authority, subject only to any agreements with
6 the holders of particular notes or bonds pledging any par-
7 ticular revenues.

§31-19-10. Notes and bonds as negotiable instruments.

1 The notes and bonds issued by the authority shall be and
2 hereby are made negotiable instruments under the provisions
3 of article eight, chapter forty-six of this code, subject only
4 to the provisions of the notes or bonds for registration.

§31-19-11. Borrowing of money.

1 The borrowing of money and the notes and bonds evidenc-
2 ing any such borrowing shall be authorized by resolution
3 approved by the board of directors of the community develop-
4 ment authority, shall bear such date or dates, and shall
5 mature at such time or times, in the case of any such note or
6 any renewal thereof, not exceeding ten years from the date
7 of issue of such original note, and, in the case of any such
8 bonds, not exceeding fifty years from the date of issue, as
9 such resolution or resolutions may provide. The notes and
10 bonds shall bear interest at such rate or rates, be in such
11 denominations, be in such form, either coupon or registered,
12 carry such registration privileges, be executed in such manner,
13 be payable in such medium of payment, at such place or
14 places, and be subject to such terms or conditions of re-
15 demption as such resolution or resolutions may provide.

§31-19-12. Sale of notes or bonds.

1 Any notes or bonds issued by the West Virginia community
2 development authority may be sold in such manner, either at
3 public or private sale, and for such price, upon such terms
4 and at such interest rates per annum, as the authority shall
5 determine to be for the best interests of the authority and
6 to be necessary or appropriate to effectuate the purposes of
7 this article.

§31-19-13. Authorizing resolutions.

1 Any resolution or resolutions authorizing any notes or

2 bonds, or any issue thereof, may contain provisions, which
3 shall be a part of the contract with holders, as to:

4 (1) Pledging all or part of the revenues of the community
5 development authority to secure the payment of the notes
6 or bonds or of any issue thereof, subject to such agreements
7 with bondholders or noteholders as may then exist;

8 (2) Pledging all or any part of the assets of the community
9 development authority to secure the payment of the notes
10 or bonds or any issue thereof, subject to such agreements
11 with bondholders or noteholders as may then exist;

12 (3) The setting aside of reserves or sinking funds and
13 the regulation and disposition thereof;

14 (4) Limitations on the purposes to which the proceeds
15 of sale of notes or bonds may be applied and pledging such
16 proceeds to secure the payment of the notes or bonds or of
17 any issue thereof;

18 (5) Limitations on the issuance of additional notes or
19 bonds; the terms upon which additional notes or bonds may
20 be issued and secured; and the refunding of outstanding or
21 other notes or bonds;

22 (6) The procedure, if any, by which the terms of any
23 contract with noteholders or bondholders may be amended
24 or abrogated, the amount of notes or bonds the holders of
25 which must consent thereto, and the manner in which such
26 consent may be given;

27 (7) Limitations on the amount of moneys to be expended
28 by the community development authority for operating, ad-
29 ministrative or other expenses of the community development
30 authority;

31 (8) Vesting in a trustee or trustees the property, rights,
32 powers and duties of a trustee appointed by the bondholders
33 pursuant to section eighteen of this article, and limiting or
34 abrogating the right of the bondholders to appoint a trustee
35 under section eighteen of this article or limiting the rights,
36 powers and duties of such trustee; and

37 (9) Any other matters, of like or different character, which
38 in any way affect the security or protection of the notes or
39 bonds.

§31-19-14. Validity of any pledge, mortgage, deed of trust or security instrument.

1 It is the intention hereof that any pledge, mortgage, deed
2 of trust or security instrument made by or for the benefit
3 of the community development authority shall be valid and
4 binding between the parties from the time the pledge, mort-
5 gage, deed of trust or security instrument is made; and that
6 the moneys or property so pledged, encumbered, mortgaged
7 or entrusted shall immediately be subject to the lien of such
8 pledge, mortgage, deed of trust or security instrument with-
9 out any physical delivery thereof or further act. Nothing
10 herein shall be construed to prohibit the community develop-
11 ment authority from selling any property subject to any such
12 pledge, mortgage, deed of trust or security instrument. Such
13 property is not to be sold for less than its fair market value.

§31-19-15. Redemption of notes or bonds.

1 The community development authority, subject to such
2 agreements with noteholders or bondholders as may then
3 exist, shall have power, out of any funds available therefor,
4 to purchase notes or bonds of the community development
5 authority.

6 If the notes or bonds are then redeemable, the price of such
7 purchase shall not exceed the redemption price then applicable
8 plus accrued interest to the next interest payment date thereon.
9 If the notes or bonds are not then redeemable, the price of
10 such purchase shall not exceed the redemption price applic-
11 able on the first date after such purchase upon which the
12 notes or bonds become subject to redemption plus accrued
13 interest to such date. Upon such purchase such notes or
14 bonds shall be canceled.

§31-19-16. Disclaimer of any liability of state of West Virginia.

1 The state of West Virginia shall not be liable on notes,
2 bonds or other evidences of indebtedness of the community
3 development authority and such notes, bonds or other evi-
4 dences of indebtedness shall not be a debt of the state of
5 West Virginia, and such notes, bonds or other evidences of
6 indebtedness shall contain on the face thereof a statement
7 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 payment 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,

23 be deemed to be immediately due and payable. The authority
24 is authorized and empowered to carry out the provisions of
25 this section and exercise all of the rights, remedies and
26 provisions of law herein provided, referred to, or provided
27 elsewhere by statute or by other law. If there be a default
28 in the payment of the principal of or interest on or of both
29 the principal of and interest on any bonds secured by
30 pledged revenues and purchased by the authority, any court
31 having jurisdiction shall upon motion of the authority appoint
32 a receiver to administer any public improvement serving as
33 security for the bonds; and any such receiver shall be
34 appointed on behalf of the authority with the power and
35 authority to charge and collect rates or charges sufficient to
36 provide for the retirement of the bonds and pay the interest
37 thereon, and for the payment of the repair, maintenance and
38 operation expenses of such public improvement. Such receiver
39 shall serve for such period of time as may be prescribed by
40 the court having jurisdiction and only so long as may be
41 necessary to place the operation of the public improvement on
42 a sound financial basis. The payment of all municipal bonds
43 for which general tax revenues are pledged as security shall
44 be provided for as a separate item in the annual budget of
45 the governmental unit which issued such bonds.

46 (b) In the event the community development authority
47 shall default in the payment of principal of or interest on
48 any issue of its notes or bonds after the same shall become
49 due, whether at maturity or upon call for redemption, and
50 such default shall continue for a period of thirty days, or
51 in the event the community development authority shall fail
52 or refuse to comply with the provisions of this article or shall
53 default in any agreement made with the holders of any
54 issue of notes or bonds, the holders of twenty-five per centum
55 in aggregate principal amount of the notes or bonds of such
56 issue then outstanding, by instrument or instruments filed
57 in the office of the clerk of the county court of any county
58 in which the community development authority operates and
59 has an office and acknowledged in the same manner as a
60 deed to be recorded, may appoint a trustee to represent the
61 holders of such notes or bonds for the purposes herein
62 provided:

63 (1) Any such trustee, upon the written request of the
64 holders of twenty-five per centum in principal amount of
65 such notes or bonds of the authority then outstanding, shall,
66 in his or its own name, do any one or more of the following:

67 (i) By civil action or other proceeding, enforce all rights
68 of the noteholders or bondholders, including the right to
69 require the community development authority to perform its
70 duties under this article;

71 (ii) Bring a civil action upon such notes or bonds;

72 (iii) By civil action or other proceeding, require the
73 community development authority to account as if it were the
74 trustee of an express trust for the holders of such notes or
75 bonds;

76 (iv) By civil action or other proceeding, enjoin any acts
77 or things which may be unlawful or in violation of the rights
78 of the holders of such notes or bonds;

79 (v) Declare all such notes or bonds due and payable,
80 and if all defaults shall be made good, then annul such
81 declaration and its consequences.

82 (2) In addition to the foregoing, such trustee shall have
83 and possess all of the powers necessary or appropriate for
84 the exercise of any functions specifically set forth herein or
85 incident to the general representation of holders of notes or
86 bonds of the authority in the enforcement and protection
87 of their rights.

88 (3) Before declaring the principal of any notes or bonds
89 due and payable, the trustee shall first give thirty days'
90 notice in writing to the community development authority.

§31-19-19. Investment in notes and bonds.

1 The notes and bonds of the community development au-
2 thority are hereby made securities in which all insurance
3 companies and associations, and other persons carrying on
4 an insurance business, all banking institutions, trust compa-
5 nies, building and loan associations, savings and loan associa-
6 tions, investment companies and other persons carrying on a
7 banking business, and other persons, except administrators,
8 guardians, executors, trustees and fiduciaries, who are now or
9 who may hereafter be authorized to invest in bonds or other

- 10 obligations of the state, may properly and legally invest funds
11 including capital in their control or belonging to them.

§31-19-20. Tax exemption.

1 The community development authority shall not be required
2 to pay any taxes and assessments to the state of West Vir-
3 ginia, or to any county, municipality or other governmental
4 subdivision of the state of West Virginia, upon any of its
5 property or upon its obligations or other evidences of indebt-
6 edness issued pursuant to the provisions of this article, or
7 upon any moneys, funds, revenues or other income held or re-
8 ceived by the community development authority and the notes
9 and bonds of the community development authority, and the
10 income therefrom shall at all times be exempt from taxation,
11 as aforesaid, except for death and gift taxes, taxes on trans-
12 fers, sales taxes, real property taxes and business and occupa-
13 tion taxes.

§31-19-21. Operating loan fund.

1 (a) The board of directors of the community development
2 authority is hereby empowered and authorized to establish a
3 special revolving loan fund to be known as the operating loan
4 fund and to be governed, administered and accounted for by
5 the directors, officers and staff of the community development
6 authority as a public purpose trust account separate and dis-
7 tinct from any other moneys, fund or funds owned and man-
8 aged by the community development authority.

9 (b) The purpose for establishing and operating the oper-
10 ating loan fund shall be to provide a source from which the
11 community development authority may make temporary loans,
12 with or without interest, but with such security for repayment
13 as the community development authority deems reasonably
14 necessary and practicable; such loans to be used to defray
15 the planning and development costs of a public improvement
16 pending the receipt of a federal grant or loan, or of long-term
17 financing of said public improvement.

18 (c) No temporary loans shall be made by the community
19 development authority from the operating loan fund except in
20 accordance with a written loan agreement which shall in-

21 clude, but not be limited to, the following terms and condi-
22 tions:

23 (1) The proceeds of all such loans shall be used only to de-
24 fray the planning and development costs of proposed public
25 improvements;

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

28 (3) All repayments shall be made concurrent with receipt
29 by the borrower of the proceeds of a federal grant or loan or
30 the securing of long-term financing, as the case may be, or
31 at such other times as the community development author-
32 ity deems reasonably necessary or practicable; and

33 (4) Specification of such security for repayments upon such
34 terms and conditions as the community development authority
35 deems reasonably necessary or practicable to ensure all re-
36 payments.

§31-19-22. Authorized limit on borrowing.

1 The aggregate principal amount of notes and bonds issued
2 by the community development authority shall not exceed two
3 hundred million dollars outstanding at any one time: *Provided*,
4 That in computing the total amount of notes and bonds which
5 may at any one time be outstanding, the principal amount of
6 any outstanding notes or bonds refunded or to be refunded
7 either by application of the proceeds of the sale of any refund-
8 ing bonds or notes of the community development authority
9 or by exchange for any such refunding bonds or notes shall
10 be excluded.

§31-19-23. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

1 No part of the funds of the community development au-
2 thority, or of the operating loan fund, shall inure to the bene-
3 fit of or be distributable to its directors or officers or other
4 private persons except that the community development au-
5 thority shall be authorized and empowered to pay reasonable
6 compensation, other than to the directors, for services rendered
7 and to make loans and purchase municipal bonds as pre-

8 viously specified in furtherance of its corporate purpose: *Pro-*
9 *vided*, That no such loans shall be made to and no such mu-
10 nicipal bonds shall be purchased from any director or officer
11 of the community development authority.

§31-19-24. Termination or dissolution.

1 Upon termination or dissolution, all rights and properties
2 of the community development authority, including the oper-
3 ating loan fund, shall pass to and be vested in the state of
4 West Virginia, subject to the rights of lienholders and other
5 creditors.

**§31-19-25. Services to the state of West Virginia and its gov-
ernmental units.**

1 (a) The community development authority may provide
2 technical, consultative and public improvement assistance ser-
3 vices to the state of West Virginia and any of its governmental
4 units and is hereby authorized to enter into contracts with the
5 state of West Virginia and any of its governmental units to
6 provide such services.

7 (b) The state of West Virginia or any governmental unit
8 thereof is hereby authorized to enter into contracts with the
9 authority for such services and to pay for such services as may
10 be provided to it.

§31-19-26. Annual audit.

1 The community development authority shall cause an annual
2 audit to be made by a resident independent certified public
3 accountant of its books, accounts and records, with respect to
4 its revenues, disbursements, contracts, assignments, loans and
5 all other matters relating to its financial operations, including
6 those of the operating loan fund. The person performing such
7 audit shall furnish copies of the audit report to the commis-
8 sioner of finance and administration, where they shall be
9 placed on file and made available for inspection by the gen-
10 eral public. The person performing such audit shall also fur-
11 nish copies of the audit report to the president of the Senate,
12 the speaker of the House of Delegates and the majority and
13 minority leaders of both houses.

§31-19-27. Severability.

- 1 If any provision of this article or the application thereof
- 2 to any person or circumstance is held invalid, such invalidity
- 3 shall not affect other provisions or applications of the article,
- 4 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.

1 Pursuant to the authority vested in it by section two, article
2 fourteen of the constitution of the state, the Legislature hereby
3 calls a special election to be held throughout the state for the
4 purpose of submitting proposed amendments to the constitu-
5 tion of the state to the voters of the state for ratification or
6 rejection. The special election shall be held on the sixth
7 day of November, one thousand nine hundred seventy-three.

§2. Proposed amendments to be submitted; how numbered, designated and summarized; publication of proposed amendments.

1 The proposed amendments to the constitution of the state
2 to be submitted to the voters of the state for ratification or
3 rejection at the special election herein provided for shall
4 be, and they shall be numbered, designated and summarized,
5 in accordance with joint resolutions adopted by the Legis-
6 lature, as follows:

7 (1) House joint resolution No. 5, adopted by the Legis-
8 lature the fourteenth day of April, one thousand nine hundred
9 seventy-three, authorizing the submission of a proposed
10 amendment to the constitution of the state numbered "Amend-
11 ment No. 1," designated "Vietnam Veterans Bonus Amend-
12 ment," and summarized as follows: "To permit the appro-
13 priation of general revenues or the sale of state bonds for
14 the payment of bonuses and death benefits to veterans of the
15 Vietnam conflict or their relatives."

16 (2) Senate joint resolution no. 17, adopted by the Legis-
17 lature the thirteenth day of April, one thousand nine hundred
18 seventy-three, authorizing the submission of a proposed
19 amendment to the constitution of the state numbered "Amend-
20 ment No. 2," designated "Better Highways Amendment," and
21 summarized as follows: "To empower the Legislature to
22 authorize the issuing and selling of state bonds not exceeding
23 in the aggregate five hundred million dollars to be used for
24 bridge replacement and improvement program, completion of
25 the Appalachian Highway System, upgrading sections of
26 trunkline and feeder systems, upgrading West Virginia State
27 Route 2, upgrading state and local service roads and for
28 construction, reconstruction, improving and materially up-

29 grading of U. S. Route 52, between Huntington and Bluefield,
30 West Virginia."

31 (3) House joint resolution no. 7, adopted by the Legisla-
32 ture the fourteenth day of April, one thousand nine hundred
33 seventy-three, authorizing the submission of a proposed
34 amendment to the constitution of the state numbered "Amend-
35 ment No. 3," designated "Homestead and Taxation Exemption
36 Amendment," and summarized as follows: "To increase the
37 allowable homestead exemption on real and personal property
38 and to exempt from ad valorem property taxation the first
39 five thousand dollars of assessed valuation of a residence
40 occupied by the owner thereof who is sixty-five years of age
41 or older."

42 (4) House joint resolution no. 3, adopted by the Legislature
43 the seventh day of June, one thousand nine hundred seventy-
44 three, authorizing the submission of a proposed amendment to
45 the constitution of the state numbered "Amendment No. 5,"
46 designated "Sheriff's Succession Amendment," and sum-
47 marized as follows: "To amend the State Constitution to permit
48 persons elected sheriff to serve two consecutive terms."

49 The secretary of state shall cause each proposed amendment
50 to be published in full compliance with the provisions of sec-
51 tion three, article eleven, chapter three of the code of West
52 Virginia, one thousand nine hundred thirty-one, as amended
53 (hereinafter referred to as "the code").

§3. Publication of notice of special election; form.

1 The secretary of state shall cause notice of the special elec-
2 tion herein provided for to be published as a legal advertise-
3 ment one time at least three months before the special election
4 in some newspaper in every county of the state in which a
5 newspaper is printed. The form of the notice shall be as fol-
6 lows:

7 "NOTICE OF SPECIAL ELECTION FOR RATIFICA-
8 TION OR REJECTION OF PROPOSED AMENDMENTS
9 TO THE CONSTITUTION OF THE STATE

10 A special election shall be held on the sixth day of
11 November, one thousand nine hundred seventy-three for the

12 ratification or rejection of proposed amendments to the Con-
13 stitution of the State.

14 Signed: _____
15 Secretary of State
16 of the State of West Virginia."

§4. Conduct of and procedures for the special election; official ballot; application of chapter three of the code; payment of costs.

1 No question or issue other than the ratification or rejection
2 of the proposed amendments shall be voted upon at the special
3 election herein provided for. The vote on the proposed amend-
4 ments shall be taken on each separately. Each of the proposed
5 amendments shall be placed on the official ballot or upon the
6 ballot label in counties where voting machines are used, for the
7 special election. Such official ballot shall have the same form as
8 the "ballot on constitutional amendments" provided for in sec-
9 tion four, article eleven, chapter three of the code. There shall
10 be but one board of election officials in each precinct, consist-
11 ing of three commissioners and two poll clerks. Any person
12 voting in the special election may demand a recount of the
13 results thereof in the county wherein he voted. Every such
14 person who demands such recount shall be required to furnish
15 bond in a reasonable amount with good and sufficient surety
16 to guarantee payment of the costs and expenses of such re-
17 count in the event the results of the special election be not
18 changed by such recount, but the amount of such bond shall in
19 no case exceed three hundred dollars. If the result of the special
20 election in such county be not changed by such recount, the
21 costs and expenses of such recount shall be paid by the person
22 or persons at whose instance the same was made. The secre-
23 tary of state shall declare by proclamation the result of the
24 special election in the manner provided for in section six, arti-
25 cle eleven, chapter three of the code. The costs and expenses
26 of the special election throughout the state shall be paid out
27 of the state treasury from funds appropriated therefor.

28 Except to the extent this act expressly provides otherwise,
29 the special election shall be superintended, conducted and re-
30 turned and the result thereof ascertained and certified by the
31 same officers and in the same manner as provided in chapter

32 three of the code for a general election. In any matter in
33 which no specific provision of this act applies for the conduct
34 of any phase of the special election, those pertinent provisions
35 of said chapter three which may furnish guidance and may be
36 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.

§5-11-9. Unlawful discriminatory practices.

§5-11-13. Exclusiveness of remedy.

§5-11-16. Certain records exempt.

§5-11-2. Declaration of policy.

1 It is the public policy of the state of West Virginia to
2 provide all of its citizens equal opportunity for employment,

3 equal access to places of public accommodations, and equal
4 opportunity in the sale, purchase, lease, rental and financing
5 of housing accommodations or real property. Equal oppor-
6 tunity in the areas of employment and public accommodations
7 is hereby declared to be a human right or civil right of all
8 persons without regard to race, religion, color, national origin,
9 ancestry, sex, age or blindness. Equal opportunity in housing
10 accommodations or real property is hereby declared to be a
11 human right or civil right of all persons without regard to
12 race, religion, color, national origin, ancestry or blindness.

13 The denial of these rights to properly qualified persons by
14 reason of race, religion, color, national origin, ancestry, sex,
15 age or blindness is contrary to the principles of freedom and
16 equality of opportunity and is destructive to a free and
17 democratic society.

§5-11-3. Definitions.

1 When used in this article:

2 (a) The term "person" means one or more individuals,
3 partnerships, associations, organizations, corporations, labor
4 organizations, cooperatives, legal representatives, trustees,
5 trustees in bankruptcy, receivers and other organized groups
6 of persons;

7 (b) The term "commission" means the West Virginia
8 human rights commission;

9 (c) The term "director" means the executive director of
10 the commission;

11 (d) The term "employer" means the state, or any political
12 subdivision thereof, and any person employing twelve or more
13 persons within the state: *Provided*, That such terms shall not
14 be taken, understood or construed to include a private club;

15 (e) The term "employee" shall not include any individual
16 employed by his parents, spouse or child, or in the domestic
17 service of any person;

18 (f) The term "labor organization" includes any organiza-
19 tion which exists for the purpose, in whole or in part, for
20 collective bargaining or for dealing with employers concerning
21 grievances, terms or conditions of employment, or for other
22 mutual aid or protection in relation to employment;

23 (g) The term "employment agency" includes any person
24 undertaking with or without compensation to procure, recruit,
25 refer or place employees. A newspaper engaged in the ac-
26 tivity of advertising in the normal course of its business shall
27 not be deemed to be an employment agency;

28 (h) The term "discriminate" or "discrimination" means to
29 exclude from, or fail or refuse to extend to, a person equal
30 opportunities because of race, religion, color, national origin,
31 ancestry, sex, age or blindness and includes to separate or
32 segregate;

33 (i) The term "unlawful discriminatory practices" includes
34 only those practices specified in section nine of this article;

35 (j) The term "place of public accommodations" means
36 any establishment or person, as defined herein, including the
37 state, or any political or civil subdivision thereof, which offers
38 its services, goods, facilities or accommodations to the general
39 public, but shall not include any accommodations which are
40 in their nature private;

41 (k) The term "housing accommodations" means any build-
42 ing or portion thereof, which is used or intended for use as
43 the residence or sleeping place of one or more persons.
44 Nothing contained in this definition or this article shall apply
45 to the rental of a room or rooms in a rooming house oc-
46 cupied by the owner as a place of residence and containing
47 no more than four rented rooms, or rooms to be rented;

48 (l) The term "real property" includes real estate, lands,
49 leaseholds, commercial or industrial buildings and any vacant
50 land offered for sale or rent on which the construction of a
51 housing accommodation, commercial or industrial building is
52 intended, and any land operated as a trailer camp or rented
53 or leased for the use, parking or storage of mobile homes
54 or house trailers;

55 (m) The term "real estate broker" includes any person,
56 firm or corporation who, for a fee, commission or other
57 valuable consideration, or by reason of a promise or reason-
58 able expectation thereof, lists for sale, sells, exchanges, buys
59 or rents, or offers or attempts to negotiate a sale, exchange,
60 purchase, or rental of real estate or an interest therein, or
61 collects or offers or attempts to collect rent for the use of

62 real estate or solicits for prospective purchaser or assists or
63 directs in the procuring of prospects or the negotiation or
64 closing of any transaction which does or is contemplated to
65 result in the sale, exchange, leasing, renting or auctioning of
66 any real estate or negotiates, offers or attempts or agrees to
67 negotiate a loan secured or to be secured by mortgage or
68 other encumbrance upon transfer of any real estate for others,
69 or any person who, for pecuniary gain or expectation of
70 pecuniary gain, conducts a public or private competitive sale
71 of lands or any interest in lands. In the sale of lots, the
72 term "real estate broker" shall also include any person,
73 partnership, association or corporation employed by or on
74 behalf of the owner or owners of lots or other parcels of
75 real estate, at a stated salary, or upon a commission, or
76 upon a salary and commission, or otherwise to sell such real
77 estate, or any parts thereof, in lots or other parcels, and who
78 shall sell or exchange, or offer or attempt or agree to
79 negotiate the sale or exchange, of any such lot or parcel of
80 real estate. A newspaper engaged in the activity of advertising
81 in the normal course of its business shall not be deemed to
82 be a real estate broker;

83 (n) The term "real estate salesman" includes any person
84 who, for compensation, valuable consideration or commission,
85 or other thing of value, or by reason of a promise or
86 reasonable expectation thereof, is employed by and operates
87 under the supervision of a real estate broker to sell, buy or
88 offer to buy or negotiate the purchase, sale or exchange of
89 real estate, offers or attempts to negotiate a loan secured or
90 to be secured by a mortgage or other encumbrance upon or
91 transfer of real estate for others, or to collect rents for the
92 use of real estate, or to solicit for prospective purchasers
93 or lessees of real estate, or who is employed by a licensed
94 real estate broker to sell or offer to sell lots or other parcels
95 of real estate, at a stated salary, or upon a commission, or
96 upon a salary and commission, or otherwise to sell real
97 estate, or any parts thereof, in lots or other parcels;

98 (o) The term "purchaser" includes any occupant, pros-
99 pective occupant, lessee, prospective lessee, renter, prospec-
100 tive renter, buyer or prospective buyer;

101 (p) The term "owner" shall include the owner, lessee,

102 sublessee, assignee, manager, agents, or other person, firm or
103 corporation having the right to sell, rent or lease any housing
104 accommodation or real property within the state of West
105 Virginia or any agent of any of these;

106 (q) The term "age" means ages forty through sixty-five,
107 both inclusive;

108 (r) The term "rooming house" means a house or build-
109 ing where there are one or more bedrooms which the
110 proprietor can spare for the purpose of giving lodgings to
111 such persons as he chooses to receive;

112 (s) For the purpose of this article, a person shall be
113 considered to be blind only if his central visual acuity does not
114 exceed twenty/two hundred in the better eye with correcting
115 lenses, or if his visual acuity is greater than twenty/two
116 hundred but is occasioned by a limitation in the fields of
117 vision such that the widest diameter of the visual field sub-
118 tends an angle no greater than twenty degrees.

§5-11-4. Human rights commission continued; status, powers and objects.

1 The West Virginia human rights commission, heretofore
2 created, is hereby continued. The commission shall have the
3 power and authority and shall perform the functions and
4 services as in this article prescribed and as otherwise provided
5 by law. The commission shall encourage and endeavor to bring
6 about mutual understanding and respect among all racial,
7 religious and ethnic groups within the state and shall strive to
8 eliminate all discrimination in employment and places of public
9 accommodations by virtue of race, religion, color, national
10 origin, ancestry, sex, age or blindness and shall strive to
11 eliminate all discrimination in the sale, purchase, lease, rental
12 or financing of housing and other real property by virtue of
13 race, religion, color, national origin, ancestry or blindness.

§5-11-8. Commission powers; functions; services.

1 The commission is hereby authorized and empowered:

2 (a) To cooperate and work with federal, state and local
3 government officers, units, activities and agencies in the pro-
4 motion and attainment of more harmonious understanding and

5 greater equality of rights between and among all racial, religious
6 and ethnic groups in this state;

7 (b) To enlist the cooperation of racial, religious and
8 ethnic units, community and civic organizations, industrial and
9 labor organizations and other identifiable groups of the state in
10 programs and campaigns devoted to the advancement of toler-
11 ance, understanding and the equal protection of the laws of all
12 groups and peoples;

13 (c) To receive, investigate and pass upon complaints al-
14 leging discrimination in employment or places of public ac-
15 commodations, because of race, religion, color, national
16 origin, ancestry, sex, age or blindness, and complaints alleging
17 discrimination in the sale, purchase, lease, rental and financing
18 of housing accommodations or real property because of race,
19 religion, color, national origin, ancestry or blindness and to
20 initiate its own consideration of any situations, circumstances
21 or problems, including therein any racial, religious or ethnic
22 group tensions, prejudice, disorder or discrimination reported or
23 existing within the state relating to employment, places of
24 public accommodations, housing accommodations and real
25 property;

26 (d) To hold and conduct public and private hearings on
27 complaints, matters and questions before the commission and,
28 in connection therewith, relating to discrimination in employ-
29 ment, or places of public accommodations, housing accommo-
30 dations or real property and during the investigation of any
31 formal complaint before the commission relating to employ-
32 ment, places of public accommodations, housing accommoda-
33 tions or real property to:

34 (1) Issue subpoenas and subpoenas duces tecum upon the
35 concurrence of at least five members of the commission,
36 administer oaths, take the testimony of any person under oath,
37 and make reimbursement for travel and other reasonable and
38 necessary expenses in connection with such attendance;

39 (2) Furnish copies of public hearing records to parties
40 involved therein upon their payment of the reasonable costs
41 thereof to the commission;

42 (3) Delegate to a panel of one commission member ap-
43 pointed by the chairman and a hearing examiner who shall

44 be an attorney, duly licensed to practice law in West Virginia,
45 the power and authority to hold and conduct the hearings, as
46 herein provided, but all decisions and actions growing out of or
47 upon any such hearings shall be reserved for determination by
48 the commission;

49 (4) To enter into conciliation agreements and consent
50 orders;

51 (5) To apply to the circuit court of the county where the
52 respondent resides or transacts business for enforcement of any
53 conciliation agreement or consent order by seeking specific
54 performance of such agreement or consent order;

55 (6) To issue cease and desist orders against any person
56 found, after a public hearing, to have violated the provisions of
57 this article or the rules and regulations of the commission;

58 (7) To apply to the circuit court of the county where the
59 respondent resides or transacts business for an order enforcing
60 any lawful cease and desist order issued by the commission;

61 (e) To recommend to the governor and Legislature policies,
62 procedures, practices and legislation in matters and questions
63 affecting human rights;

64 (f) To delegate to its executive director such powers, duties
65 and functions as may be necessary and expedient in carrying out
66 the objectives and purposes of this article;

67 (g) To prepare a written report on its work, functions and
68 services for each year ending on the thirtieth day of June and
69 to deliver copies thereof to the governor on or before the first
70 day of December next thereafter;

71 (h) To do all other acts and deeds necessary and proper to
72 carry out and accomplish effectively the objects, functions and
73 services contemplated by the provisions of this article, including
74 the promulgation of rules and regulations in accordance with
75 the provisions of article three, chapter twenty-nine-a of this
76 code, implementing the powers and authority hereby vested in
77 the commission;

78 (i) To create such advisory agencies and conciliation coun-
79 cils, local, regional or statewide, as in its judgment will aid in
80 effectuating the purposes of this article, to study the problem
81 of discrimination in all or specific fields or instances of dis-

82 crimination because of race, religion, color, national origin,
83 ancestry, sex, age or blindness; to foster, through community
84 effort or otherwise, goodwill, cooperation and conciliation
85 among the groups and elements of the population of this state,
86 and to make recommendations to the commission for the
87 development of policies and procedures, and for programs of
88 formal and informal education, which the commission may
89 recommend to the appropriate state agency. Such advisory
90 agencies and conciliation councils shall be composed of
91 representative citizens serving without pay. The commission
92 may itself make the studies and perform the acts authorized
93 by this subdivision. It may, by voluntary conferences with
94 parties in interest, endeavor by conciliation and persuasion to
95 eliminate discrimination in all the stated fields and to foster
96 goodwill and cooperation among all elements of the population
97 of the state;

98 (j) To accept contributions from any person to assist in the
99 effectuation of the purposes of this section and to seek and
100 enlist the cooperation of private, charitable, religious, labor,
101 civic and benevolent organizations for the purposes of this
102 section;

103 (k) To issue such publications and such results of in-
104 vestigation and research as in its judgment will tend to promote
105 good will and minimize or eliminate discrimination: *Provided*,
106 That the identity of the parties involved shall not be dis-
107 closed.

§5-11-9. Unlawful discriminatory practices.

1 It shall be an unlawful discriminatory practice, unless based
2 upon a bona fide occupational qualification, or except where
3 based upon applicable security regulations established by the
4 United States or the state of West Virginia or its agencies or
5 political subdivisions:

6 (a) For any employer to discriminate against an individual
7 with respect to compensation, hire, tenure, terms, conditions
8 or privileges of employment if the individual is able and
9 competent to perform the services required even if such
10 individual is blind: *Provided*, That it shall not be unlawful
11 discriminatory practice for an employer to observe the pro-
12 visions of any bona fide pension, retirement, group or em-

13 ployee insurance, or welfare benefit plan or system not
14 adopted as a subterfuge to evade the provisions of this sub-
15 division;

16 (b) For any employer, employment agency or labor organ-
17 ization, prior to the employment or admission to membership,
18 to (1) elicit any information or make or keep a record of or
19 use any form of application or application blank containing
20 questions or entries concerning the race, religion, color,
21 national origin, ancestry, sex or age of any applicant for
22 employment or membership; (2) print or publish or cause to
23 be printed or published any notice or advertisement relating
24 to employment or membership indicating any preference,
25 limitation, specification or discrimination based upon race,
26 religion, color, national origin, ancestry, sex, or age; or (3)
27 deny or limit, through a quota system, employment or mem-
28 bership because of race, religion, color, national origin,
29 ancestry, sex, age or blindness;

30 (c) For any labor organization because of race, religion,
31 color, national origin, ancestry, sex, age or blindness of any
32 individual to deny full and equal membership rights to any
33 individual or otherwise to discriminate against such individuals
34 with respect to hire, tenure, terms, conditions or privileges
35 of employment or any other matter, directly or indirectly,
36 related to employment;

37 (d) For an employer, labor organization, employment
38 agency or any joint labor-management committee controlling
39 apprentice training programs to:

40 (1) Select individuals for an apprentice training program
41 registered with the state of West Virginia on any basis other
42 than their qualifications as determined by objective criteria
43 which permit review;

44 (2) Discriminate against any individual with respect to
45 his right to be admitted to or participate in a guidance
46 program, an apprenticeship training program, on-the-job train-
47 ing program, or other occupational training or retraining
48 program;

49 (3) Discriminate against any individual in his pursuit of
50 such programs or to discriminate against such a person in the
51 terms, conditions or privileges of such programs;

52 (4) Print or circulate or cause to be printed or circulated
53 any statement, advertisement or publication, or to use any
54 form of application for such programs or to make any
55 inquiry in connection with such program which expresses,
56 directly or indirectly, discrimination or any intent to discrimi-
57 nate, unless based upon a bona fide occupational qualifica-
58 tion;

59 (e) For any employment agency to fail or refuse to classify
60 properly, refer for employment or otherwise to discriminate
61 against any individual because of his race, religion, color,
62 national origin, ancestry, sex, age or blindness;

63 (f) For any person being the owner, lessee, proprietor,
64 manager, superintendent, agent or employee of any place of
65 public accommodations to:

66 (1) Refuse, withhold from or deny to any individual be-
67 cause of his race, religion, color, national origin, ancestry,
68 sex, age or blindness, either directly or indirectly, any of
69 the accommodations, advantages, facilities, privileges or ser-
70 vices of such place of public accommodations;

71 (2) Publish, circulate, issue, display, post or mail, either
72 directly or indirectly, any written or printed communication,
73 notice or advertisement to the effect that any of the accom-
74 modations, advantages, facilities, privileges or services of
75 any such place shall be refused, withheld from or denied to
76 any individual on account of race, religion, color, national
77 origin, ancestry, sex, age or blindness, or that the patronage
78 or custom thereat of any individual, belonging to or purport-
79 ing to be of any particular race, religion, color, national
80 origin, ancestry, sex or age or who is blind is unwelcome,
81 objectionable, not acceptable, undesired or not solicited;

82 (g) For the owner, lessee, sublessee, assignee or manag-
83 ing agent of, or other person having the right of ownership
84 or possession of or the right to sell, rent, lease, assign, or
85 sublease any housing accommodations or real property or
86 part or portion thereof, or any agent, or employee of any of
87 them; or for any real estate broker, real estate salesman, or
88 employee or agent thereof:

89 (1) To refuse to sell, rent, lease, assign or sublease or
90 otherwise to deny to or withhold from any person or group

91 of persons any housing accommodations or real property, or
92 part or portion thereof, because of race, religion, color,
93 national origin, ancestry or blindness of such person or group
94 of persons;

95 (2) To discriminate against any person or group of
96 persons because of the race, religion, color, national origin,
97 ancestry or blindness of such person or group of persons in
98 the terms, conditions, or privileges of the sale, rental, or
99 lease of any housing accommodations or real property, or
100 part or portion thereof, or in the furnishing of facilities or
101 services in connection therewith;

102 (3) To print, publish, circulate, issue, display, post or
103 mail, or cause to be printed, published, circulated, issued,
104 displayed, posted or mailed any statement, advertisement,
105 publication, or sign or to use any form of application for the
106 purchase, rental, lease, assignment or sublease of any housing
107 accommodations or real property, or part or portion thereof,
108 or to make any record or inquiry in connection with the
109 prospective purchase, rental, lease, assignment or sublease
110 of any housing accommodations or real property or part or
111 portion thereof, which expresses, directly or indirectly, any
112 discrimination as to race, religion, color, national origin,
113 ancestry or blindness or any intent to make any such dis-
114 crimination and the production of any statement, advertise-
115 ment, publicity, sign, form of application, record or inquiry
116 purporting to be made by any such person shall be prima
117 facie evidence in any action that the same was authorized
118 by such person;

119 (h) For any person or financial institution or lender to
120 whom application is made for financial assistance for the
121 purchase, acquisition, construction, rehabilitation, repair or
122 maintenance of any housing accommodations or real property,
123 or part or portion thereof, or any agent or employee thereof
124 to:

125 (1) Discriminate against any person or group of persons
126 because of race, religion, color, national origin, ancestry or
127 blindness, of such person or group of persons or of the
128 prospective occupants or tenants of such housing accommoda-
129 tions or real property, or part or portion thereof, in the
130 granting, withholding, extending, modifying or renewing, or

131 in the fixing of the rates, terms, conditions or provisions of
132 any such financial assistance or in the extension of services
133 in connection therewith;

134 (2) Use any form of application for such financial assist-
135 ance or to make any record of inquiry in connection with
136 applications for such financial assistance which expresses,
137 directly or indirectly, any discrimination as to race, religion,
138 color, national origin, ancestry or blindness or any intent to
139 make any such discrimination;

140 (i) For any person, employer, employment agency, labor
141 organization, owner, real estate broker, real estate salesman
142 or financial institution to:

143 (1) Engage in any form of threats or reprisal, or to engage
144 in, or hire, or conspire with others to commit acts or activities
145 of any nature, the purpose of which is to harass, degrade,
146 embarrass, or cause physical harm or economic loss or to
147 aid, abet, incite, compel or coerce any person to engage in any
148 of the unlawful discriminatory practices defined in this
149 section;

150 (2) Willfully obstruct or prevent any person from com-
151 plying with the provisions of this article, or to resist, prevent,
152 impede or interfere with the commission or any of its mem-
153 bers or representatives in the performance of duty under this
154 article;

155 (3) Engage in any form of reprisal or otherwise discrimi-
156 nate against any person because he has opposed any practices
157 or acts forbidden under this article or because he has filed a
158 complaint, testified or assisted in any proceeding under this
159 article;

160 (4) For profit to induce or attempt to induce any person
161 to sell or rent or to not sell or rent any housing accommoda-
162 tions or real property by representations regarding the entry
163 or prospective entry into the neighborhood of a person or
164 persons who are blind or who are of a particular race, religion,
165 color, national origin or ancestry.

§5-11-13. Exclusiveness of remedy.

1 Nothing contained in this article shall be deemed to repeal
2 or supersede any of the provisions of any existing or hereafter
3 adopted municipal ordinance, municipal charter or of any law

4 of this state relating to discrimination because of race, religion,
5 color, national origin, ancestry, sex, age or blindness, but as to
6 acts declared unlawful by section nine of this article the pro-
7 cedure herein provided shall, when invoked, be exclusive and
8 the final determination therein shall exclude any other action,
9 civil or criminal, based on the same grievance of the com-
10 plainant concerned. If such complainant institutes any action
11 based on such grievance without resorting to the procedure
12 provided in this article, he may not subsequently resort to the
13 procedure herein. In the event of a conflict between the inter-
14 pretation of a provision of this article and the interpretation
15 of a similar provision contained in any municipal ordinance
16 authorized by charter, the interpretation of the provision in
17 this article shall apply to such municipal ordinance.

§5-11-16. Certain records exempt.

1 Notwithstanding any other provisions of this article, it shall
2 not be an unlawful discriminatory practice for the department
3 of employment security to ascertain and record the age, sex,
4 race, religion, color, national origin, ancestry or blindness of
5 any individual for the purpose of making such reports as may
6 from time to time be required by agencies of the federal
7 government or be necessary to show compliance with
8 any rule or regulation issued by any such agency. Said
9 records may be made and kept in the manner required
10 by the federal government: *Provided*, That such record-
11 ing of the age, sex, race, religion, color, national origin,
12 ancestry or blindness of any individual shall not be used
13 to discriminate, within the meaning of this article, directly or
14 indirectly, against any such individual as prohibited by all
15 other sections of this article.

CHAPTER 26

(Senate Bill No. 56—By Mr. Gilligan)

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

AN ACT to amend and reenact sections two, thirteen, fifteen
and seventeen, article sixteen, chapter five of the code of West

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,
2 unless a different meaning is clearly indicated by the context,
3 shall have the following meanings:

4 (1) "Board" means the public employees insurance board
5 created by this article.

6 (2) "Employee" means any person, including elected of-
7 ficers, who works regularly full time in the service of the state

8 of West Virginia and, for the purpose of this article only, the
9 term "employee" shall also mean any person, including elected
10 officers, who works regularly full time in the service of a county
11 board of education; a county, city or town in the state; any
12 separate corporation or instrumentality established by one or
13 more counties, cities or towns, as permitted by law; any
14 corporation or instrumentality supported in most part by
15 counties, cities or towns; any public corporation charged by
16 law with the performance of a governmental function and whose
17 jurisdiction is coextensive with one or more counties, cities or
18 towns; any agency or organization established by, or approved
19 by the department of mental health for the provision of com-
20 munity health or mental retardation services, and which is
21 supported in part by state, county or municipal funds; any
22 person who works regularly full time in the service of the
23 West Virginia board of regents; and any person who works
24 regularly full time in the service of a combined city-county
25 health department created pursuant to article two, chapter six-
26 teen of the code. Any matters of doubt as to who is an em-
27 ployee within the meaning of this article shall be decided by
28 the board.

29 (3) "Retired employee" shall mean an employee of the
30 state who retired after the twenty-ninth day of April, one
31 thousand nine hundred seventy-one, and an employee of the
32 West Virginia board of regents and a county board of educa-
33 tion who retires on or after the twenty-first day of April,
34 one thousand nine hundred seventy-two and all additional
35 eligible employees who retire on or after the effective date of
36 this article.

37 (4) "Employer" means the state of West Virginia, its
38 boards, agencies, commissions, departments, institutions or
39 spending units; a county board of education; a county, city
40 or town in the state; any separate corporation or instrumentality
41 established by one or more counties, cities or towns, as per-
42 mitted by law; any corporation or instrumentality supported
43 in most part by counties, cities or towns; any public corpora-
44 tion charged by law with the performance of a governmental
45 function and whose jurisdiction is coextensive with one or more
46 counties, cities or towns; any agency or organization established
47 by, or approved by the department of mental health for the

48 provision of community health or mental retardation services,
49 and which is supported in part by state, county or municipal
50 funds; and a combined city-county health department created
51 pursuant to article two, chapter sixteen of the code. Any mat-
52 ters of doubt as to who is an "employer" within the meaning of
53 this article shall be decided by the board. The term "em-
54 ployer" shall not include within its meaning the national
55 guard.

**§5-16-13. Payment of costs by employer; special funds created;
duties of treasurer with respect thereto.**

1 The Legislature shall appropriate annually from the general
2 revenue fund such sums as may be required to pay the state's
3 proportionate share of the premium costs of those spending
4 units operating from the general revenue fund, and each
5 spending unit operating from special revenue funds, or federal
6 funds, or both, shall pay to the board their proportionate share
7 of premium costs from their personal services budget. All
8 other employers not operating from the state general revenue
9 fund shall pay to the board their proportionate share of
10 premium costs from their respective budgets.

11 The portion of the premium or cost attributable to all in-
12 surance coverage provided hereunder and not paid by the
13 state, or county board of education, shall be paid by the
14 employee, and the employers' contribution shall be seventy
15 percent of the cost of the employees' insurance package. The
16 contribution of other employers, (namely: a county, city or
17 town in the state; any separate corporation or instrumentality
18 established by one or more counties, cities or towns, as per-
19 mitted by law; any corporation or instrumentality supported in
20 most part by counties, cities or towns; any public corporation
21 charged by law with the performance of a governmental func-
22 tion and whose jurisdiction is coextensive with one or more
23 counties, cities or towns; any agency or organization established
24 by, or approved by the department of mental health for the
25 provision of community health or mental retardation services,
26 and which is supported in part by state, county or municipal
27 funds; and a combined city-county health department created
28 pursuant to article two, chapter sixteen of the code) shall be
29 such percentage of the cost of the employees' insurance package

30 as the employers deem reasonable and proper under their own
31 particular circumstances.

32 The employee's proportionate share of the premium or cost
33 shall be withheld or deducted by the employer from such
34 employee's salary or wages as and when paid and such sums
35 shall be forwarded to the board with such supporting data as
36 the board may require.

37 All moneys received by the board shall be deposited in a
38 special fund or funds as are necessary in the state treasury and
39 the treasurer of the state shall be custodian of such fund or
40 funds and shall administer such fund or funds in accordance
41 with the provisions of this article or as the board may from
42 time to time direct. The treasurer shall pay all warrants issued
43 by the state auditor against such fund or funds as the board
44 may 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.

9 Those employees enrolled in the insurance program autho-
10 rized under the provisions of article two-b, chapter twenty-one-a
11 of this code shall not be required to enroll in or subscribe to an

12 insurance plan or plans authorized by the provisions of this
13 article, and the employees of any department which has an
14 existing insurance program for its employees to which the gov-
15 ernment of the United States contributes any part or all of the
16 premium or cost thereof may be exempted from the provisions
17 of this article. Any employee or employer exempted under the
18 provisions of this paragraph may enroll in any insurance pro-
19 gram authorized by the provisions of this article at any time,
20 to the same extent as any other qualified employee or employer,
21 but any such employee or employer shall not remain enrolled
22 in both such programs. The provisions of articles fourteen, fif-
23 teen and sixteen, chapter thirty-three of the code, relating to
24 group life insurance, accident and sickness insurance, and group
25 accident and sickness insurance, shall not be applicable to the
26 provisions of this article whenever the provisions of said arti-
27 cles and chapter are in conflict with or contrary to any pro-
28 vision set forth herein.

29 Employers, other than the state of West Virginia, its boards,
30 agencies, commissions, departments, institutions, spending
31 units, or a county board of education shall be exempt from
32 participating in the insurance program provided for by the pro-
33 visions of this article unless participation by the employer has
34 been approved by a majority vote of the employer's governing
35 body. It shall be the duty of the clerk or secretary of the gov-
36 erning body of an employer who by such majority vote be-
37 comes a participant in the insurance program to notify the
38 board not later than ten days after such vote.

CHAPTER 27

(Com. Sub. for House Bill No. 208—By Mr. Seibert)

[Passed June 5, 1973; in effect ninety days from passage. Approved by the Governor.]

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.

1 Any person accused of a violation of his parole, as set
2 forth in this article, may be represented by counsel at any
3 hearing held for the purpose of determining whether his parole
4 should be revoked. In the event the person accused of a viola-
5 tion of his parole is unable to pay for counsel and desires to
6 have counsel appointed for him, he shall present his application
7 for the appointment of counsel and an affidavit reflecting his
8 inability to pay for such counsel to a court of record having
9 criminal jurisdiction in the county in which such person is con-
10 fined or in the county in which the hearing is to be held for the
11 purpose of determining whether his parole should be revoked,
12 or to the judge thereof in vacation. If it appears to the satis-
13 faction of the court or judge that such person is in fact unable
14 to pay for counsel, such court or judge may appoint counsel
15 to represent such person. In every case where counsel is so
16 appointed, the court, by order entered of record, shall allow
17 such appointed counsel a fee not to exceed two hundred dol-
18 lars, said fee to be paid from the fund allocated by the state
19 for the payment of criminal charges in the same manner as is
20 provided for the payment of fees in felony cases as set forth in
21 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.]

AN ACT to amend and reenact section two, article one, chapter twenty-four of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to 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
2 which by that name may sue and be sued. The unexpired terms
3 of members of the public service commission at the time this
4 section becomes effective shall hereby be continued. Such
5 public service commission shall consist of three members who
6 shall be appointed by the governor with the advice and con-
7 sent of the Senate. The commissioners shall be citizens and
8 residents of this state and at least one of them shall be duly
9 licensed to practice law in West Virginia, of not less than ten
10 years' actual experience at the bar. No more than two of said
11 commissioners shall be members of the same political party.
12 The appointment of a commissioner shall be for a period of
13 six years, except that an appointment to fill a vacancy shall
14 be for the unexpired term only. Each commissioner shall,
15 before entering upon the duties of his office, take and sub-
16 scribe to the oath provided by section five, article four of the
17 constitution, which oath shall be filed in the office of the
18 secretary of state. The governor shall annually designate one
19 of the commissioners as chairman who shall be the chief ad-
20 ministrative officer of the commission. The governor may re-
21 move any commissioner only for incompetency, neglect of
22 duty, gross immorality or malfeasance in office.

23 No person while in the employ of, or holding any official
24 relation to, any public utility subject to the provisions of this
25 chapter, or holding any stocks or bonds thereof, or who is
26 pecuniarily interested therein, shall serve as a member of the

27 commission or as an employee thereof. Nor shall any such
28 commissioners be a candidate for or hold public office, or be a
29 member of any political committee, while acting as such com-
30 missioner; nor shall any commissioner or employee of said
31 commission receive any pass, free transportation or other thing
32 of value, either directly or indirectly, from any public utility
33 subject to the provisions of this chapter. In case any of such
34 commissioners shall become a candidate for any public office
35 or a member of any political committee, his office as com-
36 missioner shall be ipso facto vacated.

37 For the administration of this chapter each commissioner
38 shall receive a salary of twenty thousand dollars per annum
39 to be paid in monthly installments from the special fund col-
40 lected from public utilities under the provisions of subsection
41 (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.]

AN ACT to amend article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen-a, authorizing the West Virginia department of highways to transfer airspace or any part thereof upon and over any highway or right-of-way for highway purposes to any person, firm or corporation by sale, lease or permit to use; establishing conditions for the transfer by lease or sale of any such airspace or any part thereof; establishing conditions for the transfer thereof by a permit to use such airspace or any part thereof; relating to the use of such airspace or any part thereof by publicly or privately owned utilities; prescribing procedures, practices and publication requirements concerning any such transfer by sale or lease; requiring the commissioner of the department of highways to promulgate rules and regulations in connection with the foregoing; requiring such rules and regulations to provide for

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 high-
2 ways has or shall hereafter acquire title to the airspace upon
3 and over any highway or right-of-way for highway purposes,
4 such department may, subject to the conditions herein, transfer
5 such airspace or any part thereof to any person, firm or corp-
6 oration by sale, lease or permit to use.

7 When such airspace or any part thereof is determined by the
8 commissioner not necessary, or desirable for present or pre-
9 sently foreseeable future state road purposes, it may be trans-
10 ferred by lease for such period or periods of time and on such
11 terms and conditions, including consideration, as the commis-
12 sioner shall determine to be fair and reasonable, or it may be
13 transferred by sale, or the commissioner may transfer the use
14 thereof by a permit to use such airspace or any part thereof
15 for such period or periods of time as he shall determine and
16 under such terms and conditions, including consideration, as
17 he shall deem fair and reasonable, except that in the case of a
18 publicly or privately owned utility, no consideration shall be
19 required for an easement through such airspace or any part
20 thereof.

21 Every such transfer by sale shall be at public auction in the
22 county in which the airspace to be transferred by sale is locat-

23 ed, and the department shall advertise, by publication, the
24 time, place and terms of such sale at least twenty days prior
25 thereto. The publication shall be published as a Class I-O legal
26 advertisement in compliance with the provisions of article three,
27 chapter fifty-nine of this code, and the publication area for
28 such publication shall be the county in which the airspace to
29 be transferred by sale is located. The airspace shall be sold in
30 a manner which will bring the highest and best price therefor.
31 The department may reject any or all bids received at the sale.
32 The commissioner shall keep a record, open to public inspection,
33 indicating the newspapers in which the airspace to be
34 transferred by sale was publicly advertised for sale, the highest
35 bid received therefor and from what party, the party to
36 whom sold, and the payment received therefor. Such record
37 shall be kept for a period of five years and may thereafter be
38 destroyed. Every such transfer by lease with any party other
39 than another agency of this state or any county or municipality
40 in this state or any agency thereof shall be upon the basis of
41 competitive bids solicited by publication of a notice of the
42 proposed lease published as a Class I-O legal advertisement in
43 compliance with the provisions of article three, chapter fifty-
44 nine of this code, and the publication area for such publication
45 shall be the county in which the airspace to be transferred by
46 lease is located.

47 The commissioner shall adopt and promulgate rules and
48 regulations governing and controlling the transferring of air-
49 space by sale, lease, or permit to use, pursuant to the pro-
50 visions of this section, which rules and regulations shall provide
51 for the giving of preferential treatment in making leases or
52 issuing permits to use to the persons from whom the airspace
53 was acquired, or their heirs or assigns.

54 The commissioner may insert in any instrument executed
55 pursuant to the provisions of this section such conditions as
56 are in the public interest and have been approved in advance
57 by the governor.

58 All moneys received from the sale or lease of, or permit to
59 use, any airspace or any part thereof, shall be paid into the
60 state treasury and credited to the state road fund.

CHAPTER 30

(House Bill No. 266—Originating in the House Committee on Finance)

[Passed July 13, 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 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 necessary 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.

1 Bonds of the state of West Virginia, under authority of
2 the better school buildings amendment of 1972, of the par
3 value not to exceed fifty million dollars during the fiscal
4 year ending the thirtieth day of June, one thousand nine
5 hundred seventy-four, are hereby authorized to be issued
6 and sold for the sole purpose of raising funds for distribution
7 to county boards of education that qualify by meeting
8 conditions, qualifications and requirements as are prescribed
9 by general law and used and appropriated by such county
10 boards of education solely for the construction, renovation
11 or remodeling of elementary or secondary public school
12 buildings or facilities, the equipping of the same in connection
13 with any such construction, renovation or remodeling, and
14 the acquisition and preparation of sites for elementary or
15 secondary public school buildings or facilities. Such bonds
16 may be issued by the governor in such amounts, in coupon

17 or registered form, in such denominations, at such time,
18 bearing such date or dates, as the governor may determine,
19 based upon an examination of the needs of the various
20 county boards of education which justify the issuance by the
21 governor of said bonds, and shall become due and payable
22 serially, annually or semiannually, in such amounts and
23 mature in such years as the governor may determine. Such
24 bonds shall mature within and not exceeding twenty-five
25 years from their date. The governor must offer said bonds
26 for competitive bids from recognized financial investment
27 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
2 arrange for the transfer of registered bonds and for each
3 such transfer a fee of one dollar shall be charged by and
4 paid to the state of West Virginia, to the credit of the state
5 school buildings bond debt service account. Bonds taken in ex-
6 change shall be cancelled by the auditor and treasurer and be
7 carefully preserved by the treasurer. The treasurer shall make
8 provisions for registering "payable to bearer" bonds and for
9 each bond registered a fee of one dollar shall likewise be
10 charged by and paid to the state of West Virginia, to the
11 credit of the state school buildings bond debt service account.
12 All such bonds shall be payable at the office of the treasurer
13 of the state of West Virginia, or, at the option of the holder,
14 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 bank
16 or banks, within the state, as may be designated or approved
17 by the governor. The bonds shall bear interest, payable
18 semiannually, to bearer, at the office of the treasurer of the
19 state of West Virginia, at the capitol of the state, or at the
20 banks designated and approved by the governor, upon pre-
21 sentation and surrender of interest coupons, then due, in
22 the case of coupon bonds. For the payment of interest on
23 registered bonds, the treasurer of the state of West Virginia
24 shall requisition a warrant from the auditor of the state to
25 be drawn on the state treasurer, and shall mail such warrant
26 to the registered owner at the address as shown by the record
27 of registration. Both the principal and interest of the bonds

28 shall be payable in lawful money of the United States of
29 America and the bonds shall be exempt from taxation by the
30 state of West Virginia, or by any county, district or municipal-
31 ity thereof, which facts shall appear on the face of the bonds
32 as part of the contract with the holder thereof.

§3. Form of bond.

1 The bond shall be executed on behalf of the state of West
2 Virginia, by the manual or facsimile signature of the treasurer
3 thereof, under the great seal of the state or a facsimile thereof,
4 and countersigned by the manual or facsimile signature of the
5 auditor of the state: *Provided*, That one of said signatures
6 on said bonds shall be a manual signature and said bonds
7 shall be in the following form or to the following effect, as
8 nearly as may be, namely:

9 COUPON SCHOOL BUILDINGS BOND

10 (Or registered school buildings bond, as the case may be)

11 OF THE

12 STATE OF WEST VIRGINIA

13 \$_____ No. _____

14 The state of West Virginia, under and by virtue of authority
15 of an amendment to the constitution, which was proposed by
16 Senate Joint Resolution No. 4, adopted the ninth day of March,
17 one thousand nine hundred seventy-two, and was ratified by
18 a vote of the people at the general election on the seventh day
19 of November, one thousand nine hundred seventy-two, which
20 is hereby made a part hereof as fully as if set forth at length
21 herein, acknowledges itself to be indebted to and hereby
22 promises to pay to the bearer hereof (in case of a coupon
23 bond) or to _____ or assigns
24 (the owner of record, in case of registered bonds) on the
25 _____ day of _____, 19____, in law-
26 ful money of the United States of America at the office of the
27 treasurer of the state of West Virginia at the capitol of said
28 state, or, at _____ bank in the
29 city of New York, or, at _____
30 bank, at the option of the holder, the sum of _____
31 dollars, with interest thereon at _____ percent a year

32 from the date, payable semiannually in like lawful money of
33 the United States of America at the treasurer's office or banks
34 aforesaid, on the first day of _____ and the
35 first day of _____ of each year (and in
36 the case of coupon bonds) according to the tenor of the
37 annexed coupons bearing the facsimile signature of the
38 treasurer of the state of West Virginia, upon surrender of such
39 coupons. This bond (in case of a coupon bond) may be ex-
40 changed for a registered bond of like tenor upon application to
41 the treasurer of the state of West Virginia.

42 (Redemption provisions, if any, to be inserted here.)

43 To secure the payment of the principal and interest of this
44 bond, the state of West Virginia covenants and agrees with the
45 holder as follows: (1) That this bond shall constitute a direct
46 and general obligation of the state of West Virginia; (2) that
47 the full faith and credit of the state is pledged to secure the pay-
48 ment of the principal and interest of this bond; (3) that an
49 annual state tax shall be collected in an amount sufficient to
50 pay as it may accrue the interest on this bond and the principal
51 as the same mature; and (4) that to the full extent permitted
52 by the constitution of West Virginia any of the covenants,
53 agreements and provisions of this act may be enforced in
54 any court of competent jurisdiction by any holder of such
55 bonds or of any interest coupon appertaining thereto.

56 This bond is hereby made exempt from any taxation by the
57 state of West Virginia, or by any county, district or municipal
58 corporation thereof.

59 In testimony whereof, witness the manual or facsimile signa-
60 ture of the treasurer of the state of West Virginia, and the
61 manual or facsimile countersignature of the auditor of the state,
62 hereto affixed according to law, dated the _____ day
63 of _____, one thousand nine hundred _____
64 _____, and the seal of the state of West Virginia or
65 a facsimile thereof.

66 _____
67 Treasurer of the State of West Virginia

68 (SEAL)

69 Countersigned;

70 _____
71 Auditor of the State of West Virginia

§4. Form of coupon.

1 The form of coupon shall be substantially as follows, to wit:

2 STATE OF WEST VIRGINIA

3 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 the 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 account; deposits therein.

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-

5 cient moneys to pay the interest as the same may accrue and
6 the principal as the same mature on such bonds. Moneys re-
7 ceived from transfer and registration fees shall likewise be de-
8 posited into said special account.

§7. Covenants of state.

1 The state of West Virginia covenants and agrees with the
2 holders of the bonds issued pursuant hereto as follows: (1)
3 That such bonds shall constitute a direct and general obligation
4 of the state of West Virginia; (2) that the full faith and credit
5 of the state is hereby pledged to secure the payment of the prin-
6 cipal and interest of such bonds; (3) that an annual state tax
7 shall be collected in an amount sufficient to pay as it may
8 accrue the interest on this bond and the principal as the same
9 mature; and (4) that to the full extent permitted by the con-
10 stitution of West Virginia any of the covenants, agreements
11 and provisions of this act may be enforced in any court of
12 competent jurisdiction by any holder of such bonds or of any
13 interest coupon appertaining thereto.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at such
2 time or times as he may determine necessary to provide funds
3 for the construction, renovation, remodeling and equipping of
4 elementary or secondary public school buildings or facilities as
5 herein provided, and subject to the limitations contained in
6 this act. All sales shall be at not less than par and accrued
7 interest. All interest coupons becoming payable prior to the
8 sale date shall be cancelled by the treasurer and rendered in-
9 effective, before the delivery of the bonds so sold.

§9. Proceeds paid into separate account; expenditures.

1 The proceeds of all sales of bonds herein authorized shall be
2 paid into a separate and distinct account and shall be used
3 and appropriated solely for the construction, renovation, re-
4 modeling and equipping of elementary or secondary public
5 school buildings or facilities as provided for by the state con-
6 stitution and the laws enacted thereunder. Except for such
7 sums necessary for current operating balances, such account
8 shall be invested and reinvested in short-term obligations of

9 the United States treasury: *Provided*, That no such investment
10 or reinvestment shall adversely affect the current operating
11 balances of such account.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the bonds
2 authorized by this act are produced or made shall be the
3 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
2 issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim cer-
2 tificates to be issued to the purchasers of such bonds to be
3 held by them in lieu of permanent bonds. When interim
4 certificates are so issued, they shall become full and legal
5 obligations of the state of West Virginia under all of the
6 provisions of this act just as fully and completely as the
7 permanent bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
2 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 representa-
2 tive, shall serve as bond counsel and shall be responsible for
3 the issuance of a final approving opinion regarding the
4 legality of the sale of such bonds.

§15. Approval and payment of all necessary expenses.

1 All necessary expenses, including legal expenses approved
2 by the attorney general, incurred in the execution of this act
3 shall be chargeable to and paid out of the state school build-
4 ings bond debt service account on warrants of the auditor of
5 the state drawn on the state treasurer.

CHAPTER 31

(House Bill No. 214—By Mr. Seibert)

[Passed June 8, 1973; in effect July 1, 1973. Approved by the Governor.]

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.

1 The ratification of the "better school buildings amend-
2 ment" has provided the potential source of funds for county
3 boards of education to use for the construction, renovation,
4 remodeling and equipping of elementary or secondary public
5 school buildings or facilities and for the acquisition and prepa-
6 ration of sites for elementary or secondary public school
7 buildings or facilities. Because of the importance of these
8 activities to the whole state of West Virginia, it is necessary
9 that the various county boards of education receive guidance
10 from a state board with regard to overall planning responsi-
11 bilities. With this in mind, this article is enacted to provide
12 the framework whereby the management and administration
13 of funds can be effectively coordinated so that said funds
14 derived from the sale of bonds pursuant to the "better school
15 buildings amendment" can be used to the best advantage of
16 all our school children wherever they might live in the state.

§18-9C-2. Definitions.

- 1 For the purpose of this article:
- 2 "Assistance ratio" means the state bond potential per
3 pupil divided by the county bond potential per pupil and the
4 result multiplied by .8971819.
- 5 "County board" means a county board of education.
- 6 "Existing bonded indebtedness" means outstanding obliga-
7 tions of principal and interest payments that a county board of
8 education owes as of the first day of July, one thousand nine
9 hundred seventy-two.
- 10 "Net enrollment" means the number of children enrolled
11 in grades one to twelve, inclusive, and in special education
12 programs of the public schools of the state as of the end of the
13 third school month of the school year one thousand nine
14 hundred seventy-two—seventy-three.
- 15 "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
2 accept, administer, manage and expend for the purposes
3 designated all funds derived from the sale of bonds under
4 authority of the "better school buildings amendment," pursuant
5 to the allocation formula set forth in this article. The state
6 board shall require comprehensive school facilities plans from
7 each county board and shall release funds only for projects
8 which are an approved part of such comprehensive plans. The
9 state board shall make an annual report of their expenditures
10 to the governor and the Legislature at the end of each fiscal
11 year.

12 The state board is authorized and empowered, from time
13 to time, to promulgate such rules and regulations as it may
14 deem necessary and convenient to insure the full implementa-
15 tion 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
2 which there shall be paid all the moneys derived from the
3 sale of the bonds authorized by the "better school buildings
4 amendment." The proceeds of the fund shall be distributed by
5 the state board to such county boards of education as qualify
6 therefor by meeting such conditions, qualifications and re-
7 quirements as are prescribed in this article. The pro-
8 ceeds of the fund shall be used by the county boards
9 of education solely for the construction, renovation or
10 remodeling of elementary or secondary public school build-
11 ings or facilities, the equipping of the same in con-
12 nection with any such construction, renovation or re-
13 modeling and the acquisition and preparation of sites
14 for elementary or secondary public school buildings or
15 facilities.

16 Except for such sums necessary for current operating bal-
17 ances, the proceeds of the funds shall be invested and rein-

18 vested in short-term obligations of the United States treasury.
 19 However, no such investment or reinvestment shall adversely
 20 affect the current operating balances of such fund. Any sums
 21 accruing as a result of such investment shall be allocated to
 22 the counties on a per pupil basis without regard to any in-
 23 centive provision as provided in section six of this article.

§18-9C-5. Entitlement to counties.

1 Each county board of education shall be entitled to re-
 2 ceive, subject to the provisions of this article and further sub-
 3 ject to the availability of money in the school building fund,
 4 the amounts as set forth in the following schedule:

- 5 1. \$200,000 FLAT GRANT
- 6 2. \$239.2722 PER NET ENROLLED PUPIL
- 7 3. ASSISTANCE RATIO \times 239.2722 PER NET EN-
- 8 ROLLED PUPIL

9				
	\$200,000. Flat Grant	\$239.2722 Per Pupil In Net Enrollment	\$239.2722 \times Net Enrollment \times Assistance Ratio*	Total (1) + (2) + (3)
	(1)	(2)	(3)	(4)
10 Barbour ---	\$ 200,000	\$ 768,398	\$ 863,602	\$ 1,832,000
11 Berkeley ..	200,000	2,081,277	1,911,352	4,192,629
12 Boone	200,000	1,499,237	1,589,491	3,288,728
13 Braxton ---	200,000	759,307	898,483	1,857,790
14 Brooke ----	200,000	1,501,868	1,190,067	2,891,935
15 Cabell ----	200,000	4,883,584	3,144,576	8,228,160
16 Calhoun ---	200,000	422,236	527,522	1,149,758
17 Clay	200,000	620,555	1,010,893	1,831,448
18 Doddridge	200,000	366,496	294,387	860,883
19 Fayette ---	200,000	3,028,855	3,916,366	7,145,221
20 Gilmer ----	200,000	367,931	258,536	826,467
21 Grant	200,000	490,176	231,279	921,455
22 Greenbrier	200,000	1,805,687	1,878,263	3,883,950
23 Hampshire	200,000	629,646	480,793	1,310,439
24 Hancock ..	200,000	2,097,066	1,246,084	3,543,150
25 Hardy ----	200,000	494,961	407,968	1,102,929
26 Harrison --	200,000	3,620,943	3,099,207	6,920,150
27 Jackson ---	200,000	1,392,302	958,346	2,550,648
28 Jefferson --	200,000	1,237,044	1,120,397	2,557,441
29 Kanawha ..	200,000	11,874,042	7,801,321	19,875,363
30 Lewis	200,000	860,979	577,179	1,638,158
31 Lincoln ---	200,000	1,254,029	2,389,696	3,843,725

32	Logan	200,000	2,930,772	4,686,180	7,816,952
33	Marion	200,000	2,818,814	2,286,459	5,305,273
34	Marshall	200,000	1,860,948	903,926	2,964,874
35	Mason	200,000	1,420,770	1,321,981	2,942,751
36	Mercer	200,000	3,340,808	3,806,587	7,347,395
37	Mineral	200,000	1,289,195	1,709,402	3,198,597
38	Mingo	200,000	2,246,343	3,468,466	5,914,809
39	Monongalia	200,000	2,484,135	1,632,315	4,316,450
40	Monroe	200,000	554,768	676,362	1,431,130
41	Morgan	200,000	506,683	491,681	1,198,364
42	McDowell	200,000	3,155,167	4,446,839	7,802,006
43	Nicholas	200,000	1,424,598	2,003,458	3,628,056
44	Ohio	200,000	2,257,826	1,219,055	3,676,881
45	Pendleton	200,000	374,869	344,061	918,930
46	Pleasants	200,000	410,992	315,563	926,555
47	Pocahontas	200,000	482,760	490,036	1,172,796
48	Preston	200,000	1,532,011	1,686,915	3,418,926
49	Putnam	200,000	1,732,962	1,828,580	3,761,542
50	Raleigh	200,000	4,027,151	5,297,508	9,524,659
51	Randolph	200,000	1,401,393	1,571,002	3,172,395
52	Ritchie	200,000	537,543	541,642	1,279,185
53	Roane	200,000	747,106	656,013	1,603,119
54	Summers	200,000	722,944	881,788	1,804,732
55	Taylor	200,000	767,202	862,534	1,829,736
56	Tucker	200,000	399,988	504,273	1,104,261
57	Tyler	200,000	571,992	606,272	1,378,264
58	Upshur	200,000	1,021,500	991,530	2,213,030
59	Wayne	200,000	2,401,602	3,312,596	5,914,198
60	Webster	200,000	648,306	904,986	1,753,292
61	Wetzel	200,000	1,182,500	1,156,294	2,538,794
62	Wirt	200,000	280,613	427,868	908,481
63	Wood	200,000	4,875,689	5,152,582	10,228,271
64	Wyoming	200,000	2,033,431	2,519,438	4,752,869
65		\$ 11,000,000	\$ 94,500,000	\$ 94,500,000	\$200,000,000

§18-9C-6. Submission of plans; approval; incentive provisions.

1 Each county shall be entitled to receive the sum of
 2 two hundred thousand dollars as hereinafter set forth. Each
 3 county board shall be required to submit unto the state board a
 4 comprehensive plan or plans encompassing, but not necessarily
 5 limited to, its proposed use of the grant funds and those remain-
 6 ing funds set forth for each county in the distribution schedule
 7 of section five of this article. The county board shall be required
 8 to resubmit said plan or plans as, in the determination of the
 9 state board, said action is necessary to meet the rules and
 10 regulations authorized under this article. The state board

11 shall approve or disapprove said submitted plan or plans
12 within ninety days of the date of submission of said plans. Once
13 said plan or plans are approved and, in the determination of
14 the state board, the project or projects are ready to be under-
15 taken, the state board shall distribute the amount to the respec-
16 tive counties equal to that amount due under the distribution
17 schedule contained in section five of this article.

18 Notwithstanding any other provision of this article, priority
19 in the approval of submitted plan or plans shall be given to any
20 county which satisfactorily shows to the state board that it has
21 sufficient resources, through grants, gifts, excess levies, county
22 bond funds, or any other money available to county boards,
23 with which to defray the cost of its plan or plans where said
24 plan or plans call for total expenditures in excess of the
25 amounts designated for that county under the distribution
26 schedule in section five of this article: *Provided*, That this
27 requirement shall, in no way, deter the distribution to a
28 county, with an approved plan or plans, which county has
29 at least eighty percent of its bonding potential obligated.

30 In any event, at the end of two years from the effective
31 date of this legislation, all counties' eligibility to their entitle-
32 ment shall vest; however, said counties shall not receive said
33 moneys until their comprehensive plan or plans have been
34 approved by the state board.

**§18-9C-7. Supplemental powers conferred; conflicting laws super-
seded.**

1 The powers conferred by this article shall be in addition
2 and supplemental to the existing powers of the county
3 boards of education. The provisions of any other law or laws
4 conflicting with the provisions of this article shall be and
5 the same are hereby superseded to the extent of any such
6 conflict.

§18-9C-8. Severability.

1 If any part of this article is declared unconstitutional or in-
2 valid by a court of competent jurisdiction, such decision shall
3 not affect the validity of the remaining provisions of this article,
4 or the article in its entirety.

CHAPTER 32

(Com. Sub. for House Bill No. 212—By Mr. Lohr and Mr. Seibert)

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

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
2 the following:

3 (1) An amount equal to fourteen percent of the computed
4 total state allocation for professional educators, as defined in
5 section four above, such amount to be distributed to the coun-
6 ties in proportion to the adjusted enrollment; and

7 (2) An amount equal to six percent of the total state allo-
8 cation for professional educators, such amount to be distribut-

9 ed in proportion to the number of full-time school bus drivers
10 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

(1) Years Exp.	(2) 4th Class	(3) 3rd Class	(4) 2nd Class	(5) B.A.	(6) B.A. +15	(7) M.A.	(8) M.A. +15	(9) M.A. +30	(10) Doctor- ate
0	4142	4707	4933	6005	6287	6570	6851	7134	7416
1	4278	4843	5069	6141	6423	6706	6987	7270	7552
2	4414	4979	5205	6277	6559	6842	7123	7406	7688
3	4550	5115	5341	6413	6695	6978	7259	7542	7824
4	4686	5251	5477	6549	6831	7114	7395	7678	7960
5	4822	5387	5613	6685	6967	7250	7531	7814	8096
6	4958	5523	5749	6821	7103	7386	7667	7950	8232
7		5659	5885	6957	7239	7522	7803	8086	8368
8		5795	6021	7093	7375	7658	7939	8222	8504
9			6157	7229	7511	7794	8075	8358	8640
10			6293	7365	7647	7930	8211	8494	8776
11				7501	7783	8066	8347	8630	8917
12				7637	7919	8202	8483	8766	9048
13				7773	8055	8338	8619	8902	9184
14						8474	8755	9038	9320
15						8610	8891	9174	9456
16						8746	9027	9310	9592
17								9446	9728
18								9582	9864
19								9718	10000

§18A-4-8. Minimum pay for service and auxiliary personnel.

1 The purpose of this section is to establish a state minimum
2 pay scale and employment term for auxiliary and service per-
3 sonnel. The employment term for auxiliary and service per-
4 sonnel shall be no less than ten months, a month to be defined
5 as twenty employment days: *Provided*, That the county board
6 of education may contract with all or part of such personnel
7 for a longer term. The beginning and closing dates of the ten
8 month term shall not exceed forty-three weeks. Auxiliary

9 and service personnel employed on an annual basis may
10 be employed by the calendar month. Whenever there is a
11 change in job assignment during the school year, the minimum
12 pay scale and any county supplement shall be applicable.

13 From the effective date of this article, the county board of
14 education pay scale for auxiliary and service personnel shall
15 not be less than three hundred thirty-five dollars per month:
16 *Provided*, That auxiliary and service personnel who are em-
17 ployed for less or for more than the normal working day
18 established for a specific job position shall have their mini-
19 mum pay increased or reduced in proportion to the above
20 pay scale.

21 The county board of education may establish salary schedules
22 which shall be in excess of the state minimum fixed by this
23 article, such county schedules to be uniform throughout the
24 county with regard to any training classifications, experience,
25 responsibility, duties, pupil participation, pupil enrollment, size
26 of buildings, operation of equipment or other requirements.
27 Uniformity shall apply to any additional salary or compensation
28 for all persons performing like assignments and duties within
29 the county: *Provided*, That, from the effective date of this
30 article in establishing such local salary schedules, no county
31 shall reduce local funds allocated for auxiliary and service per-
32 sonnel salaries used for supplementing federal and state funds
33 provided for such salaries.

34 All auxiliary and service personnel shall receive no less
35 than a five percent increase in their total present annual salaries
36 as a result of the enactment of this section.

CHAPTER 33

(Com. Sub. for Senate Bill No. 1—By Mr. Hamilton)

[Passed June 8, 1973; in effect July 1, 1973. Approved by the Governor.]

AN ACT to amend article seven-a, chapter eighteen of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section

twenty-six-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
2 provided, each annuitant whose retirement allowance became
3 effective during the respective dates indicated in this section
4 shall receive, upon application, an increased amount, payable
5 monthly, which is the product of his present retirement allow-
6 ance multiplied by the percentage increase applicable, accord-
7 ing to the effective date of retirement and according to the plan
8 of retirement, as provided by the schedule below.

9	Effective Date of	
10	Retirement	
11	Percentage of	
12	Retirement Allowance Increase	
13	July 1, 1941 through June 30, 1953	16.00
14	July 1, 1953 through June 30, 1963	19.00
15	July 1, 1963 through June 30, 1965	14.00
16	July 1, 1965 through June 30, 1966	10.50
17	July 1, 1966 through June 30, 1968	9.50
18	July 1, 1968 through June 30, 1969	6.00
19	July 1, 1969 through June 30, 1970	9.00

20 Any additional benefit conferred herein shall not be retro-
21 active to the time of retirement, but shall be paid as follows:
22 One half of the respective retirement allowance percentage in-
23 crease shall become effective July 1, 1973, and one half of the
24 respective retirement allowance percentage increase shall be-
25 come effective July 1, 1974.

CHAPTER 34

(Senate Bill No. 3—By Mr. Hubbard)

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

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.

§11-19-5f. Notice of assessment, petition for reassessment.

§11-19-5g. Hearing; appeals; collection by action or suit.

§11-19-5c. Reports; subpoena duces tecum.

1 Every person subject to the tax imposed by this article shall
2 on or before the fifteenth day of each month make to the com-
3 missioner such reports of such person's operations for the pre-
4 ceding month necessary to verify such person's liability under
5 this article as the commissioner may require, and shall, from
6 time to time as the commissioner may require by due notice of
7 fifteen days, make such additional reports necessary to verify
8 such person's liability under this article as the commissioner
9 may deem necessary. For good cause shown, the commissioner
10 may extend the time for filing said reports for a period not
11 exceeding thirty days.

12 As a further means of obtaining the records, books, and
13 papers of any person and ascertaining the amount of taxes and
14 the reports due under this article, the commissioner shall have
15 the power to examine witnesses, under oath; and if any wit-
16 ness shall fail or refuse upon the request of the commissioner
17 to grant access to such records, books and papers, the com-
18 missioner shall certify the facts and the names to the circuit
19 court of the county having jurisdiction of the party and such
20 court shall thereupon issue a subpoena duces tecum to such
21 party to appear before the commissioner, at a place designated
22 within the jurisdiction of such court, on a day fixed.

§11-19-5d. Assessment of tax when insufficiently returned.

1 If the commissioner believes that the tax imposed by this
2 article is insufficiently returned by a person, either because
3 said person has failed to properly remit the tax or has failed
4 to make a return, or has made a return which is incomplete,
5 deficient or otherwise erroneous, or has requested or has been
6 granted a refund and credit which is incomplete, deficient or
7 otherwise erroneous, he may proceed to investigate and deter-
8 mine or estimate the tax liability and make an assessment
9 therefor.

§11-19-5e. Jeopardy assessments.

1 If the commissioner believes that the collection of any tax

2 which he is required to administer will be jeopardized by delay,
3 he shall thereupon make an assessment of tax, noting that fact
4 upon the assessment. The amount assessed shall be immediate-
5 ly due and payable. Unless a person against whom a jeopardy
6 assessment is made petitions for reassessment within twenty
7 days after service of notice of jeopardy assessment, such
8 assessment becomes final. A petition for reassessment by a
9 person against whom a jeopardy assessment has been made
10 must be accompanied by such security as the commissioner
11 may deem necessary to insure compliance with this article.

§11-19-5f. Notice of assessment, petition for reassessment.

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)
5 either personally or by certified mail, file with the commis-
6 sioner a petition in writing, verified under oath by said person
7 or his duly authorized agent having knowledge of the facts,
8 setting forth with particularity the items of the assessment ob-
9 jected to, together with the reasons for objections, said assess-
10 ment shall become final and conclusive, not subject to
11 judicial review, and the amount thereof shall be pay-
12 able at the end of the thirty-day period (twenty days in the
13 case of a jeopardy assessment). A petition for reassessment
14 shall be deemed to be timely filed if the postmark date thereon
15 is clearly within said thirty days (twenty days in case of a
16 jeopardy assessment) of receipt of said assessment or is re-
17 ceived within such period. If the thirtieth day (twentieth day
18 in case of a jeopardy assessment) falls on a Saturday, Sunday
19 or legal holiday, filing will be considered timely if it is done
20 on the next succeeding day which is not a Saturday, Sunday or
21 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

6 filing of the petition for reassessment unless continued by
7 agreement or by the commissioner for good cause. The hear-
8 ing shall be informal and may be conducted by an examiner
9 designated by the commissioner. After any such hearing, the
10 commissioner shall, within ninety days, give notice in writing
11 of the decision. Unless an appeal is taken within thirty days
12 after service of this notice, the commissioner's decision shall be
13 final and not subject to judicial review. The amount, if any,
14 due the state under such decision shall be due and payable on
15 the day following the date upon which such decision becomes
16 final.

17 Taxes and penalties due and unpaid under this article may be
18 collected by civil action or suit in a justice court, where the
19 same is within the jurisdiction of the justice court.

20 An appeal may be taken by the taxpayer from the decision
21 of the commissioner on his petition for reassessment to the
22 circuit court of the county in which the activity taxed was car-
23 ried on, or in which the taxpayer resides or in the circuit court
24 of Kanawha county, within thirty days after he shall have
25 received notice from the commissioner of his decision as pro-
26 vided in this section.

27 The appeal shall be taken by written notice to the commis-
28 sioner and served as an original notice. When said notice is
29 so served, it shall, with the return thereon, be filed in the
30 office of the clerk of the circuit court and docketed as other
31 cases with the taxpayer as plaintiff and the commissioner as
32 defendant. Before the appeal is heard, the plaintiff shall file
33 with such clerk a bond for the use of the defendant, with sure-
34 ties approved by said clerk, the penalty of the bond to be not
35 less than the total amount of the tax and penalties appealed
36 from, and conditioned that the plaintiff shall perform the
37 orders of the court.

38 The court shall hear the appeal and determine anew all
39 questions submitted to it on appeal from the determination of
40 the commissioner. In such appeal, a certified copy of the com-
41 missioner's assessment shall be admissible and shall constitute
42 prima facie evidence of the tax due under the provisions of
43 this article. The court shall render its decree thereon and enter

44 judgment accordingly, and a certified copy of said decree shall
45 be filed by the clerk of said court with the commissioner who
46 shall then correct the assessment, if necessary, in accordance
47 with said decree. An appeal may be taken by the taxpayer or
48 the commissioner to the supreme court of appeals of this
49 state.

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,
- 2 and to the extent herein limited, shall be exempt from taxation,
- 3 that is to say: Property belonging to the United States, other
- 4 than property permitted by the United States to be taxed under

5 state law; property belonging exclusively to the state; property
6 belonging exclusively to any county, district, city, village or
7 town in this state, and used for public purposes; property lo-
8 cated in this state belonging to any city, town, village, county
9 or any other political subdivision of another state, and used
10 for public purposes; property used exclusively for divine wor-
11 ship; parsonages, and the household goods and furniture per-
12 taining thereto; mortgages, bonds and other evidence of in-
13 debtedness in the hands of bona fide owners and holders here-
14 after issued and sold by churches and religious societies for
15 the purposes of securing money to be used in the erection of
16 church buildings used exclusively for divine worship, or for
17 the purpose of paying indebtedness thereon; cemeteries; prop-
18 erty belonging to, or held in trust for, colleges, seminaries,
19 academies and free schools, if used for educational, literary or
20 scientific purposes, including books, apparatus, annuities and
21 furniture; public and family libraries; property used for chari-
22 table purposes, and not held or leased out for profit; property
23 used for area economic development purposes by nonprofit
24 corporations when such property is not leased out for profit;
25 all real estate not exceeding one-half acre in extent, and the
26 buildings thereon, and used exclusively by any college or uni-
27 versity society as a literary hall, or as a dormitory or club-
28 room, if not leased or otherwise used with a view to profit; all
29 property belonging to benevolent associations, not conducted
30 for private profit; property belonging to any public institution
31 for the education of the deaf, dumb or blind, or any hospital
32 not held or leased out for profit; house of refuge, lunatic or
33 orphan asylum; homes for children or for the aged, friendless
34 or infirm, not conducted for private profit; fire engines and
35 implements for extinguishing fires, and property used exclu-
36 sively for the safekeeping thereof, and for the meeting of fire
37 companies; and all property on hand to be used in the sub-
38 sistence of livestock on hand at the commencement of the
39 assessment year; household goods to the value of two hundred
40 dollars, whether or not held or used for profit; bank deposits
41 and money; household goods (which term is deemed for pur-
42 poses of this section to mean only personal property and house-
43 hold goods commonly found within the house and items used to
44 care for the house and its surrounding property) when not held

45 or used for profit, and personal effects (which term is deemed
46 for purposes of this section to mean only articles and items
47 of personal property commonly worn on or about the human
48 body, or carried by a person and normally thought to be asso-
49 ciated with the person) when not held or used for profit; dead
50 victuals laid away for family use and any other property or
51 security exempted by any other provision of law; but no prop-
52 erty shall be exempt from taxation which shall have been pur-
53 chased or procured for the purpose of evading taxation, wheth-
54 er temporarily holding the same over the first day of the assess-
55 ment year or otherwise: *Provided*, That real property which is
56 exempt from taxation by this section, shall be entered upon the
57 assessor's books, together with the true and actual value there-
58 of, but no taxes shall be levied upon the same or extended up-
59 on the assessor's books.

60 Notwithstanding any other provisions of this section, how-
61 ever, no language herein shall be construed to exempt from
62 taxation any property owned by, or held in trust for, educa-
63 tional, literary, scientific, religious or other charitable corpora-
64 tions or organizations, unless such property is used primarily
65 and immediately for the purposes of such corporations or
66 organizations.

67 The tax commissioner shall, by issuance of regulations, pro-
68 vide each assessor with guidelines to insure uniform assess-
69 ment 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)

[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 recompensate 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-

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."

ACTS

FIRST EXTRAORDINARY SESSION, 1972

(April 19-June 9, 1972)

CHAPTER 1

(Senate Bill No. 6—By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Passed April 22, 1972; in effect ninety days from passage.
Approved by the Governor.]

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
- 2 elections held within the precincts of the counties and
- 3 municipalities in which they respectively reside. But no
- 4 person who has not been registered as a voter as required
- 5 by law, or who is a minor, or of unsound mind, or a

6 pauper, or who is under conviction of treason, felony or
7 bribery in an election, or who is not a bona fide resident
8 of the state, county or municipality in which he offers to
9 vote, shall be permitted to vote at such election while
10 such disability continues. Subject to the qualifications
11 otherwise prescribed in this section, however, a minor
12 shall be permitted to vote in a primary election if he
13 will have reached the age of eighteen years on the date
14 of the general election next to be held after such primary
15 election.

16 Notwithstanding the foregoing provisions of this sec-
17 tion, citizens of the state who are between the ages of
18 eighteen and twenty-one and who are otherwise qualified
19 to vote shall not be entitled to vote except in elections
20 held on and after July one, one thousand nine hundred
21 seventy-one, within the precincts of the counties and
22 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
2 is "West Virginia Public Employees Insurance Act" and
3 it is the express intent of the Legislature to encourage and
4 promote a uniform partnership relation between all em-
5 ployers and employees participating in the insurance plan
6 or plans formulated under the provisions of this article
7 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,
2 unless a different meaning is clearly indicated by the con-
3 text, shall have the following meanings:

4 (1) "Board" means the public employees insurance
5 board created by this article.

6 (2) "Employee" means any person, including elected
7 officers, who works regularly full time in the service of
8 the state and, for the purpose of this article only, the term
9 "employee" shall also mean any person who works regu-
10 larly full time in the service of a county board of educa-
11 tion and any person who works regularly full time in the
12 service of the West Virginia board of regents. Any mat-
13 ters of doubt as to who is an employee within the mean-
14 ing of this article shall be decided by the board.

15 (3) "Retired employee" shall mean an employee of the
16 state who retired after the twenty-ninth day of April, one
17 thousand nine hundred seventy-one, and an employee of
18 the West Virginia board of regents and a county board of
19 education who retires after the effective date of this
20 article.

21 (4) "Employer" means the state of West Virginia, its
22 boards, agencies, commissions, departments, institutions
23 or spending units and a county board of education. The
24 term "employer" shall not include within its meaning the
25 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
2 hereby created and established to provide group hospital
3 and surgical insurance, group major medical insurance,
4 and group life and accidental death insurance for all em-
5 ployees in the manner as hereinafter provided. The board
6 shall constitute a body corporate. All business of the
7 board shall be transacted in the name of the West Vir-
8 ginia 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
6 and shall designate the time and place. Two board mem-
7 bers shall constitute a quorum at any meeting of the
8 board. Each board member shall be entitled to one vote
9 on each question before the board. A majority of the
10 quorum present shall be required for a decision by the
11 board at its meetings. The board shall adopt its own
12 rules of procedure and shall keep a record of its
13 proceedings.

14 The board shall be responsible for the administration
15 and management of the public employees insurance sys-
16 tem as provided for in this article and in connection
17 therewith shall have the power and authority to make
18 all rules and regulations necessary to effectuate the pro-
19 visions of this article, except as is otherwise specifically
20 provided in this article.

21 No member of the board shall receive any compensation
22 for serving as such; however, each member of the board
23 shall be reimbursed for all reasonable and necessary ex-
24 penses actually incurred by him in carrying out his
25 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
2 establish a group hospital and surgical insurance plan or
3 plans, a group major medical insurance plan or plans, and
4 a group life and accidental death insurance plan or plans
5 for those employees herein made eligible, and to establish
6 and promulgate rules and regulations for the administra-
7 tion of such plans, subject to the limitations contained in
8 this article. Such plans may provide for group hospital
9 and surgical and group major medical insurance against
10 the financial cost of hospitalization, surgical and medical
11 treatment and care, and may also include, among other
12 things, prescribed drugs, medicines, prosthetic appliances,
13 hospital inpatient and outpatient service benefits, and
14 medical expenses and indemnifying benefits, and group
15 life and accidental death insurance, and such other cover-
16 age and benefits deemed appropriate and desirable by
17 the board.

18 The board may cause to be separately rated for claims
19 experience purposes (1) all employees of the state of West
20 Virginia, (2) all teaching and professional employees of
21 the West Virginia board of regents and county boards of
22 education, (3) all nonteaching employees of the West
23 Virginia board of regents and county boards of education
24 or (4) any other categorization which would insure the
25 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; re-insurance; certificates for covered employees; discontinuance of contracts.

1 The board is hereby given exclusive authorization to
2 execute such contract or contracts as are necessary to

3 carry out the provisions of this article and to provide the
4 plan or plans of group hospital and surgical insurance
5 coverage, group major medical insurance coverage, and
6 group life and accidental death insurance coverage se-
7 lected in accordance with the provisions of this article,
8 such contract or contracts to be executed with one or
9 more agencies, corporations, insurance companies or
10 service organizations licensed to sell group hospital and
11 surgical insurance, group major medical insurance, and
12 group life and accidental death insurance in this state.

13 The group life and accidental death insurance herein
14 provided for shall not exceed an amount equal to the
15 annual salary of the employee to the nearest one thousand
16 dollar multiples and under no circumstances shall the
17 amount of the group life and accidental death insurance
18 exceed ten thousand dollars for any one employee. The
19 amount of the group life and accidental death insurance
20 to which an employee would otherwise be entitled shall
21 be reduced by fifty percent upon such employee attaining
22 age sixty-five.

23 All of the insurance coverage to be provided for under
24 this article may be included in one or more similar con-
25 tracts issued by the same or different carriers.

26 The provisions of article three, chapter five-a of this
27 code, relating to the division of purchases of the depart-
28 ment of finance and administration, shall not apply to any
29 contracts for any insurance coverage authorized to be
30 executed under the provisions of this article; however,
31 before entering into any contract for any insurance cover-
32 age, as herein authorized, said board shall invite compe-
33 tent bids from all qualified and licensed insurance com-
34 panies or carriers, who may wish to offer plans for the
35 insurance coverage desired. The board shall deal directly
36 with insurers in presenting specifications and receiving
37 quotations for bid purposes. No commission or finder's
38 fee, or any combination thereof, shall be paid to any in-
39 dividual or agent; but this shall not preclude an under-
40 writing insurance company or companies, at their own
41 expense, from appointing a licensed resident agent, within
42 this state, to service the companies' contracts awarded
43 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
2 provide for group hospital and surgical, group major
3 medical, and group life and accidental death insurance
4 for retiring employees and their spouses and dependents
5 as defined by rules and regulations of the board, and on
6 such terms as the board may deem appropriate.

7 In the event the board provides the above benefits for
8 retiring employees, their spouses and dependents, the
9 board shall adopt rules and regulations prescribing the
10 conditions under which retiring employees may elect to
11 participate in or withdraw from the plan or plans. Any
12 contract or contracts herein provided for shall supplement
13 any hospital, surgical, major medical or health insurance
14 plan administered by the United States department of
15 health, education, and welfare to which the employee,
16 spouse or dependent may be eligible under any law or
17 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
2 for all insurance coverage provided in this article as set
3 forth in the following schedule of insurance:

	Payment by State:*		Amount of Coverage for:	
	Em- ployee Only	Employee And Family	Life	Accidental Death and Dismem- berment
Annual Compensation				
Less than \$1,500	\$ 9.34	\$25.09	\$1,000	\$1,000
\$1,500 but less than 2,500	9.93	25.68	2,000	2,000
2,500 but less than 3,500	10.51	26.26	3,000	3,000
3,500 but less than 4,500	11.10	26.85	4,000	4,000
4,500 but less than 5,500	11.69	27.44	5,000	5,000
5,500 but less than 6,500	12.28	28.03	6,000	6,000

16	6,500 but less than	7,500	12.87	28.62	7,000	7,000
17	7,500 but less than	8,500	13.45	29.20	8,000	8,000
18	8,500 but less than	9,500	14.04	29.79	9,000	9,000
19	9,500 and over		14.63	30.38	10,000	10,000

20 *For the full plan of benefits in each salary classification
 21 relating to group hospital and surgical insurance, group
 22 major medical insurance, and group life and accidental
 23 death insurance.

24 The Legislature shall appropriate annually from the
 25 general revenue fund such sums as may be required to
 26 pay the state's proportionate share of the premium costs
 27 of those spending units operating from the general reve-
 28 nue fund, and each spending unit operating from special
 29 revenue funds, or federal funds, or both, shall pay to
 30 the board their proportionate share of premium costs
 31 from their personal services budget.

32 The portion of the premium or cost attributable to all
 33 insurance coverage provided hereunder and not paid by
 34 the state shall be paid by the employee, and in no event
 35 shall the employee's contribution exceed thirty percent
 36 of the cost of the employee's insurance package.

37 The employee's proportionate share of the premium or
 38 cost shall be withheld or deducted by the employer from
 39 such employee's salary or wages as and when paid and
 40 such sums shall be forwarded to the board with such
 41 supporting data as the board may require.

42 All moneys received by the board shall be deposited in
 43 a special fund or funds as are necessary in the state
 44 treasury and the treasurer of the state shall be custodian
 45 of such fund or funds and shall administer such fund or
 46 funds in accordance with the provisions of this article or
 47 as the board may from time to time direct. The treasurer
 48 shall pay all warrants issued by the state auditor against
 49 such fund or funds as the board may direct in accordance
 50 with the provisions of this article.

§5-16-15. Expense fund.

1 The Legislature shall annually appropriate such sums
 2 as may be necessary to pay the proportionate share of
 3 the administrative costs for the state as an employer, and
 4 each division, agency, board, commission or department

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
- 2 discharge from the service any member of the department
- 3 of public safety for any of the following causes: Refusing
- 4 to obey the orders of his superior officer, neglect of duty,
- 5 drunkenness, immorality, inefficiency, abuse of his au-
- 6 thority, interference with the lawful right of any person,
- 7 participation in political activities, primaries, conventions
- 8 or elections, or any other cause which may in the opinion

9 of the superintendent be necessary for the good of the
10 service. The superintendent shall cause an investigation
11 to be made when notice of any one or more of such
12 causes is brought to his attention and shall determine
13 whether or not the member should be suspended, demoted
14 in rank or discharged. If the superintendent orders the
15 member suspended, demoted in rank or discharged, a
16 written statement of the charges and a written order of
17 suspension, demotion in rank or discharge shall be de-
18 livered personally to the member by his commanding
19 officer, or next in command in the absence of his com-
20 manding officer. The superintendent shall explicitly set
21 forth in any such written statement of charges the details
22 giving rise to the cause or causes upon which he ordered
23 such suspension, demotion in rank or discharge. The
24 member may appeal the superintendent's order to the
25 board of appeals created for such purpose, and all of the
26 original papers in such cases shall be delivered by the
27 superintendent to such board, which shall decide such
28 cases in the manner hereinafter provided.

29 Any person who shall by the superintendent be ap-
30 pointed to membership in said department as a replace-
31 ment appointee, pursuant to section two, article eleven,
32 chapter six of this code, may at any time be discharged at
33 the will and pleasure of the superintendent without the
34 assignment of cause and without right of appeal to the
35 board of appeals.

36 The right of a member to appeal a suspension or dis-
37 charge shall not apply to members until they have com-
38 pleted their probationary period with said department of
39 public safety. Except in cases of emergency, no member
40 of the department shall be transferred without having
41 received at least eight days' notice of such transfer.

**§15-2-20. Board of appeals created; members, powers and
duties; appeal, hearing and decision.**

1 The board of commissioners, heretofore created in
2 this article, is hereby abolished, and there is hereby
3 created a board of appeals composed of five members
4 appointed by the governor, by and with the advice and

5 consent of the Senate. Each member shall serve for a
6 term of five years, except of the members first appointed,
7 one shall be appointed for a term ending the thirtieth
8 day of June, one thousand nine hundred seventy-three,
9 and one each for terms ending one, two, three and four
10 years thereafter. Vacancies shall be filled for the un-
11 expired term by appointment of the governor, by and
12 with the advice and consent of the Senate. Members
13 shall be residents of the state and no more than three
14 shall be members of the same political party. A mem-
15 ber shall hold no other office (other than the office of
16 notary public) or employment under this state during
17 his term, and a member may be reappointed on the ex-
18 piration of his term.

19 As soon as practical after appointment of the board, the
20 members shall convene on call of the governor and there-
21 upon and annually thereafter elect a chairman and such
22 other officers as the board deems necessary. All other
23 meetings of the board shall be on call of the chairman.

24 Each member of the board shall be paid, from appro-
25 priations to the department, the sum of fifty dollars per
26 day for each day necessarily employed in the discharge
27 of his duties as a member of the board, and, in addition
28 thereto, he shall be reimbursed for all reasonable and
29 necessary expenses actually incurred in attending meet-
30 ings of the board.

31 Other than the annual meeting for the purpose of elect-
32 ing a chairman and other officers, the board shall not meet
33 except for the purpose of hearing and considering appeals
34 to it by members of the department.

35 Within fifteen days after a member of the department
36 has received a statement of charges and an order of sus-
37 pension, demotion in rank or discharge by the super-
38 intendent, he may appeal the order to the board by filing
39 with the board, or any of its members, a written notice
40 of appeal. Upon receipt of a notice of appeal, the board
41 shall immediately notify the superintendent by sending
42 him a copy of the notice of appeal and set a date and time
43 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 Any member of the department who timely files a
49 notice of appeal, as aforesaid, may be represented by an
50 attorney or by any member of the department or retired
51 member who is receiving benefits from the death, dis-
52 ability and retirement fund of the department. The super-
53 intendent may be represented by counsel of his choice and
54 has the burden of proof at the hearing as to the charges
55 which he had found to be the cause or causes for his
56 order of suspension, demotion in rank or discharge. The
57 procedure in any hearing before the board shall be in-
58 formal and without adherence to the technical rules of
59 evidence required in proceedings in courts of record. All
60 evidence submitted to the board shall be submitted under
61 oath. The chairman, or any member of the board, shall
62 have authority to administer oaths to witnesses present-
63 ing testimony at a hearing. The board shall designate a
64 reporter for any such hearing who shall report and
65 transcribe all of the proceedings. The accused member
66 may demand a public hearing on the charges, and in the
67 absence of such a demand, the board may determine
68 whether or not the hearing should be public. Any hear-
69 ing may be continued, recessed or adjourned by the
70 board.

71 The superintendent shall provide reasonable office and
72 filing space for use of the board, routine secretarial and
73 clerical assistance and appropriate space for the conduct of
74 hearings. The charges of the reporter in transcribing any
75 hearing shall be paid by the superintendent from avail-
76 able appropriations. At the conclusion of the hearing by
77 the board, the board shall determine whether or not the
78 superintendent's order shall be sustained. The board's
79 decision shall be issued in writing, with copies thereof
80 being sent by the board to the superintendent and to the
81 appealing member by certified mail, return receipt re-
82 quested. The member or the superintendent of the de-
83 partment may appeal a decision of the board to the

84 circuit court of Kanawha county within sixty days of
85 receipt of a copy of the board's decision, and the court
86 shall hear the appeal upon the record and determine all
87 questions submitted to it on appeal from the decision of
88 the board. In the event any decision sustaining the
89 superintendent's order is reversed upon judicial review,
90 which reversal is final, the superintendent shall return the
91 member to his status prior to the superintendent's order,
92 with full payment of any compensation withheld and with
93 full credit for service between the date the superintendent
94 issued his order and the date of the final judicial decision
95 reversing the decision of the board.

96 A hearing shall be conducted by at least three members
97 of the board and the decision of the board shall be made
98 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; 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
2 of the Roads Development Amendment of 1968, of the par
3 value not to exceed one hundred million dollars during the
4 fiscal year ending June thirty, one thousand nine hundred
5 seventy-three, are hereby authorized to be issued and
6 sold for the sole purpose of raising funds for the building
7 and construction of free state roads and highways as pro-
8 vided for by the constitution and the laws enacted there-
9 under. Such bonds may be issued by the governor in such
10 amounts, in coupons or registered form, in such denomi-
11 nations, at such time, bearing such date or dates, as the
12 governor may determine, based upon an examination of
13 the West Virginia department of highways' yearly pro-
14 gram which justifies the issuance by the governor of said
15 bonds, and shall become due and payable serially, an-
16 nually or semiannually, in such amounts and mature in
17 such years as the governor may determine: *Provided*,
18 That such bonds shall mature within and not exceeding
19 twenty-five years from their date: *Provided, however*,
20 That the governor shall not offer for sale more than forty
21 million dollars of bonds at any one time: *Provided*
22 *further*, That the governor must offer said bonds for
23 competitive bids from recognized financial investment
24 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
2 arrange for the transfer of registered bonds and for each
3 such transfer a fee of fifty cents shall be charged by and
4 paid to the state of West Virginia, to the credit of the
5 state road sinking fund. Bonds taken in exchange shall
6 be cancelled by the auditor and treasurer and be care-
7 fully preserved by the treasurer. The treasurer shall
8 make provisions for registering "payable to bearer" bond
9 and for each bond registered a fee of fifty cents shall
10 likewise be charged by and paid to the state of West Vir-
11 ginia, to the credit of the state road sinking fund. All such
12 bonds shall be payable at the office of the treasurer of the
13 state of West Virginia, or, at the option of the holder, at

14 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.

1 The bond shall be executed on behalf of the state of
2 West Virginia, by the manual or facsimile signature of
3 the treasurer thereof, under the great seal of the state
4 or a facsimile thereof, and countersigned by the manual
5 or facsimile signature of the auditor of the state: *Pro-*
6 *vided*, That one of said signatures on said bonds shall be
7 a manual signature and said bonds shall be in the follow-
8 ing form or to the following effect, as nearly as may be,
9 namely:

10 COUPON ROAD BOND
11 (Or registered road bond, as the case may be)
12 OF THE
13 STATE OF WEST VIRGINIA

14 \$_____ No. _____

15 The state of West Virginia, under and by virtue of
16 authority of an amendment to the constitution, which
17 was proposed by Senate Joint Resolution No. 2, adopted
18 the eighth day of February, one thousand nine hun-

19 dred sixty-eight, and was ratified by a vote of the peo-
20 ple at the general election on the fifth day of November,
21 one thousand nine hundred sixty-eight, which is hereby
22 made a part hereof as fully as if set forth at length
23 herein, acknowledges itself to be indebted to and hereby
24 promises to pay to the bearer hereof (in case of a coupon
25 bond) or to _____
26 or assigns (the owner of record, in case of registered
27 bonds) on the _____ day of _____,
28 19_____, in lawful money of the United States of America
29 at the office of the treasurer of the state of West Vir-
30 ginia at the capitol of said state, or, at _____
31 bank in the city of New York, or, at _____
32 bank, at the option of the holder, the sum of _____
33 dollars, with interest thereon at _____ per centum
34 per annum from the date, payable semiannually in like
35 lawful money of the United States of America at the
36 treasurer's office or banks aforesaid, on the first day of
37 _____ and the first day of _____ of
38 each year (and in the case of coupon bonds) according
39 to the tenor of the annexed coupons bearing the fac-
40 simile signature of the treasurer of the state of West Vir-
41 ginia, upon surrender of such coupons. This bond (in case
42 of a coupon bond) may be exchanged for a registered
43 bond of like tenor upon application to the treasurer of
44 the state of West Virginia.

45 To secure the payment of the principal and interest of
46 this bond, the state of West Virginia covenants and agrees
47 with the holder as follows: (1) That this bond shall con-
48 stitute a direct and general obligation of the state of West
49 Virginia; (2) that the full faith and credit of the state is
50 pledged to secure the payment of the principal and in-
51 terest of this bond; (3) that an annual state tax shall be
52 collected in an amount sufficient to pay as it may accrue
53 the interest on this bond and the principal thereof; and
54 (4) that such tax shall be levied in any year only to the
55 extent that the moneys in the state road fund irrevocably
56 set aside and appropriated for and applied to the payment
57 of the interest on and principal of this bond becoming due
58 and payable in such year are insufficient therefor.

59 This bond is hereby made exempt from any taxation
60 by the state of West Virginia, or by any county, district,
61 or municipal corporation thereof.

62 In testimony whereof, witness the manual or facsimile
63 signature of the treasurer of the state of West Virginia,
64 and the manual or facsimile countersignature of the
65 auditor of the state, hereto affixed according to law, dated
66 the _____ day of _____, one
67 thousand nine hundred _____, and
68 the seal of the state of West Virginia or a facsimile
69 thereof.

70 _____
71 Treasurer of the State of West Virginia

72 (SEAL)

73 Countersigned:

74 _____
75 Auditor of the State of West Virginia.

§4. Form of Coupon.

1 The form of coupon shall be substantially as follows,
2 to wit:

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

5 On the first day of _____, 19____, the
6 state of West Virginia will pay to the bearer, in lawful
7 money of the United States of America, at the office of
8 the treasurer of the state, or, at _____
9 bank in the city of New York, or, at _____,
10 at the option of the holder, the sum of _____
11 dollars, the same being semiannual interest on Road
12 Bond No. _____.

13 _____
14 Treasurer of the State of West Virginia

15 The signature of the treasurer to such coupon shall
16 be by his facsimile signature and the coupons shall be
17 numbered in the order of their maturity, from number
18 one consecutively. The bonds and coupons may be signed,
19 as provided in this act, by the present treasurer and
20 auditor, or by any of their respective successors in office,
21 and the bonds signed by the persons now in the office

22 may be sold by the governor or his successor in office
23 without being signed by the successor in office of the
24 present 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
3 books provided for the purpose, in each case giving the
4 date, number, character and amount of obligations issued,
5 and in case of registered bonds, the name and post-office
6 address of the person, firm or corporation registered as
7 the owner thereof.

§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
2 all money from any and all appropriations made by the
3 state from the state road fund for the purpose of paying
4 the interest on such bonds or paying off and retiring
5 the bonds, from transfer and registration fees as herein
6 provided, and from any other source whatsoever which
7 is made liable by law for the payment of the principal
8 of such bonds or the interest thereon.

9 All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all
10 moneys belonging to the fund shall be deposited in the
11 state treasury to the credit thereof.

13 Such fund shall be applied by the treasurer of the
14 state first to the payment of the semiannual interest on
15 such bonds as it shall become due as herein provided.
16 The remainder of the fund shall be turned over by the
17 state treasurer to the state sinking fund commission,
18 whose duty it shall be to invest the same in obligations
19 of the government of the United States, bonds of the
20 state of West Virginia, or any political subdivision thereof:
21 *Provided*, That the bonds or other obligations so purchased by the state sinking fund commission shall mature
22 so as to provide sufficient money to pay off all bonds
23 herein provided to be issued as they become due; and
24 the money so paid into the state road sinking fund under
25 the provisions of this act shall be expended for the pur-
26

27 pose of paying the interest and principal of the bonds
28 hereby provided for as they severally become due and
29 payable and for no other purpose except that the fund
30 may be invested until needed, as herein provided.

§7. Covenants of state.

1 The state of West Virginia covenants and agrees with
2 the holders of the bonds issued pursuant hereto as follows:
3 (1) That such bonds shall constitute a direct and general
4 obligation of the state of West Virginia; (2) that the full
5 faith and credit of the state is hereby pledged to secure
6 the payment of the principal and interest of such bonds;
7 (3) that an annual state tax shall be collected in an
8 amount sufficient to pay as it may accrue the interest on
9 such bonds and the principal thereof; and (4) that such
10 tax shall be levied in any year only to the extent that
11 the moneys in the state road fund irrevocably set aside
12 and appropriated for and applied to the payment of the
13 interest on and principal of said bonds becoming due and
14 payable in such year are insufficient therefor.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at
2 such time or times as he may determine necessary to pro-
3 vide funds for the building and construction of free state
4 roads and highways, as herein provided, upon the rec-
5 ommendation of the West Virginia commissioner of high-
6 ways, and after reviewing the program of the West
7 Virginia department of highways and subject to the limi-
8 tations contained in this act. All sales shall be at not less
9 than par and accrued interest. All interest coupons be-
10 coming payable prior to the sale date shall be cancelled
11 by the treasurer and rendered ineffective, before the
12 delivery of the bonds so sold.

§9. Proceeds paid into separate account in state road fund; expenditures.

1 The proceeds of all sales of bonds herein authorized
2 shall be paid into a separate and distinct account in the
3 state road fund and shall be used and appropriated solely
4 for the building and construction of free state roads and

5 highways provided for by the state constitution and the
6 laws enacted thereunder. Except for such sums neces-
7 sary for current operating balances, such account shall
8 be invested and reinvested in short-term obligations of
9 the United States treasury: *Provided*, That no such in-
10 vestment or reinvestment shall adversely affect the cur-
11 rent operating balances of such account.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the
2 bonds authorized by this act are produced or made shall
3 be the property of the state of West Virginia.

§11. Auditor to be custodian of unsold bonds.

1 The state auditor shall be the custodian of all unsold
2 bonds issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim
2 certificates to be issued to the purchasers of such bonds
3 to be held by them in lieu of permanent bonds. When
4 interim certificates are so issued, they shall become full
5 and legal obligations of the state of West Virginia under
6 all of the provisions of this act just as fully and com-
7 pletely as the permanent bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to
2 the governor for the issuance and sale of such bonds.

**§14. Attorney general or his duly appointed legal representa-
tive to serve as bond counsel.**

1 The attorney general, or his duly appointed legal rep-
2 resentative, shall serve as bond counsel and shall be re-
3 sponsible for the issuance of a final approving opinion
4 regarding the legality of the sale of such bonds.

§15. Approval and payment of all necessary expenses.

1 All necessary expenses, including legal expenses ap-
2 proved by the attorney general, incurred in the execu-
3 tion of this act shall be paid out of state road fund on
4 warrants of the auditor of the state drawn on the state
5 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

1 Personal Services	\$	145,811.00
2 Current Expenses		48,305.00
4 Equipment		6,540.00
5 Total	\$	200,656.00

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

Acct. No. 371

1 Personal Services	\$	12,834.00
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45—*West Virginia Industrial Home
for Girls*

Acct. No. 372

1 Personal Services\$ 23,477.00

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

Acct. No. 373

1 Personal Services\$ 13,205.00

47—*West Virginia State Prison for Women*

Acct. No. 374

1 Personal Services\$ 7,174.00

48—*West Virginia Penitentiary*

Acct. No. 375

1 Personal Services\$ 85,948.00

49—*Huttonsville Correctional Center*

Acct. No. 376

1 Personal Services\$ 247,732.00

50—*West Virginia Children's Home*

Acct. No. 380

1 Personal Services\$ 7,540.00

51—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1 Personal Services\$ 51,634.00

HEALTH AND WELFARE

68—*Fairmont Emergency Hospital*

Acct. No. 425

1 Personal Services\$ 1,485.00

69—*Welch Emergency Hospital*

Acct. No. 426

1 Personal Services\$ 4,028.00

70—*Hopemont State Hospital*

Acct. No. 430

1 Personal Services	\$ 210,317.00
2 Current Expenses	30,625.00
4 Equipment	38,945.00
5 Total	\$ 279,887.00

71—*Pinecrest State Hospital*

Acct. No. 431

1 Personal Services	\$ 156,223.00
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72—*Denmar State Hospital*

Acct. No. 432

1 Personal Services	\$ 72,423.00
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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

2	Early Childhood Education (Public Kindergarten)	\$3,500,000.00
3	Total	\$3,500,000.00

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

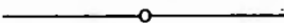
8—*Governor's Office*

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:

HEALTH AND WELFARE

61—*Guthrie Center*

Acct. No. 418

1 Personal Services\$ 41,280.00

62—*Colin Anderson Center*

Acct. No. 419

1 Personal Services\$ 198,198.00

63—*Weston State Hospital*

Acct. No. 420

1 Personal Services\$ 119,580.00

64—*Spencer State Hospital*

Acct. No. 421

1 Personal Services\$ 254,080.00

65—*Huntington State Hospital*

Acct. No. 422

1 Personal Services\$ 124,340.00

66—*Lakin State Hospital*

Acct. No. 423

1 Personal Services\$ 71,080.00

67—*Barboursville State Hospital*

Acct. No. 424

1 Personal Services\$ 57,980.00

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:

EDUCATIONAL

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

Acct. No. 279

1	Personal Services	\$ 1,348,561.00
16	Unclassified	300,000.00
21	Total	\$ 1,648,561.00

28—*West Virginia Board of Regents*

Acct. No. 280

1	Personal Services	\$ 56,837.00
2	Current Expenses	12,041.00
4	Total	\$ 68,878.00

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),

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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