

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 1975
Second Extraordinary Session, 1974

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C-641

FOREWORD

This volume contains the Acts of the First Regular Session of the 62nd Legislature and the Second Extraordinary Session of the 61st Legislature.

Regular Session, 1975

The first regular session of the 62nd Legislature convened on January 8, 1975, and concluded the sixty-day constitutional session at midnight March 8, 1975. However, for the fifth time in the history of the State and the first time since 1891, the session was extended by concurrent resolution, as provided by Section 22, Article VI of the Constitution, through the 14th day of April, 1975, and adjourned sine die on that date.

The resolutions extending the session fixed an agenda for the extension, limiting business to consideration of supplementary appropriation bills, reconsideration of bills disapproved by the Governor, reconsideration of appropriation bills in which the Governor had deleted items or language or reduced amounts, and reports of Conference Committees.

Bills totaling 1,477 were introduced in the two houses during the session—865 House and 612 Senate. In addition to the Budget Bill, there were 133 bills introduced dealing with appropriation of money—bills amending and transferring amounts of previous appropriations and supplementary appropriation bills—81 were House bills and 52 were Senate bills. A total of 99 of these bills became law.

The Legislature passed 223 bills during the session—122 House and 101 Senate. The Governor approved 163 bills and vetoed 60. Vetoes of 55 bills were overridden, 40 of them being supplementary appropriation bills. One supplementary appropriation bill (H. B. 837) was vetoed three times. It was twice amended by the Legislature and resubmitted to the Governor, the last veto coming after adjournment of the session. Three bills vetoed were amended on reconsideration and subsequently approved by the Governor.

The five bills lost through vetoes were H. B. 837 (supplementary appropriation for state aid to schools), H. B. 1443 (payment of claims against the Department of Highways), S. B. 181 (limitation of amount of life insurance on debtors), S. B. 394 (licensing and regulation of radiologic technologists), and S. B. 597 (supplementary appropriation for feasibility study of State Route 219).

There were 105 concurrent resolutions introduced during the session, 62 House and 43 Senate, of which 14 House and nine Senate were adopted. Nineteen House Joint and 15 Senate Joint Resolutions were introduced, proposing amendments to the State Constitution, none of which were adopted. The House had 30 House Resolutions and the Senate had 29 Senate Resolutions, of which 14 House and 20 Senate were adopted.

The Senate failed to pass 79 House bills passed by the House and 90 Senate bills passed by the Senate failed passage by the House. One Senate bill (S. B. 105, redistricting of the State Senate) died in conference.

Second Extraordinary Session, 1974

The Legislature convened for the Second Extraordinary Session of 1974 on June 11, 1974, and adjourned sine die November 15, 1974. During the session two adjournments were taken for more than three days—from July 3 to July 29 and from July 30 to November 12.

There were 130 bills introduced in the two houses—65 House and 65 Senate, dealing with the 30 items of business set forth in the proclamation of the Governor convening the session. The Legislature passed 18 bills—seven House and eleven Senate. The Governor approved 17 bills and permitted one bill to become law without his approval.

There were 35 Concurrent Resolutions introduced during the session, 16 House and 19 Senate, of which three House and two Senate were adopted. Five Joint Resolutions were introduced, proposing amendments to the State Constitution, none of which were adopted. The House had 19 House Resolutions and the Senate had 20 Senate Resolutions, of which 14 House and 17 Senate were adopted.

The Senate failed to pass five House bills passed by the House and one Senate bill communicated to the House was not passed.

One House Bill was rejected by the House on passage (H. B. 132, compensation of the Judges of the Court of Claims) and the Senate rejected one House Bill on passage (H. B. 138, limitation on actions before magistrates which were previously commenced in a justice of the peace court).

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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ERRATA

Page 5, §19-11-5, line 14, second word "of" should be "or".

Pages 26 and 27, §19-16B-8, lines 70 and 81, "fourteen" should be "fifteen".

Page 321, §31-1-56a, line 21, a semicolon and the number (ii) should follow the word "state", and the numbers in lines 23, 26, 31 and 35 should be changed to carry out the new number.

Page 338, §31-18-20b, line 83, "funds" should be "fund".

MEMBERS OF THE SENATE

REGULAR SESSION, 1973

OFFICERS

President—W. T. Brotherton, Jr., Charleston

Clerk—J. C. Dillon, Jr., Hinton

Sergeant at Arms—John E. Howell, Charleston

Doorkeeper—E. L. Bevins, Williamson

District	Name	Address
First	Judith A. Herndon (R)	Wheeling
	*Samuel N. Kusic (R)	Weirton
Second	William L. Gilligan (R)	Sistersville
	*Roy H. Rogerson (R)	Moundsville
Third	Russell G. Beall (D)	Parkersburg
	*J. Frank Deem (R)	St. Marys
Fourth	Robert F. Hatfield (D)	Hurricane
	*Orton A. Jones (R)	Spencer
Fifth	*H. Darrel Darby (D)	Huntington
	Robert R. Nelson (D)	Huntington
Sixth	*John Pat Fanning (D)	Jaeger
	Lafe P. Ward (D)	Williamson
Seventh	J. Robert Rogers (D)	Madison
	*Todd C. Willis (D)	Logan
Eighth	*Mario J. Palumbo (D)	Charleston
	Roland Savilla (D)	St. Albans
Ninth	*Warren R. McGraw (D)	Pineville
	Alan L. Susman (D)	Beckley
Tenth	*Odell H. Huffman (D)	Princeton
	1 Vacancy	
Eleventh	*Patrick R. Hamilton (D)	Oak Hill
	Ralph D. Williams (D)	Rainelle
Twelfth	*Richard Benson (D)	Elkins
	Carl E. Gainer (D)	Richwood
Thirteenth	W. Walter Neeley (D)	Clarksburg
	*William R. Sharpe, Jr. (D)	Weston
Fourteenth	*James L. Davis (D)	Falmont
	William A. Moreland (D)	Morgantown
Fifteenth	C. N. Harman (R)	Grafton
	*J. D. Hinkle, Jr. (R)	Buckhannon
Sixteenth	*William J. Oates, Jr. (D)	Romney
	Robert M. Steptoe (D)	Martinsburg
Seventeenth	*William T. Brotherton, Jr. (D)	Charleston
	Si Galperin, Jr. (D)	Charleston

¹ J. C. Dillon, Jr., resigned January 8, 1975, and was elected Clerk of the Senate.

* Elected in 1972. All others elected in 1974.

(D) Democrats	25
(R) Republicans	8
Total	33

MEMBERS OF THE HOUSE OF DELEGATES

REGULAR SESSION, 1975

OFFICERS

Speaker—Lewis N. McManus, Beckley

Clerk—C. A. Blankenship, Pineville

Sergeant at Arms—Oce W. Smith, Jr., Fairmont

Doorkeeper—Dannie Wingo, Yukon

District	Name	Address
First	Gust G. Brenda, Jr. (D)	Weirton
	George P. Gvoyich (D)	Weirton
Second	Charles Donley (D)	Wellsburg
	Pamela Sue Shuman (D)	Wellsburg
Third	James E. Altmeyer (R)	Wheeling
	Michael J. Moyle (R)	Wheeling
	Paul J. Otte (R)	Wheeling
	George H. Seibert, Jr. (R)	Wheeling
Fourth	Dan Tonkovich (D)	Benwood
	Larry Wiedebusch (D)	Glen Dale
Fifth	Joseph M. Ballouz (D)	New Martinsville
Sixth	Larry D. Swann (R)	Salem
Seventh	Harry E. Moats (R)	Harrisville
Eighth	Joseph P. Albright (D)	Parkersburg
	Stephen C. Bird (D)	Parkersburg
	George E. Farley (D)	Parkersburg
	M. E. Mowery (D)	Parkersburg
	Donza T. Worden (D)	Parkersburg
Ninth	Richard L. Miller (D)	Spencer
Tenth	William J. Artrip (D)	South Side
	Charles H. Damron (D)	Fraziers Bottom
	John E. Fitzgerald (D)	Ravenswood
	Raymond Peak (D)	Hurricane
Eleventh	Robert Lee Childers (D)	Huntington
	Albert C. Esposito (R)	Huntington
	Hugh A. Kincaid (D)	Huntington
	Charles M. Polan, Jr. (D)	Huntington
	G. Michele Prestera (D)	Huntington
Forest Underwood (D)	Huntington	
Twelfth	Burnie R. Crabtree (D)	Genoa
	Walter Rollins (D)	Kenova
Thirteenth	Gerald L. Chafin (D)	Delbarton
	Irvine "K.O." Damron (D)	Lenore
Fourteenth	Ernest C. Moore (D)	Thorpe
	T. J. Scott (D)	Welch
	Lacy Wright, Jr. (D)	Bradshaw
Fifteenth	Charles E. Allen (D)	Mullens
	Dan Burleson (D)	Mullens
	Thomas G. Goodwin (D)	Seth
Sixteenth	Sammy D. Dalton (D)	Harts
	Charles Gilliam (D)	Logan
	Thomas W. Mathis (D)	Logan
	Earl Ray Tomblin (D)	Chapmanville
Seventeenth	John Boettner, Jr. (D)	Charleston
	Jack Canfield (D)	Charleston
	Leon T. Copeland (D)	Charleston
	Phyllis E. Given (D)	Charleston
	Darrell E. Holmes (D)	Charleston
	E. M. Johnson (D)	Charleston
	J. Kemp McLaughlin (D)	Charleston
	John F. Payne (D)	Clendenin
Lyle Sattes (D)	Charleston	

HOUSE OF DELEGATES

District	Name	Address
Eighteenth	Walton Shepherd (D)	Sissonville
	Larry Sonis (D)	Charleston
	Roger W. Tompkins (D)	Charleston
	Martha G. Wehrle (D)	Charleston
	Sterling T. Lewis (D)	Shady Spring
Nineteenth	Lewis N. McManus (D)	Beckley
	Ted T. Stacy (D)	Beckley
	Mrs. W. W. Withrow (D)	Beckley
	C. C. Christian, Jr. (D)	Princeton
	Charles E. Lohr (D)	Princeton
Twentieth	James W. McNeely (D)	Bluefield
	W. Marion Shiflet (D)	Union
	Hawey A. Wells, Jr. (D)	Princeton
	Joseph R. Holliday (D)	Lewisburg
	Sarah Lee Neal (D)	Rainelle
Twenty-first	Tom M. Bell (D)	Oak Hill
	Carroll E. Bumgarner (D)	Oak Hill
	Adam Toney (D)	Oak Hill
Twenty-second	A. L. Sommerville, Jr. (D)	Webster Springs
	Larry A. Tucker (D)	Summersville
Twenty-third	Billy B. Burke (D)	Glenville
	Harold V. Long (D)	Little Birch
Twenty-fourth	George E. Arnold (D)	Weston
Twenty-fifth	Gino R. Colombo (D)	Nutter Fort
	Donald L. Kopp (D)	Clarksburg
	John F. McCuskey (R)	Bridgeport
	C. Paul Wanstreet (D)	Clarksburg
Twenty-sixth	Romeo D. Erdie (D)	Fairmont
	Nick Fantasia (D)	Kingmont
	Samuel A. Morasco (D)	Grafton
	William E. Shingleton (D)	Fairmont
Twenty-seventh	Ralph Brown (D)	Arthur Dale
	Robert W. Dinsmore (D)	Morgantown
	Clyde W. Hagedorn (D)	Morgantown
	Terry T. Jones (R)	Morgantown
Twenty-eighth	James W. Teets (R)	Terra Alta
Twenty-ninth	E. E. Bryan (D)	Phillippi
	Charles R. Shaffer (R)	Buckhannon
Thirtieth	Julia Pitsenberger (D)	Elkins
	Jae Spears (D)	Elkins
Thirty-first	Clyde M. See, Jr. (D)	Moorefield
Thirty-second	Guy Ross Smith (D)	Davis
Thirty-third	Robert D. Harman (R)	Keyser
Thirty-fourth	William T. Milleson (D)	Springfield
Thirty-fifth	Joseph E. Caudle (D)	Martinsburg
	Allen E. Goldstrom (R)	Berkeley Springs
	Luke E. Terry (R)	Martinsburg
Thirty-sixth	James M. Moler (D)	Charles Town

(D) Democrats	86
(R) Republicans	14
Total	100

STANDING COMMITTEES OF THE SENATE

1975

AGRICULTURE

Oates (Chairman), Beall (Vice Chairman), Darby, Hamilton, Hatfield, Steptoe, Susman, Williams, Jones and Rogerson.

BANKING AND INSURANCE

Neeley (Chairman), Williams (Vice Chairman), Benson, Hamilton, Huffman, Moreland, Oates, Rogers, Susman, Ward, Deem, Herndon and Kusic.

CONFIRMATIONS

Benson (Chairman), Galperin (Vice Chairman), Darby, Davis, Hamilton, McGraw, Rogers, Savilla, Willis, Gilligan, Harman and Herndon.

EDUCATION

Nelson (Chairman), Willis (Vice Chairman), Beall, Benson, Galperin, McGraw, Oates, Savilla, Sharpe, Steptoe, Deem, Gilligan, Herndon, and Jones.

ELECTIONS

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

FINANCE

Fanning (Chairman), Susman (Vice Chairman), Beall, Darby, Gainer, Galperin, Hatfield, McGraw, Neeley, Savilla, Sharpe, Williams, Willis, Gilligan, Harman, Hinkle and Rogerson.

HEALTH

Darby (Chairman), Hatfield (Vice Chairman), Davis, Galperin, Hamilton, Moreland, Sharpe, Harman and Jones.

INTERSTATE COOPERATION

Gainer (Chairman), Moreland (Vice Chairman), Neeley, Nelson, Susman, Gilligan and Herndon.

JUDICIARY

Palumbo (Chairman), Oates (Vice Chairman), Benson, Davis, Gainer, Hamilton, Huffman, Moreland, Neeley, Nelson, Rogers, Steptoe, Ward, Willis, Deem, Herndon, Jones and Kusic.

LABOR

Hatfield (Chairman), Davis (Vice Chairman), Darby, Huffman, Sharpe, Steptoe, Ward, Harman and Kusic.

LOCAL GOVERNMENT

Galperin (Chairman), Huffman (Vice Chairman), Beall, Benson, Moreland, Steptoe, Herndon and Hinkle.

SENATE COMMITTEES**MILITARY**

Moreland (Chairman), Savilla (Vice Chairman), Darby, Hatfield, McGraw, Neeley, Williams, Harman and Hinkle.

MINES AND MINING

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

NATURAL RESOURCES

Gainer (Chairman), Benson (Vice Chairman), Beall, Galperin, McGraw, Neeley, Oates, Palumbo, Rogers, Susman, Willis, Herndon, Kusic and Rogerson.

PUBLIC INSTITUTIONS

Sharpe (Chairman), Hatfield (Vice Chairman), Darby, Davis, Nelson, Rogers, Savilla, Steptoe, Gilligan, Harman and Hinkle.

RULES

Brotherton (ex officio Chairman), Fanning, Gainer, Nelson, Palumbo, Sharpe, Susman, Ward, Kusic and Rogerson.

TRANSPORTATION

Willis (Chairman), Hamilton (Vice Chairman), Beall, Davis, Gainer, Hatfield, Huffman, Neeley, Nelson, Palumbo, Savilla, Sharpe, Williams, Deem, Hinkle, Gilligan and Rogerson.

JOINT COMMITTEES**ENROLLED BILLS**

Davis (Chairman), Beall, Rogers, Hinkle and Jones.

GOVERNMENT AND FINANCE

Brotherton (ex officio Chairman), Fanning, Palumbo, Sharpe, Ward, Deem and Rogerson.

JOINT RULES

Brotherton (ex officio Chairman), Ward and Rogerson.

SPECIAL COMMITTEE**FUNDED HEALTH PROGRAM—
CITIZENS CONFERENCE ON STATE LEGISLATURES**

Darby (Chairman), Davis, Hatfield, Jones and Sharpe.

**PURCHASING PRACTICES AND PROCEDURES
COMMISSION**

Brotherton (Chairman), McGraw, Nelson, Gilligan and Harman.

**STANDING COMMITTEES OF THE
HOUSE OF DELEGATES
1975**

AGRICULTURE AND NATURAL RESOURCES

Ballouz (Chairman), Neal (Vice Chairman), Arnold, Artrip, Brenda, Brown, Bryan, Burleson, Chafin, Childers, Damron (13th Dist.), Erdie, Goodwin, Holliday, McLaughlin, Miller, Milleson, See, Smith, Wells, Wiedebusch, Worden, McCuskey, Swann and Terry.

BANKING AND INSURANCE

Moler (Chairman of Banking), Morasco (Chairman of Insurance), Allen (Vice Chairman of Banking), Stacy (Vice Chairman of Insurance), Canfield, Crabtree, Farley, Holmes, Johnson, Milleson, Mowery, Peak, Pitsenberger, Scott, See, Shingleton, Tomblin, Tompkins, Toney, Tonkovich, Tucker, Wright, Goldstrom, Jones and Otte.

CONSTITUTIONAL REVISION

Copeland (Chairman), Bumgarner (Vice Chairman), Albright, Artrip, Bell, Colombo, Dalton, Dinsmore, Donley, Farley, McLaughlin, Mowery, Peak, Prester, Sattes, Shuman, Sonis, Spears, Underwood, Wells, Wright, Goldstrom, McCuskey, Moats and Terry.

EDUCATION

Lohr (Chairman), Damron (10th Dist.) (Vice Chairman), Ballouz, Bird, Brown, Burleson, Dalton, Donley, Erdie, Goodwin, Hagedorn, Lewis, McNeely, Payne, Sonis, Spears, Underwood, Wehrle, Wiedebusch, Worden, Wright, Esposito, Harman, Shaffer and Swann.

FINANCE

Burke (Chairman), Fantasia (Vice Chairman), Allen, Bell, Boetner, Brenda, Bryan, Crabtree, Farley, Fitzgerald, Given, Johnson, Kincaid, Long, Mathis, Moler, Morasco, Neal, Peak, Polan, Wanstreet, Withrow, Altmeyer, Jones and Teets.

HEALTH AND WELFARE

Withrow (Chairman), Tonkovich (Vice Chairman), Arnold, Artrip, Bird, Bumgarner, Caudle, Chafin, Childers, Colombo, Fitzgerald, Gvoyich, Hagedorn, Holliday, Lewis, Miller, Smith, Spears, Tomblin, Wehrle, Wells, Worden, Esposito, Otte and Shaffer.

INDUSTRY AND LABOR

Kopp (Chairman), Moore (Vice Chairman), Allen, Artrip, Bumgarner, Burleson, Copeland, Damron (10th Dist.), Damron (13th Dist.), Fantasia, Gilliam, Given, Gvoyich, Hagedorn, Holmes, McLaughlin, Morasco, Polan, Rollins, Sonis, Tompkins, Wiedebusch, Altmeyer, Harman and Shaffer.

HOUSE COMMITTEES

INTERSTATE COOPERATION

Kopp (Chairman), Christian, Given, Rollins, Withrow, Harman and Terry. (The Speaker is a nonvoting member.)

JUDICIARY

Sommerville (Chairman), See (Vice Chairman), Albright, Caudle, Christian, Colombo, Copeland, Dinsmore, Gilliam, Kopp, Moore, Pitsenberger, Prestera, Sattes, Scott, Shepherd, Shingleton, Shuman, Stacy, Tompkins, Tucker, McCuskey, Moats, Moyle and Terry.

POLITICAL SUBDIVISIONS

Given (Chairman), Wanstreet (Vice Chairman), Albright, Bell, Brown, Canfield, Chafin, Damron (13th Dist.), Dinsmore, Gvoyich, Kincaid, Lewis, Mathis, McLaughlin, McNeely, Mowery, Shepherd, Shuman, Sonis, Toney, Tonkovich, Wells, Esposito, Moyle and Otte.

ROADS AND TRANSPORTATION

Donley (Chairman), Mowery (Vice Chairman), Arnold, Boettner, Bumgarner, Childers, Christian, Damron (13th Dist.), Erdie, Fitzgerald, Holliday, Long, Milleson, Payne, Prestera, Sattes, Smith, Tomblin, Toney, Underwood, Wanstreet, Wehrle, Jones, Moats and Swann.

RULES

McManus (ex officio Chairman), Brenda, Burke, Fantasia, Goodwin, Kopp, Lohr, Moler, Rollins, Shiflet, Sommerville and Seibert.

STATE AND FEDERAL AFFAIRS

Scott (Chairman), Payne (Vice Chairman), Bird, Bryan, Canfield, Caudle, Childers, Crabtree, Dalton, Damron (10th Dist.), Gilliam, Holmes, Johnson, Kincaid, Long, McNeely, Miller, Neal, Shepherd, Smith, Tomblin, Goldstrom, Harman, Moyle and Teets.

JOINT COMMITTEES

ENROLLED BILLS

Christian (Chairman), Holmes, Spears, Goldstrom and Swann.

GOVERNMENT AND FINANCE

McManus (ex officio Chairman), Burke, Lohr, Shiflet, Sommerville, Seibert and Teets.

JOINT RULES

McManus (ex officio Chairman), Shiflet and Seibert.

SELECT COMMITTEE ON REDISTRICTING

Dinsmore (Chairman), Peak (Vice Chairman), Albright, Ballouz, Boettner, Brenda, Canfield, Chafin, Holmes, Lohr, Mathis, Moler, Moore, Pitsenberger, Polan, Rollins, See, Shingleton, Stacy, Toney, Tonkovich, Tucker, Altmeyer, Moats and Teets.

SPECIAL COMMITTEES

Majority Caucus

Shiflet (Chairman), Canfield and Chafin (Associate Chairmen).

**FUNDED HEALTH PROGRAM—
CITIZENS CONFERENCE ON STATE LEGISLATURES**

Withrow (Chairman), Artrip, Esposito, Wehrle and Wells.

**PURCHASING PRACTICES AND PROCEDURES
COMMISSION**

McManus (Chairman), Polan, Shingleton, Moats and Seibert.

MINORITY ORGANIZATION

Minority Leader—George H. Seibert, Jr.

Caucus Chairman—Harry E. Moats

Minority Whip—Terry T. Jones

Minority chairmen on Standing Committees:

Agriculture and Natural Resources—Larry D. Swann

Education—Robert D. Harman

Finance—James W. Teets

Health and Welfare—Charles R. Shaffer

Judiciary—Harry E. Moats

Political Subdivisions—Luke E. Terry

LEGISLATURE OF WEST VIRGINIA

ACTS

REGULAR SESSION, 1975

CHAPTER 1

(H. B. 726—By Mrs. Neal and Mr. Seibert)

[Passed February 22, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article fourteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment of programs of services for the aging by the West Virginia commission on aging; appropriations and contributions by county courts and municipalities for the establishment of such programs.

Be it enacted by the Legislature of West Virginia:

That section nine, article fourteen, 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 14. STATE COMMISSION ON AGING.

§29-14-9. Programs of services for the aging.

1 The commission may establish, under the administration
2 of the director, in selected areas and local communities of
3 the state, programs of services for the aging. Particular
4 emphasis shall be given to services designed to foster continued
5 participation of older people in family and community life and
6 to prevent, insofar as possible, the onset of dependency and
7 the need for long-term institutional care. Any allocations by
8 the commission of appropriations for such programs may be
9 made contingent upon local appropriations or gifts in money

10 or in kind for the support of such programs. The county court
 11 of any county or governing body of any municipality in this
 12 state may appropriate and expend money for establishing and
 13 maintaining such programs. Funds so appropriated by the
 14 county court or by the governing body of any municipality in
 15 this state may be contributed from time to time to any
 16 committee or organization approved by the commission on
 17 aging for the purposes authorized by this section.

†

CHAPTER 2

(S. B. 319—By Mr. Savilla and Mr. Oates)

[Passed March 6, 1975; 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-d, relating to definitions, labeling of imitation products; prohibiting certain offenses relating thereto; and providing to penalties therefor.

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-d, to read as follows:

ARTICLE 2D. IMITATION HONEY PRODUCT LAW.

§19-2D-1. Definitions.

§19-2D-2. Labeling.

§19-2D-3. Penalties.

§19-2D-1. Definitions.

1 “Honey” means the nectar and saccharine exudation
 2 of plants as gathered, modified and stored in comb by
 3 honey bees.

4 “Label” means all written, printed or graphic informa-
 5 tion upon, attached to or accompanying product contain-
 6 ers or wrappers.

7 “Package” means any container or wrappings in which

8 a product is enclosed for use in the delivery or display
9 of that product to retail purchasers.

10 "Person" means any individual, firm, corporation, as-
11 sociation or any other group of people or business unit
12 whether or not they are incorporated.

§19-2D-2. Labeling.

1 (a) No person shall manufacture, package, label, sell,
2 keep for sale, expose or offer for sale, any article or
3 product with the word "honey" either singularly or in
4 context with other words used in the packaging, labeling
5 or advertising of the product if the product is not
6 honey.

7 (b) No person shall manufacture, sell, expose or offer
8 for sale any compound or mixture labeled as and for
9 honey which shall be made up of honey mixed with any
10 other ingredient or substance.

§19-2D-3. Penalties.

1 Any person who violates any of the provisions of this
2 article, shall be guilty of a misdemeanor, and, upon con-
3 viction thereof, shall, for the first offense, be fined not
4 more than one hundred dollars, and upon conviction for
5 each subsequent offense be fined not more than five hun-
6 dred dollars.

⋮

CHAPTER 3

(H. B. 967—By Mrs. Withrow and Mr. Balleux)

—

[Passed February 21, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and five, article eleven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to standards for milk and milk products and dairy products; permits for the manufacture or purchase of milk and cream.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. MILK AND MILK PRODUCTS.

§19-11-3. Standards.

§19-11-5. Permit for the manufacture or purchase of milk and cream.

§19-11-3. Standards.

1 (a) The commissioner shall establish definitions and
2 standards by regulation, pursuant to the provisions of chapter
3 twenty-nine-a of the code of West Virginia, one thousand nine
4 hundred thirty-one, as amended, for milk and milk products
5 and dairy products, including but not limited to milk, skimmed
6 milk, buttermilk, cultured buttermilk, condensed and sweetened
7 condensed milk, condensed skimmed milk, sweetened condens-
8 ed skimmed milk, dried milk, dried skimmed milk, sweet
9 cream, butter, cheese, half and half, cottage cheese, creamed
10 cottage cheese, homogenized milk, vitamin D milk, ice cream,
11 ice milk and mellorine except that:

12 (1) No standard so established shall be less than that for the
13 same item as established by the food and drug administration
14 of the federal department of health, education and welfare; and

15 (2) The terms "pasteurization" and "pasteurized" and
16 similar terms shall refer to the process of heating every
17 particle of milk or milk products to at least one hundred
18 forty-five degrees Fahrenheit, and holding it at such tem-
19 perature continuously for at least thirty minutes, or to at
20 least one hundred sixty-one degrees Fahrenheit, and holding
21 it at the same temperature continuously for at least fifteen
22 seconds, in approved and properly operated equipment:
23 *Provided*, That nothing contained in this definition shall be
24 construed as barring any other process which has been
25 demonstrated to be equally efficient and which is approved
26 by the commissioner of agriculture and state director of
27 health.

28 (b) It shall be unlawful for any person to manufacture,
29 offer or expose for sale or exchange, or have in his possession
30 with intent to sell, offer or expose for sale or exchange, any
31 milk or milk products that do not conform to rules and
32 regulations issued under subsection (a) and by the West
33 Virginia board of health.

§19-11-5. Permit for the manufacture or purchase of milk and cream.

1 (a) Each person, firm, partnership, corporation, company,
2 cooperative or association receiving, buying, paying for milk or
3 cream, regardless of the method of settlement, shall secure from
4 the commissioner of agriculture a permit for each and every
5 place where milk or cream is received by weight or measure.

6 (b) Application for a permit shall be made to the com-
7 missioner on forms supplied by the commissioner.

8 (c) Each application for a permit shall be accompanied
9 by a fee of five dollars.

10 (d) Permits shall expire on the thirtieth day of June,
11 following date of issue unless sooner revoked by the commis-
12 sioner.

13 (e) The commissioner may revoke any permit when provis-
14 ions of this article of the regulations issued thereunder have
15 been violated, after a hearing in accordance with the provisions
16 of article five, chapter twenty-nine-a of the code of West Vir-
17 ginia, one thousand nine hundred thirty-one, as amended.

18 (f) Permits shall be procured by such persons, firms,
19 partnerships, corporations, companies, cooperatives or associa-
20 tions manufacturing, processing or distributing milk, milk
21 products and dairy products in the state except that this
22 provision shall not apply to individuals buying milk or milk
23 products or dairy products for private use, or to retail stores,
24 hotels, restaurants or drug stores who do not operate a
25 dispensing freezer for the manufacture of frozen desserts for
26 sale to the general public.

CHAPTER 4

(H. B. 940—By Mrs. Neal and Mr. See)

[Passed February 17, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact article fifteen-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to agricultural liming materials; definitions; required registration and fees therefor; required labeling; toxic materials, prohibiting as adulterant; semiannual reporting required and tonnage fees assessed; inspection, sampling and analysis required; providing for stop sale and seizure orders and registration cancellation; deficiency assessments; regulations; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article fifteen-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 15A. WEST VIRGINIA AGRICULTURAL LIMING MATERIALS LAW.

- §19-15A-1. Definitions of words and terms.
- §19-15A-2. Registration of brands; registration fees.
- §19-15A-3. Required labeling; toxic materials prohibited.
- §19-15A-4. Inspection fee; report of tonnage.
- §19-15A-5. Inspection, sampling, analysis.
- §19-15A-6. Stop sale orders; cancellation of registration; seizure of materials.
- §19-15A-7. Deficiency assessment, tolerances and payment.
- §19-15A-8. Regulations.
- §19-15A-9. Lime fund.
- §19-15A-10. Penalties.

§19-15A-1. Definitions of words and terms.

- 1 As used in this article:
- 2 (a) "Brand" means the term, designation, trademark, pro-
- 3 duct name or other specific designation under which indi-
- 4 vidual liming materials are offered for sale.
- 5 (b) "Bulk" means liming materials in nonpackaged form.
- 6 (c) "Burnt lime" means a material, made from limestone

7 which consists essentially of calcium oxide or a combination of
8 calcium oxide with magnesium oxide.

9 (d) "Calcium carbonate equivalent" means the acid neu-
10 tralizing capacity of agricultural liming material expressed as
11 the weight percentage of calcium carbonate.

12 (e) "Commissioner" means the commissioner of agriculture
13 of the state of West Virginia or his duly authorized agent.

14 (f) "Fineness" means the percentage by weight of the ma-
15 terial which will pass United States standard sieves of speci-
16 fied sizes.

17 (g) "Hydrated lime" means a material, made from burnt
18 lime, which consists essentially of calcium hydroxide or a
19 combination of calcium hydroxide with magnesium oxide and
20 magnesium hydroxide, or both magnesium oxide and magne-
21 sium hydroxide.

22 (h) "Label" means any written or printed matter on or at-
23 tached to the package or on the delivery ticket which accom-
24 panies bulk shipments.

25 (i) "Limestone" means a material consisting essentially of
26 calcium carbonate with magnesium carbonate capable of neu-
27 tralizing soil acidity.

28 (j) "Liming materials" means a product whose calcium and
29 magnesium compounds are used in agriculture because of their
30 capability in neutralizing soil acidity.

31 (k) "Marl" means a granular or loosely consolidated earth-
32 ly material composed largely of sea shell fragments and calcium
33 carbonate.

34 (l) "Percent or percentage" means percent or percentage
35 by weight.

36 (m) "Person" means any individual, partnership, associa-
37 tion, fiduciary, firm, corporation or any organized group of
38 persons whether incorporated or not.

39 (n) "Slag" means any industrial waste or by-product con-
40 taining calcium or calcium and magnesium in forms that will
41 neutralize soil acidity.

42 (o) "Ton" means a weight of two thousand pounds avoirdupois.
43

44 (p) "Weight" means the weight of undried liming material
45 as offered for sale.

§19-15A-2. Registration of brands; registration fees.

1 (a) No agricultural liming material shall be sold or offered
2 for sale in the state unless it has been registered with the com-
3 missioner.

4 (b) Application for registration shall be made to the com-
5 missioner on forms approved or supplied by the commissioner.
6 Each separately identified liming product shall be registered
7 before being distributed in the state.

8 (c) The commissioner shall collect a fifteen dollar registra-
9 tion fee for each brand registered.

10 (d) All registrations shall expire at the end of the calen-
11 dar year of issue unless sooner revoked by the commissioner
12 as provided in section six of this article.

§19-15A-3. Required labeling; toxic materials prohibited.

1 (a) No person shall sell, offer to sell, or expose for
2 sale in the state any agricultural liming materials which do
3 not have affixed to the outside of each package in a con-
4 spicuous manner a plainly printed, stamped or otherwise
5 marked label, tag or statement, or in the case of bulk sales,
6 a delivery invoice including at least the following:

7 (1) The name and principal business address of the
8 manufacturer or distributor.

9 (2) The brand name of the liming material.

10 (3) The identification of the product as to the type of
11 liming material.

12 (4) The net weight of the liming material.

13 (5) The minimum percentage of calcium oxide and mag-
14 nesium oxide or calcium carbonate and magnesium car-
15 bonate.

16 (6) The calcium carbonate equivalent as determined by
17 methods prescribed by the association of official analytical
18 chemists.

19 (7) The minimum percent by weight passing through
20 United States standard sieves.

21 (b) A copy of the statement provided for in subsection
22 (a) shall be posted for each brand sold in bulk at each site
23 where purchase orders are accepted or from which deliveries
24 for such liming materials are made.

25 (c) No information or statement shall appear on any
26 package, label, delivery invoice or advertisement which gives
27 a false or misleading impression to the purchaser as to the
28 quality, analysis, type or composition of the liming material.

29 (d) When liming material has been adulterated sub-
30 sequent to packaging, labeling or loading thereof and before
31 delivery has been made to the consumer, conspicuous, plainly
32 worded notice to that effect shall be affixed by the vendor to
33 the package or delivery invoice to identify the kind and
34 degree of adulteration therein: *Provided*, That no liming
35 material shall be sold or offered for sale in the state which
36 contains toxic materials in quantities injurious to plants or
37 animals when applied according to directions.

38 (e) If the commissioner should find, after public hearing
39 following due notice, that a requirement for listing the
40 percentage of calcium and magnesium in elemental form
41 would help in reducing among the states conflicting labeling
42 requirements and would not impose an economic hardship on
43 purchasers of liming materials, he may issue regulations
44 which shall require the minimum percentage of calcium oxide
45 and magnesium oxide or calcium carbonate and magnesium
46 carbonate to be expressed as:

47 Total calcium (Ca) ----- percent
48 Total magnesium (Mg) ----- percent

49 However, the effective date of such regulation shall be at
50 least six months after the date of issue and for an additional
51 two year period the equivalent of calcium and magnesium

52 may also be shown in the form of calcium oxide and mag-
53 nesium oxide or calcium carbonate and magnesium carbonate.

§19-15A-4. Inspection fee; report of tonnage.

1 (a) Within thirty days following the thirtieth day of June
2 and the thirty-first day of December of each year, each regis-
3 trant shall submit on a form furnished by the commissioner a
4 summary of tons of each liming material sold by him in the
5 state during the previous six months period. Such statement
6 shall be accompanied by payment of an inspection fee at the
7 rate of three cents per ton. A penalty of ten percent of the
8 fees due shall be assessed a registrant whose report is not re-
9 ceived within the specified period.

10 (b) The commissioner shall publish and distribute at least
11 annually to each liming material registrant and other interest-
12 ed persons, a composite report showing the net tons of liming
13 material sold in this state during the preceding period. This
14 report shall in no way divulge information that can be related
15 to the business of any individual registrant.

§19-15A-5. Inspection, sampling, analysis.

1 (a) It shall be the duty of the commissioner to inspect,
2 sample, analyze and test liming materials distributed within the
3 state as he may deem necessary to determine whether such
4 liming materials are in compliance with the provisions of this
5 article and for this purpose the commissioner is authorized to
6 enter upon any public or private premises or carriers during
7 regular business hours to inspect and sample liming materials,
8 and to inspect records related to their distribution.

9 (b) The methods of analysis and sampling shall be those
10 approved by the association of official analytical chemists and
11 the American society for testing and materials.

12 (c) The results of official analyses of liming materials shall
13 be distributed by the commissioner as he may deem neces-
14 sary to carry out the enforcement of this article.

15 (d) The commissioner shall on request, provide the regis-
16 trant with a portion of the official sample.

§19-15A-6. Stop sale orders; cancellation of registration; seizure of materials.

1 (a) The commissioner is authorized to cancel the registra-
2 tion of any brand of liming material and to refuse the applica-
3 tion for registration of any brand of liming material upon be-
4 ing presented satisfactory evidence that the registrant has used
5 fraudulent or deceptive practices in the evasion or attempted
6 evasion of the provisions of this article or any regulation issued
7 thereunder: *Provided*, That no registration shall be revoked
8 or refused until the registrant has been given an opportunity
9 to appear for a hearing before the commissioner.

10 (b) The commissioner may issue a “stop sale, use, or re-
11 moval” order to the owner or custodian of any lot of liming
12 material when he finds said liming material is being offered or
13 exposed for sale in violation of any of the provisions of this
14 article or the regulations issued thereunder and such order
15 shall remain in effect until it has been rescinded in writing by
16 the commissioner: *Provided*, That the commissioner shall not
17 rescind any “stop sale, use or removal” order until the re-
18 quirements of this article have been complied with and all
19 costs and expenses incurred in connection therewith have been
20 paid.

21 (c) Any liming material found to be in violation of the pro-
22 visions of this article shall be subject to seizure on complaint
23 of the commissioner to a court of competent jurisdiction in the
24 county in which such liming material is located. If the court
25 orders the condemnation of such material it shall be disposed
26 of in a manner consistent with the quality of the liming ma-
27 terial and the laws of the state. In no instance shall the dis-
28 position of said liming material be ordered by the court with-
29 out first giving the claimant an opportunity to apply to the
30 court for release of said liming material or for permission to
31 process or relabel said liming material to bring it in com-
32 pliance with this article.

§19-15A-7. Deficiency assessment, tolerances and payment.

1 A registrant shall pay to the commissioner a penalty assessed
2 in accordance with the provisions of this section for each lot of

3 liming material found to be deficient in its guaranteed analysis.
4 For the purpose of assessing such penalties, the commissioner
5 shall establish values by regulation for the neutralizing qualities
6 and fineness of liming materials and such penalties shall be
7 computed by multiplying times three the extent of the deficiency
8 found by the established value. Such penalty is to be paid to the
9 user consumer, if he be known, with receipts for same being
10 mailed or delivered to the commissioner as evidence of the
11 penalty having been paid. If said user consumer is not known
12 the penalty shall be paid to the commissioner.

§19-15A-8. Regulations.

1 The commissioner is authorized to issue, after public hearing
2 following due notice, and in accordance with the provisions
3 of chapter twenty-nine-a of this code, such regulations in addi-
4 tion to any others mentioned elsewhere in the article, as he
5 deems necessary to implement the full intent and meaning of
6 this article, including but not limited to minimum acceptable
7 sieve analysis classifications and minimum acceptable calcium
8 carbonate equivalents for agricultural limestone, burnt lime,
9 hydrated lime, marl and slag.

§19-15A-9. Lime fund.

1 All fees collected by the commissioner under the provisions
2 of this article shall be placed in a special fund with the state
3 treasurer to be known as the lime inspection fund and shall be
4 expended on order of the commissioner.

§19-15A-10. Penalties.

1 Any person violating any of the provisions of this article
2 or the regulations issued thereunder shall be guilty of a
3 misdemeanor, and, upon conviction thereof, shall be fined
4 not less than one hundred nor more than two hundred dollars
5 for the first offense and not less than two hundred nor more
6 than five hundred dollars for each subsequent offense.

CHAPTER 5

(H. B. 1035—By Mr. Milleson and Mr. Childers)

[Passed February 21, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and four, article sixteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to agricultural and forest seeds; registration; fees; and prohibitions.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article sixteen, 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 16. AGRICULTURAL AND FOREST SEEDS.

§19-16-3. Certificate of registration; seed fees; payment of fees; disposition of funds.

§19-16-4. Prohibitions.

§19-16-3. Certificate of registration; seed fees; payment of fees; disposition of funds.

1 (a) No person shall sell, offer for sale or expose for sale
2 or distribution in this state any agricultural, forest or vegetable
3 seeds or seed potatoes without a certificate of registration is-
4 sued by the commissioner.

5 (b) Application for a certificate of registration shall be
6 made in writing to the commissioner on forms provided by
7 the commissioner. Each application shall contain:

8 (1) The name and business address of the person applying
9 for the certificate;

10 (2) A list of the seeds to be offered for sale;

11 (3) A consent for the commissioner to inspect and audit
12 all sales invoices and records; and

13 (4) Any other necessary information prescribed by the com-
14 missioner.

15 (c) The commissioner shall require an annual fee of one
16 dollar for each certificate of registration so issued.

17 (d) The commissioner shall cancel any certificate of regis-
18 tration upon receiving satisfactory evidence that any provi-
19 sions of this article or any rules and regulations issued by the
20 commissioner under the auspices of this article have been
21 violated.

22 (e) Certificates of registration issued by the commissioner
23 shall expire at the end of the calendar year of issue next after
24 date of issue unless sooner revoked as herein provided.

25 (f) Any person who sells, offers to sell or exposes for sale
26 or distribution any such seed shall report to the commissioner,
27 on forms prescribed by the commissioner, on or before the
28 fifteenth day of April, July, October and January of each year
29 the net pounds of seeds sold by kind or variety and shall pay a
30 state seed fee on such poundage as provided in the following
31 schedule:

32 (1) For forest, tobacco, alfalfa, clovers and all grass or
33 mixtures of any of these, and all vegetable seeds, except those
34 packaged in units of eight ounces or less and sold from display
35 units, ten cents for each one hundred pounds.

36 (2) For all other agricultural seeds, five cents for each one
37 hundred pounds.

38 (3) For seed potatoes, two cents for each one hundred
39 pounds.

40 (4) For vegetable seeds packaged in containers of eight
41 ounces or less and sold from display units, one dollar per
42 display unit which shall be paid through the purchase of seed
43 stamps from the commissioner with such seed stamps being at-
44 tached in a conspicuous place to each and every display unit.

45 (g) A dealer shall not be required to register or pay the
46 seed fee on any agricultural, forest, or vegetable seed, or seed
47 potato which he can prove was currently registered and with
48 the fees paid by a person entitled to do so.

49 (b) All moneys collected in the enforcement of this article
50 shall be deposited in a special revenue fund with the state
51 treasurer, and shall be expended on order of the commissioner.

§19-16-4. Prohibitions.

1 (a) It shall be unlawful for any person to sell, offer for sale
2 or expose for sale any agricultural, forest or vegetable seed
3 within this state:

4 (1) Unless the test to determine the percentage of germina-
5 tion required by section two of this article shall have been
6 completed within the test period prescribed in regulations is-
7 sued by the commissioner;

8 (2) Not labeled in accordance with the provisions of this
9 article or which has false or misleading labeling;

10 (3) Which has been the subject of false or misleading ad-
11 vertisement;

12 (4) Containing prohibited weed seeds, subject to tolerances
13 and methods of determination prescribed in the rules and
14 regulations issued under the auspices of this article;

15 (5) Containing more than two percent by weight of weed
16 seed.

17 (b) It shall be unlawful for any person within this state:

18 (1) To detach, alter, deface or destroy any label provided
19 for in this article or the rules and regulations issued thereun-
20 der, or to alter or substitute seed in a manner that may defeat
21 the purposes of this article;

22 (2) To disseminate any false or misleading advertisement
23 concerning agriculture, forest, vegetable or potato seed in any
24 manner or by any means;

25 (3) To hinder or obstruct in any way any authorized person
26 in the performance of his duties under this article;

27 (4) To fail to comply with a "stop sale" order.

CHAPTER 6

(Com. Sub. for H. B. 1047—Originating in the House Committee on Finance)

[Passed February 25, 1975; 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 sixteen-b, relating to the use and application of pesticides to control pests, declaration of purpose, definitions, commissioner of agriculture to administer and enforce, promulgation of regulations, limitations, publishing of information and courses of instruction, licensing and certification of pesticide users and dealers, license renewals, retesting, license fees, financial security required, cooperative agreements, prohibited acts, pesticide accidents and damage claims, record keeping requirements, reciprocity, exemptions, improper storage and disposal of pesticides and pesticide containers, legal recourse, penalties, subpoenas, enforcement and fee disposition.

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 sixteen-b to read as follows:

ARTICLE 16B. WEST VIRGINIA PESTICIDE USE AND APPLICATION ACT.

- §19-16B-1. Title.
- §19-16B-2. Declaration of purpose, legislative findings.
- §19-16B-3. Definitions.
- §19-16B-4. Administration and enforcement of article; adoption of regulations, limitations.
- §19-16B-5. Information; courses of instruction.
- §19-16B-6. Classification of licenses; certification standards.
- §19-16B-7. Certification requirements; prohibition.
- §19-16B-8. Licensed applicator's license.
- §19-16B-9. Application of this article to governmental entities; licensed public operator's license required; liability.
- §19-16B-10. Private and commercial applicators license and certificate.
- §19-16B-11. Cooperative agreements.
- §19-16B-12. License renewals.
- §19-16B-13. Pesticide dealers.
- §19-16B-14. Unlawful acts or grounds for denial, suspending or revocation of a license, permit or certification.

- §19-16B-15. Financial security required of licensed applicator licensee.
- §19-16B-16. Pesticide accidents; incidents or loss.
- §19-16B-17. Licensee to keep records; duration; submission to commissioner.
- §19-16B-18. Reciprocal agreement.
- §19-16B-19. Exemptions.
- §19-16B-20. Storing and disposal of pesticides and pesticide containers.
- §19-16B-21. Legal recourse.
- §19-16B-22. Penalties.
- §19-16B-23. Subpoenas.
- §19-16B-24. Enforcement.
- §19-16B-25. Fees.
- §19-16B-26. Severability.

§19-16B-1. Title.

- 1 This article shall be known by the short title of "the West
- 2 Virginia pesticide use and application act of 1975".

§19-16B-2. Declaration of purpose, legislative findings.

- 1 The purpose of this article is to regulate in the public interest
- 2 the use and application of pesticides. The Legislature finds that
- 3 pesticides perform a vital function in modern society because
- 4 they control insects, fungi, nematodes, rodents, and other
- 5 pests which ravage and destroy our food and fiber, which
- 6 serve as vectors of disease, and which otherwise constitute
- 7 a nuisance in the environment or the home; they control
- 8 weeds which compete in the production of foods and fiber
- 9 and which otherwise are unwanted elements in our environ-
- 10 ment; and they regulate plant growth to enhance both the
- 11 quality and quantity of our food and fiber and to facilitate
- 12 its harvest. Pesticides, however, may be rendered ineffective,
- 13 may cause injury to man or may cause unreasonable adverse
- 14 effects on the environment if not properly used. They may
- 15 injure man or animals either by direct poisoning or by the
- 16 gradual accumulation of pesticide residues in their tissues.
- 17 Crops or other plants may be affected by their improper use.
- 18 The drifting or washing of pesticides into streams or lakes
- 19 may cause appreciable damage to aquatic life. And, a pesticide
- 20 applied for the purpose of killing pests in a crop, which is
- 21 not itself injured by the pesticide, may drift and injure other
- 22 crops or nontarget organisms with which it comes in contact.
- 23 Therefore, it is deemed necessary to provide for regulation of
- 24 the use and application of such pesticides.

§19-16B-3. Definitions.

1 As used in this article:

2 "Agricultural commodity" means any plant, or part thereof,
3 or animal, or animal product, produced by a person (includ-
4 ing farmers, ranchers, vineyardists, plant propagators, Christ-
5 mas tree growers, aquaculturists, floriculturists, orchardists,
6 foresters, or other comparable persons) primarily for sale,
7 consumption, propagation, or other use by man or animals.

8 "Animal" means all vertebrate and invertebrate species,
9 including but not limited to man and other mammals, birds,
10 fish and shellfish.

11 "Certified applicator" means any person who is certified
12 under this article to use or supervise the use of any restricted
13 use pesticides.

14 "Commercial applicator" means a certified applicator
15 (whether or not he is a private applicator with respect to
16 some uses) who uses or supervises the use of any pesticide
17 which is classified for restricted use for any purpose or on
18 any property other than as defined under the definition of
19 "private applicator."

20 "Commissioner" means the commissioner of agriculture of
21 the state of West Virginia and his duly authorized representa-
22 tives.

23 "Defoliant" means any substance or mixture of substances
24 intended for causing the leaves of foliage to drop from a
25 plant, with or without causing abscission.

26 "Desiccant" means any substance or mixture of substances
27 intended for artificially accelerating the drying of plant tissue.

28 "Device" means any instrument or contrivance (other than
29 a firearm) which is intended for trapping, destroying, repelling
30 or mitigating any pest or any other form of plant or animal
31 life (other than man and other than bacteria, viruses or
32 other microorganisms on or in living man or other living
33 animals); but not including equipment used for the application
34 of pesticides when sold separately therefrom.

35 "Direct supervision" means that unless otherwise pre-
36 scribed by its labeling, a pesticide shall be considered to be
37 applied under the direct supervision of a certified applicator
38 if it is applied by a competent person acting under the instruc-
39 tions and control of a certified applicator who is available
40 if and when needed, even though such certified applicator is
41 not physically present at the time and place the pesticide is
42 applied.

43 "Environment" includes water, air, land and all plants and
44 man and other animals living therein, and the interrelation-
45 ships which exist among these.

46 "Fungus" means any nonchlorophyll-bearing thallophytes
47 (that is, any nonchlorophyll-bearing plant of a lower order
48 than mosses and liverworts), as for example, rust, smut,
49 mildew, mold, yeast and bacteria, except those on or in
50 living man or other animals and except those on or in pro-
51 cessed food, beverages, or pharmaceuticals.

52 "Insect" means any of the numerous small invertebrate
53 animals generally having the body more or less obviously
54 segmented, for the most part belonging to the class insecta,
55 comprising six-legged, usually winged forms, as for example,
56 beetles, bugs, bees, flies and to other allied classes of arthri-
57 pods whose members are wingless and usually have more than
58 six legs, as for example, spiders, mites, ticks, centipedes and
59 wood lice.

60 "Land" means all land and water areas, including airspace
61 and all plants, animals, structures, buildings, contrivances and
62 machinery, appurtenant thereto or situated thereon, fixed or
63 mobile, including any used for transportation.

64 "Licensed applicator" means any person who owns or
65 manages a pesticide application business which is engaged
66 in the business of applying pesticides upon the lands of
67 another (whether or not such person applies restricted use
68 pesticides).

69 "Licensed public operator" means a licensed applicator
70 who applies "restricted use pesticides" as an employee of a
71 state agency, municipal corporation or other governmental

72 agency. This term does not include employees who work
73 only under the direct supervision of a licensed public operator.

74 "Nematode" means invertebrate animals of the phylum
75 nemathelminthes and class nematoda, that is, unsegmented
76 round worms with elongated, fusiform or sac-like bodies
77 covered with cuticle and inhabiting soil, water, plants or
78 plant parts; may also be called nemas or eelworms.

79 "Permit" means a written certificate, issued by the com-
80 missioner authorizing the use of certain restricted use pesticides
81 or state restricted use pesticides.

82 "Person" means any individual, partnership, association,
83 fiduciary, corporation or any organized group of persons
84 whether incorporated or not.

85 "Pest" means any insect, rodent, nematode, fungus, weed;
86 or any other form of terrestrial or aquatic plant or animal
87 life or virus, bacteria, or other microorganism (except viruses,
88 bacteria or other microorganisms on or in living man or
89 other living animals) which is declared to be a pest by the
90 commissioner.

91 "Pesticide" means any substance or mixture of substances
92 intended for preventing, destroying, repelling or mitigating
93 any pest; any substance or mixture of substances intended
94 for use as a plant regulator, defoliant or desiccant.

95 "Pesticide dealer" means any person who sells, whole-
96 sales, distributes, offers or exposes for sale, exchanges,
97 barter or gives away within or into this state any restricted
98 use pesticide.

99 "Plant regulator" means any substance or mixture of sub-
100 stances, intended, through physiological action, for accelerat-
101 ing or retarding the rate of growth or rate of maturation, or
102 for otherwise altering the behavior of ornamental or crop
103 plants or the produce thereof, but shall not include substances
104 to the extent that they are intended as plant nutrients, trace
105 elements, nutritional chemicals, plant inoculants or soil
106 amendments.

107 "Private applicator" means a certified applicator who uses
108 or supervises the use of any pesticide which is classified for

109 restricted use for purposes of producing any agricultural com-
110 modity on property owned or rented by him or his employer
111 or (if applied without compensation other than trading of
112 personal services between producers of agricultural commodi-
113 ties) on property of another person.

114 "Restricted use pesticide" means any pesticide classified for
115 restricted use by the administrator, United States environ-
116 mental protection agency.

117 "State restricted pesticide use" means any pesticide use
118 which, when used as directed or in accordance with a wide-
119 spread and commonly recognized practice, the commissioner
120 determines, subsequent to a hearing, requires additional re-
121 strictions for that use to prevent unreasonable adverse effects
122 on the environment including man, land, beneficial insects,
123 animals, crops and wildlife, other than pests.

124 "Unreasonable adverse effects on the environment" means
125 any unreasonable risk to man or the environment, taking into
126 account the economic, social and environmental costs and
127 benefits of the use of any pesticide.

128 "Weed" means any plant which grows where not wanted.

129 "Wildlife" means all living things that are neither human,
130 domesticated nor, as defined in this article, pests, including
131 but not limited to mammals, birds and aquatic life.

§19-16B-4. Administration and enforcement of article; adoption of regulations, limitations.

1 (a) The commissioner shall administer and enforce the pro-
2 visions of this article and shall have authority to issue regula-
3 tions after a public hearing following due notice to all inter-
4 ested persons in conformance with the provisions of the state
5 administrative procedures set forth in chapter twenty-nine-a of
6 this code to carry out the provisions of this article. Such regu-
7 lations may prescribe methods to be used in application of
8 pesticides.

9 (b) In issuing such regulations, the commissioner shall give
10 consideration to pertinent research findings and recommenda-
11 tions of other agencies of the state, the federal government, or
12 other reliable sources.

13 (c) For the purpose of uniformity and in order to enter in-
14 to cooperative agreements, the commissioner shall adopt “re-
15 stricted use pesticide” classifications as determined by the
16 administrator, United States environmental protection agency.
17 The commissioner may also, by regulations, after a public
18 hearing following due notice, determine “state restricted pesti-
19 cides uses” for the state or for designated areas within the
20 state. If the commissioner determines that the pesticide (when
21 applied in accordance with its directions for use, warnings and
22 cautions, and for uses for which it is registered) may cause,
23 without additional regulatory restrictions, unreasonable ad-
24 verse effects on the environment, including injury to the ap-
25 plicator or other persons because of acute dermal or inhalation
26 toxicity of the pesticide, the pesticide shall be applied only by
27 or under the direct supervision of a certified applicator, or be
28 subject to such other restrictions as the commissioner may
29 determine.

30 (d) Regulations adopted under this article shall not per-
31 mit any pesticide use which is prohibited by the Federal En-
32 vironmental Pesticide Control Act of 1972 and regulations,
33 guidelines or rules issued thereunder.

34 (e) Regulations adopted under this article as to certified
35 applicators of “restricted use pesticides” as designated under
36 the Federal Environmental Pesticide Control Act of 1972 and
37 regulations adopted as to experimental use permits as autho-
38 rized by such act shall not be inconsistent with the requirements
39 of the Federal Environmental Pesticide Control Act of 1972
40 and regulations issued thereunder.

41 (f) The commissioner, after notice and opportunity for hear-
42 ing, is authorized to declare a pest, a form of plant or animal
43 life (other than man and other than bacteria, viruses and other
44 microorganisms on or in living man or other living animals)
45 which is injurious to health or the environment.

46 (g) In order to comply with section four of the Federal En-
47 vironmental Pesticide Control Act of 1972, the commissioner
48 is authorized to make such reports to the United States en-
49 vironmental protection agency in such form and containing
50 such information as that agency may from time to time require.

51 (h) There is hereby created a pesticide advisory board
52 consisting of seven persons including the commissioner of
53 agriculture who shall be chairman, and one of whom shall be
54 from structural pest control, one of whom shall be a qualified
55 environmental health specialist, one of whom shall be employed
56 in the agricultural chemical industry, one of whom shall be
57 knowledgeable in the area of wildlife resources, one of whom
58 shall be a producer of agricultural crops on which pesticides
59 are applied, and one of whom shall be a citizen member who
60 shall be knowledgeable in the field of pesticides. The six
61 members not representing government departments shall be
62 appointed by the commissioner for terms of four years and may
63 serve successive terms: *Provided*, That at the inception two
64 shall be appointed for one year, two for two years, one for three
65 years, and one for four years. The board shall advise the
66 commissioner on problems relating to the use and application
67 of pesticides. The board shall meet at such time and place
68 as called by the chairman or by a majority of the board. Mem-
69 bers shall serve without compensation and members not from
70 governmental departments shall be paid expenses at the same
71 rate as paid to employees of the state according to the rules
72 and regulations as promulgated pursuant to the West Virginia
73 code.

74 (i) Except as may be otherwise specifically authorized in
75 this article, the requirements of the commissioner and all
76 regulatory and other exercises of his powers herein shall
77 conform to but be no more stringent than those of the federal
78 environmental protection agency.

§19-16B-5. Information; courses of instruction.

1 The commissioner shall publish information dealing with and
2 conduct courses of instruction in the areas of knowledge re-
3 quired by this article, and may provide funds, as required by
4 cooperating educational institutions and/or agencies, to ac-
5 complish these purposes, including but not limited to salaries,
6 travel expenses, equipment and publication costs.

§19-16B-6. Classification of licenses; certification standards.

1 (a) The commissioner may further classify or subclassify
2 certifications or licenses to be issued under this article. Such
3 classifications or subclassifications may include but not be

4 limited to agricultural pest control, forest pest control, orna-
5 mental and turf pest control, seed treatment, aquatic pest con-
6 trol, right-of-way pest control, industrial, institutional, struct-
7 ural and health-related pest control, regulatory pest control
8 and demonstrational and research pest control. Separate sub-
9 classifications may be specified as to ground, aerial, or manual
10 methods used by any licensee to apply pesticides or to the use
11 of pesticides to control insects and plant diseases, rodents or
12 weeds. Each classification shall be subject to separate testing
13 procedures and requirements except that no person shall be
14 required to pay an additional license fee if such person desires
15 to be licensed in one or all of the license classifications provid-
16 ed for by the commissioner under the authority of this section.

17 (b) The commissioner in issuing regulations under this arti-
18 cle shall prescribe standards for the certification of applicators
19 of pesticides. Such standards shall relate to the use and hand-
20 ling of pesticides, or to the use and handling of the pesticide
21 or class of pesticides covered by the person's certification, and
22 shall be relative to the hazards involved. In determining stan-
23 dards, the commissioner shall consider the characteristics of the
24 pesticides formulation such as the acute dermal and inhalation
25 toxicity; the persistence, mobility and subceptibility to biolog-
26 ical concentration; the use experience which may reflect an
27 inherent misuse or an established good safety record which
28 does not always follow laboratory toxicological information;
29 the relative hazards of patterns of use such as granular soil
30 applications, ultra low volume or dust aerial applications, or
31 air blast sprayer applications; and the extent of the intended
32 use. Further, the commissioner shall take into consideration
33 standards of the United States environmental protection agency
34 and is authorized to adopt those standards by regulation.

§19-16B-7. Certification requirements; prohibition.

1 (a) No person other than those working under the direct
2 supervision of a certified applicator shall use any "restricted
3 use pesticide" which is restricted to use by "certified applica-
4 tors" without that person first complying with the certification
5 requirements pursuant to section six of this article or such
6 other restrictions as are determined by the commissioner as
7 necessary to prevent unreasonable adverse effects on the en-

8 vironment, including injury to the applicator or other persons,
9 for that specific pesticide use.

§19-16B-8. Licensed applicator's license.

1 (a) No person shall engage in the business of applying
2 pesticides to the lands of another at any time without a licensed
3 applicator's license issued by the commissioner. The commis-
4 sioner shall require an annual fee of fifty dollars for each
5 licensed applicator's license issued.

6 (b) Application for a licensed applicator's license shall
7 be made in writing to the commissioner on forms approved
8 or supplied by the commissioner. Each application for a license
9 shall contain information regarding the applicant's qualifica-
10 tions and proposed operations, license classification or classifi-
11 cations the applicant is applying for and shall include the
12 following:

13 (1) The full name of the person applying for the license;

14 (2) If different than (1) the full name of the individual
15 qualifying under subsection (c) of this section;

16 (3) If the applicant is a person other than an individual,
17 the full name of each member of the firm or partnership, or
18 the names of the officers of the association, corporation or
19 group;

20 (4) The principal business address of the applicant in the
21 state and elsewhere;

22 (5) The name and address of a person, who may be the
23 state auditor, whose domicile is in the state, and who is
24 authorized to receive and accept services of summons and legal
25 notice of all kinds for the applicant;

26 (6) Nonresidents applying for a licensed applicator's license
27 in any separate classification under this article to operate in
28 this state shall file a written power of attorney designating
29 the state auditor as the agent of such nonresident upon whom
30 service of process may be had in the event of any suit against
31 said nonresident person, and such power of attorney shall be
32 so prepared and in such form as to render effective the juris-
33 diction of the courts of this state over such nonresident appli-

34 cant, except that any such nonresident who has a duly ap-
35 pointed resident agent upon whom process may be served as
36 provided by law shall not be required to designate the state
37 auditor as such agent. The commissioner shall be furnished
38 with a copy of such designation of the state auditor or of a
39 resident agent, such copy to be duly certified by the state
40 auditor;

41 (7) Any other necessary information prescribed by the
42 commissioner.

43 (c) The commissioner shall not issue a licensed applicator's
44 license until the individual engaged in or managing the pesticide
45 application business is qualified by passing an examination
46 to demonstrate to the commissioner his knowledge of how to
47 apply pesticides under the classification he has applied for
48 and his knowledge of the nature and effect of pesticides he
49 may apply under such classifications. Applicants successfully
50 completing this examination requirement shall be licensed com-
51 mercial applicators for the use of "restricted use pesticides"
52 covered by the applicant's classification.

53 The examination shall require a level of competency no more
54 stringent than the standard approved by the United States
55 environmental protection agency for each license classification
56 and the commissioner shall take these standards into account
57 in the development of examinations.

58 (d) The commissioner may renew any applicant's license
59 under the classification(s) for which such applicant is licensed,
60 however the applicant may at no less than three year intervals
61 be required to present a certificate indicating he has attended
62 a workshop or training session approved by the commissioner,
63 if the commissioner determines, after consultation with the
64 federal environmental protection agency, that a significant
65 change in technology has occurred and that additional training
66 is vital to the protection of the environment.

67 (e) If the commissioner finds the applicant qualified to
68 apply pesticides in the classifications the applicant has applied
69 for and if the applicant files the financial security required
70 under section fourteen of this article, and if the applicant
71 applying for a license to engage in aerial application of pesti-

72 cides has met all of the requirements of the federal aviation
73 agency, the aeronautics commission of this state, and any other
74 applicable federal or state laws or regulations to operate the
75 equipment described in the application, the commissioner shall
76 issue a licensed applicator's license limited to the classifications
77 for which the applicant is qualified. The license so issued shall
78 expire at the end of the calendar year of issue, unless it has
79 been revoked or suspended prior thereto by the commissioner
80 for cause, except when the financial security required under
81 section fourteen of this article is dated to expire at an earlier
82 date, in which case said license shall be dated to expire upon
83 expiration date of said financial security. The commissioner
84 may limit the license of the applicant to the use of certain
85 pesticides, or to certain areas, or to certain types of equipment
86 if the applicant is only so qualified. If a license is not issued
87 as applied for, the commissioner shall inform the applicant in
88 writing of the reasons therefor.

**§19-16B-9. Application of this article to governmental entities;
licensed public operator's license required; liability.**

1 (a) All state agencies, municipal corporations, or any other
2 governmental agency shall be subject to the provisions of this
3 article and rules adopted thereunder concerning the application
4 of pesticides.

5 (b) Public operators for agencies listed in subsection (a)
6 shall be subject to examinations as provided for in section
7 eight of this article. However, the commissioner shall issue a
8 limited license without a fee to such public operator who has
9 qualified for such license. The licensed public operator's li-
10 cense shall be valid only when such operator is acting as an
11 operator applying or supervising application of pesticides used
12 by such entities. Individuals licensed pursuant to this section
13 shall be certified applicators for the use of restricted use pesti-
14 cides covered by the applicant's classification.

15 (c) Such governmental agencies and municipal corporations
16 shall be subject to legal recourse by any person damaged by
17 such application of any pesticide, and such action may be
18 brought in the county where the damage or some part thereof
19 occurred.

§19-16B-10. Private and commercial applicators license and certificate.

1 (a) Application for a private or commercial applicators
2 license shall be made in writing to the commissioner on forms
3 approved or supplied by the commissioner. Each application
4 shall contain:

5 (1) The full name of the person applying for the license.

6 (2) The principal business address of the applicant.

7 (3) A listing of agricultural commodities produced or to be
8 produced by the applicant applying for a private applicators
9 license.

10 (4) Any other necessary information prescribed by the
11 commissioner.

12 (b) Private or commercial applicators licenses shall be
13 issued for an initial fee of one dollar.

14 (c) The commissioner may renew any applicant's license
15 under the classification(s) for which such applicant is licensed,
16 however the applicant may at no less than three-year intervals
17 be required to present a certificate indicating he has attended
18 a workshop or training session approved by the commissioner,
19 if the commissioner determines, after consultation with the
20 federal environmental protection agency, that a significant
21 change in technology has occurred and that additional training
22 is vital to the protection of the environment.

23 (d) No private applicator shall use any restricted use pesti-
24 cide which is restricted to use by certified applicators without
25 that private applicator first complying with the certification
26 requirements determined by the commissioner as necessary
27 to prevent unreasonable adverse effects on the environment, in-
28 cluding injury to the applicator or other persons, for that
29 specific pesticide use.

30 (e) As a minimum requirement for certification, a private
31 applicator must show that he possesses a practical knowledge
32 of the pest problems and pest control practices associated with
33 his agricultural operations; proper storage, use, handling and
34 disposal of the pesticides and containers, and his related legal
35 responsibility. This practical knowledge includes ability to:

- 36 (1) Recognize common pests to be controlled and damage
37 caused by them.
- 38 (2) Read and understand the label and labeling information
39 including the common name of pesticides he uses; the crop,
40 animal, or site to which they will be applied; pest(s) to be
41 controlled; timing and methods of application; safety precau-
42 tions; any preharvest or reentry restrictions; and any specific
43 disposal procedures.
- 44 (3) Apply pesticides in accordance with label instructions
45 and warnings, including the ability to prepare the proper con-
46 centration of pesticide to be used under particular circum-
47 stances taking into account such factors as area to be covered,
48 speed at which application equipment will be driven, and the
49 quantity dispersed in a given period of operation.
- 50 (4) Recognize local environmental situations that must be
51 considered during application to avoid contamination.
- 52 (5) Recognize poisoning symptoms and procedures to fol-
53 low in case of a pesticide accident.
- 54 (f) If the commissioner should require a written test prior
55 to the certification of a private or commercial applicator, that
56 test may not be more stringent than the minimum requirements
57 for such certification of the federal environmental protection
58 agency. If there are not such minimum requirements of the
59 environmental protection agency then the commissioner shall
60 not require the written test for certification.
- 61 (g) If the commissioner does not certify the private or
62 commercial applicator under this section, he shall inform
63 the applicant in writing of the reasons therefor.

§19-16B-11. Cooperative agreements.

- 1 (a) The commissioner may cooperate, receive grants-in-aid,
2 and enter into agreements with any agency of the federal
3 government, of this state or its subdivisions, or with any
4 agency of another state, to obtain assistance in the implementa-
5 tion of this article in order to:
- 6 (1) Secure uniformity of regulations;
- 7 (2) Cooperate in the enforcement of federal pesticide con-

8 trol laws through the use of state and/or federal enforcement
9 personnel and facilities and to implement cooperative en-
10 forcement programs;

11 (3) Develop and administer state plans for training and
12 for certification of licensed applicators consistent with federal
13 standards;

14 (4) Contract for training with educational institutions or
15 with other agencies for the purpose of training certified
16 applicators;

17 (5) Contract for monitoring pesticides for the national plan;

18 (6) Prepare and submit state plans to meet federal certifi-
19 cation standards, as provided for in section four of the
20 Federal Environmental Pesticide Control Act of 1972;

21 (7) Regulate certified applicators.

§19-16B-12. License renewals.

1 Any person holding a current valid license, permit or certifi-
2 cation may renew such license, permit or certification for the
3 next year without taking another examination, except as is
4 provided in subsection (d), section eight, unless the license,
5 permit or certification is not renewed by the first day of March
6 of any year in which case such licensee, permittee or certificate
7 holder shall be required to take another examination.

§19-16B-13. Pesticide dealers.

1 (a) No pesticide dealer shall engage in the business of
2 dispensing restricted use pesticides without first qualifying
3 for and obtaining a pesticide dealer's license from the com-
4 missioner. Application for such a license shall be on a form
5 approved or provided by the commissioner and shall be
6 accompanied by an initial fee of five dollars. The commissioner
7 shall issue regulations requiring the pesticide dealer to:

8 (1) Maintain and provide records adequate to identify
9 purchases of restricted use pesticides and the materials pur-
10 chased.

11 (2) Demonstrate a knowledge and understanding of safe

12 and accepted methods of handling, storage and distribution of
13 restricted use pesticides.

14 (3) Demonstrate a knowledge and understanding of the
15 state pesticide law and regulations.

**§19-16B-14. Unlawful acts or grounds for denial, suspending or
revocation of a license, permit or certification.**

1 The commissioner shall notify any licensee of violations
2 of this article by the licensee, and after inquiry, including
3 opportunity for a hearing, may deny, suspend, revoke or
4 modify any provision of any license, permit or certification
5 issued under this article if he finds that the applicant or the
6 holder of a license, permit or certification has committed
7 any of the following acts, each of which is declared to be a
8 violation of this article:

9 (1) Made false or fraudulent claims through any media
10 misrepresenting the effect of pesticides or methods to be
11 utilized;

12 (2) Made a pesticide use recommendation or application
13 inconsistent with the labeling as registered by the United
14 States environmental protection agency or commissioners' state
15 registration for that pesticide, or in violation of the United
16 States environmental protection agency or commissioners state
17 restrictions for the use of that pesticide;

18 (3) Applied unknown ineffective or improper pesticides;

19 (4) Operated faulty or unsafe equipment;

20 (5) Operated in a faulty, careless or negligent manner;

21 (6) Neglected or, after notice, refused to comply with the
22 provisions of this article, the rules adopted hereunder, or of
23 any lawful order of the commissioner;

24 (7) Refused or neglected to keep and maintain the records
25 required by this article, or to make reports when and as
26 required;

27 (8) Made false or fraudulent records, invoices or reports;

28 (9) Engaged in the business of applying a pesticide on the
29 lands of another without having a licensed applicator's license;

30 (10) Engaged in the business of applying a restricted use
31 pesticide on the lands of another without having a licensed
32 certified applicator in direct supervision;

33 (11) Used fraud or misrepresentation in making an applica-
34 tion for, or renewal of, a license, permit or certification;

35 (12) Refused or neglected to comply with any limitations
36 or restrictions on or in a duly issued license, permit or
37 certification;

38 (13) Aided or abetted a licensed or an unlicensed person
39 to evade the provisions of this article or allowed one's license,
40 permit or certification to be used by another person;

41 (14) Made false or misleading statements during or after
42 an inspection concerning any infestation or infection of pests
43 found on land;

44 (15) Impersonated any federal, state, county or city in-
45 spector or official; or

46 (16) Failed to comply with any provision of this article or
47 any regulation issued thereunder.

**§19-16B-15. Financial security required of licensed applicator li-
censee.**

1 (a) The commissioner shall not issue a licensed applicator's
2 license as required in section eight of this article until the ap-
3 plicant has filed evidence of financial security with the com-
4 missioner which may consist of a surety bond or liability in-
5 surance policy or certification thereof in an amount no less
6 than twenty-five thousand dollars protecting persons who may
7 suffer legal damages as a result of the operations of the
8 applicant. Such financial security need not apply to damages or
9 injury to agricultural crops, plants or land being worked upon
10 by the applicant.

11 (b) The commissioner, taking into consideration the differ-
12 ent classifications or categories of licensed applicator's licenses,
13 shall establish the amount and kind of financial security for
14 property damage and public liability, each separately, and in-
15 cluding loss of damage arising out of the actual use of any pesti-
16 cide which each classification of licensed license requires. Such

17 financial security shall be maintained at not less than that sum
18 at all times during the licensed period. The commissioner shall
19 be notified forty-five days prior to any reduction at the request
20 of the applicant or cancellation of such surety bond or liability
21 insurance by the surety or insurer. The total and aggregate of
22 the surety or insurer for all claims shall be limited to the face of
23 the bond or liability insurance policy. The commissioner may
24 accept a liability insurance policy or surety bond in the proper
25 sum which has a deductible clause in the amount not exceeding
26 that which the commissioner shall establish separately for aerial
27 applicators and for other commercial applicators for the total
28 amount of financial security required herein. If the applicant
29 has not satisfied the requirement of the deductible amount in
30 any prior legal claim such deductible clause shall not be
31 accepted by the commissioner unless such applicant furnishes
32 the commissioner with a surety bond or liability insurance
33 which shall satisfy the amount of the deductible as to all claims
34 that may arise in his application of pesticides.

35 Should the surety furnished become unsatisfactory, said
36 applicant shall upon notice immediately establish new evidence
37 of financial security and should he fail to do so, it shall be
38 unlawful thereafter for such person to engage in said business
39 of applying pesticides until the financial security is brought in-
40 to compliance with the requirements as established by the
41 commissioner and the person's license is reinstated.

42 (c) Nothing in this article shall be construed to relieve any
43 person from liability for any damage to the person or lands of
44 another caused by the use of pesticides even though such use
45 conforms to the rules and regulations of the commissioner.

§19-16B-16. Pesticide accidents; incidents or loss.

1 (a) Any person claiming damages for a pesticide application
2 shall file with the commissioner on a form provided by the
3 commissioner a written statement claiming that he has been
4 damaged. This report shall have been filed within sixty days
5 after the date that damages occurred. If a growing crop is
6 alleged to have been damaged, the report must be filed prior to
7 the time that twenty-five percent of the crop has been har-
8 vested. Such statement shall contain, but shall not be limited to

9 the name of the person allegedly responsible for the applica-
10 tion of said pesticide, the name of the owner or lessee of the
11 land on which the crop is grown and for which damage is al-
12 leged to have occurred, and the date on which the alleged dam-
13 age occurred. The commissioner shall, upon receipt of such
14 statement, notify the licensee and the owner or lessee of the
15 land or other person who may be charged with the responsi-
16 bility of the damages claimed, and furnish copies of such
17 statements as may be requested. The commissioner shall in-
18 spect damages whenever possible and when he determines that
19 the complaint has sufficient merit he shall make such informa-
20 tion available to the person claiming damage and to the per-
21 son who is alleged to have caused the damage.

22 (b) The filing of such report or the failure to file such a
23 report need not be alleged in any complaint which might be
24 filed in a court of law, and the failure to file the report shall
25 not be considered any bar to the maintenance of any criminal
26 or civil action.

27 (c) The failure to file such a report shall not be a violation
28 of this article. However, if the person failing to file such report
29 is the only one injured from such use or application of a pesti-
30 cide by others, the commissioner may, when in the public in-
31 terest, refuse to hold a hearing for the denial, suspension or
32 revocation of a license or permit issued under this article un-
33 til such report is filed.

34 (d) Where damage is alleged to have occurred, the claim-
35 ant shall permit the commissioner, the licensee and his repre-
36 sentatives, such as bondsman or insurer, to observe within
37 reasonable hours the lands or nontarget organism alleged to
38 have been damaged in order that such damage may be exam-
39 ined. Failure of the claimant to permit such observation and
40 examination of the damaged lands shall automatically bar the
41 claim against the licensee.

§19-16B-17. Licensee to keep records; duration; submission to commissioner.

1 The commissioner shall require licensed applicators to
2 maintain records with respect to applications of restricted use
3 and state restricted use pesticides. Such relevant information as

4 the commissioner may deem necessary may be specified by
5 regulation. Such records shall be kept for a period of three
6 years from the date of the application of the pesticide to which
7 such records refer, and the commissioner shall, upon request
8 in writing, be furnished with a copy of such records forthwith
9 by the licensee or certified commercial applicator. No regula-
10 tion issued by the commissioner for carrying out provisions of
11 this article shall require any private applicator to maintain any
12 records or file any reports or other documents.

§19-16B-18. Reciprocal agreement.

1 The commissioner may waive all or part of any license ex-
2 amination requirement provided for in this article on a recip-
3 rocal basis with any other state which has standards at least
4 equal to those of West Virginia and with federal agencies
5 whose employees are certified under a government agency
6 plan approved by the administrator of the federal environ-
7 mental protection agency and may issue a license to the appli-
8 cant provided all other requirements of this article are com-
9 plied with by the applicant.

§19-16B-19. Exemptions.

1 (a) Veterinarian exemption. The provisions of section eight
2 of this article relating to licenses and requirements for their
3 issuance shall not apply to a doctor of veterinary medicine ap-
4 plying pesticides to animals during the normal course of his
5 veterinary practice: *Provided*, That he is not regularly engag-
6 ed in the business of applying pesticides for hire amounting to
7 a principal or regular occupation or does not publicly hold
8 himself out as a pesticide applicator.

9 (b) Landscape gardener exemption. The licensing re-
10 quirements of section eight of this article shall not apply
11 to any person using handpowered equipment to apply pesti-
12 cides to lawns, or to ornamental shrubs and trees not
13 in excess of fifteen feet high, as an incidental part of his
14 business of taking care of household lawns and yards, family
15 gardens, and horticulture plots for remuneration: *Provided*,
16 That such person shall not publicly hold himself out as
17 being in the business of applying pesticides and does not

18 apply "restricted use pesticides" restricted to use only by
19 certified applicators.

20 (c) Farmer exemption. The provisions of section eight
21 of this article relating to licenses and requirements for their
22 issuance shall not apply to any farmer applying pesticides
23 for himself or with ground equipment or manually for his
24 farmer neighbors: *Provided*, That (1) he operates farm
25 property and operates and maintains pesticide application
26 equipment primarily for his own use; (2) he is not regularly
27 engaged in the business of applying pesticides for hire amount-
28 ing to a principal or regular occupation and that he shall
29 not publicly hold himself out as a pesticide applicator; (3)
30 he operates his pesticide application equipment only in the
31 vicinity of his own property and for the accommodation of
32 his neighbors.

33 (d) Experimental research exemption. The provisions of
34 sections eight and nine of this article relating to licenses and
35 requirements for their issuance shall not apply to research per-
36 sonnel applying pesticides only to bona fide experimental plots.

**§19-16B-20. Storing and disposal of pesticides and pesticide con-
tainers.**

1 No person shall transport, store or dispose of any pesticide
2 or pesticide containers in such a manner as to cause injury to
3 humans, vegetation, crops, livestock, wildlife, beneficial insects
4 or to pollute any waterway in a way harmful to any wildlife
5 therein. The commissioner may promulgate rules and regula-
6 tions governing the storing and disposal of such pesticides or
7 pesticide containers. In determining these standards, the com-
8 missioner shall take into consideration any regulations issued
9 by the United States environmental protection agency.

§19-16B-21. Legal recourse.

1 Any person aggrieved by any action of the commissioner
2 may obtain a review thereof by filing in a court of competent
3 jurisdiction, within thirty days of notice of the action, a
4 written petition praying that the action of the commissioner
5 be set aside. A copy of such petition shall forthwith be
6 delivered to the commissioner and within thirty days there-
7 after the commissioner shall certify and file in the court a

8 transcript of any record pertaining thereto, including a trans-
9 script of evidence received, whereupon the court shall have
10 jurisdiction to affirm, set aside, or modify the action of the
11 commissioner, except that the findings of the commissioner
12 as to the facts, if supported by substantial evidence shall
13 be conclusive.

§19-16B-22. Penalties.

1 (a) Any person violating any provisions of this article or
2 regulations adopted hereunder shall be guilty of a misde-
3 meanor, and, upon conviction thereof, shall be fined not less
4 than one hundred dollars nor more than five hundred dollars,
5 and for the second offense, shall be guilty of a misdemeanor,
6 and, upon conviction thereof, shall be fined not less than five
7 hundred nor more than one thousand dollars, or imprisoned in
8 the county jail not more than six months, or both fined and im-
9 prisoned. Magistrates shall have concurrent jurisdiction with
10 circuit courts to enforce the provisions of this article.

11 (b) No state court shall allow the recovery of damages for
12 administrative action taken if the court finds that there was
13 probable cause for such action.

§19-16B-23. Subpoenas.

1 The commissioner may issue subpoenas to compel the
2 attendance of witnesses and/or production of books, docu-
3 ments and records anywhere in the state in any hearing
4 affecting the authority or privilege granted by a license, cer-
5 tification or permit issued under the provisions of this article.

§19-16B-24. Enforcement.

1 (a) For the purpose of carrying out the provisions of this
2 article the commissioner may enter upon any public or private
3 premises other than a dwelling house and the curtilage thereof,
4 at reasonable times, after reasonable notification to the owner,
5 tenant or agent, in order to:

6 (1) Have access for the purpose of inspecting any equip-
7 ment subject to this article and such premises on which such
8 equipment is kept or stored; or

9 (2) Inspect lands actually or reported to be exposed to
10 pesticides; or

11 (3) Inspect storage or disposal areas; or

12 (4) Inspect or investigate complaints of injury to humans
13 or land; or

14 (5) Sample pesticides being applied or to be applied.

15 (b) Should the commissioner be denied access to any land
16 where such access was sought for the purpose set forth in this
17 article, he may apply to any court of competent jurisdiction for
18 a search warrant authorizing access to such land for said pur-
19 poses. The court may upon such application issue the search
20 warrant for the purposes requested.

21 (c) The commissioner, with or without the aid and advice
22 of the county prosecuting attorney, is charged with the duty of
23 enforcing the requirements of this article and any rules and
24 regulations issued hereunder. In the event a county or prose-
25 cuting attorney refuses to act on behalf of the commissioner,
26 the attorney general shall so act.

27 (d) The commissioner may bring an action to enjoin the
28 violation or threatened violation of any provisions of this article
29 or any rule made pursuant to this article in a court of competent
30 jurisdiction of the county in which such violation occurs or is
31 about to occur.

§19-16B-25. Fees.

1 All fees collected by the commissioner under the provision
2 of this article shall be deposited in the general revenue fund
3 of the state of West Virginia.

§19-16B-26. Severability.

1 If any provision of this article or the application thereof to
2 any person or circumstance is held invalid, such invalidity
3 does not affect other provisions or applications of this article
4 which can be given effect without the invalid provisions or
5 application, and to this end the provisions of this article
6 are declared to be severable.

CHAPTER 7

(H. B. 681—By Mr. Harman)

[Passed February 17, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the declaration that dogs are personal property and those above the age of six months are subject to taxation.

Be it enacted by the Legislature of West Virginia:

That section one, 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.

§19-20-1. Dogs subject to taxation; declared to be personal property.

- 1 Any dog shall be and is hereby declared to be personal
- 2 property within the meaning and construction of the laws of
- 3 this state, and any dog above the age of six months shall be
- 4 subject to taxation.

CHAPTER 8

(H. B. 810—By Mr. Burke and Mr. Ballouz)

[Passed February 16, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article twenty-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increase of fee for vaccinating dogs against rabies.

Be it enacted by the Legislature of West Virginia:

That section five, article twenty-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 20A. VACCINATION OF DOGS FOR RABIES.

§19-20A-5. Type of vaccination to be furnished; fee.

- 1 It shall be the duty of the veterinarian, or person vaccinating
- 2 each animal to furnish vaccine of a type capable of establish-
- 3 ing and maintaining immunity for a period of not less than
- 4 twenty-four months and he shall charge and collect a fee of
- 5 two dollars fifty cents for each animal vaccinated, if done at a
- 6 clinic established by a county commission or, if vaccinated at
- 7 any other place, he shall charge and collect a reasonable fee
- 8 for his services.

CHAPTER 9

(S. B. 441—Originating in the Senate Committee on Finance)

[Passed February 20, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections nine-a and nineteen-a, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, as last amended and reenacted by chapter one, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, providing for continued and additional increases in the price of alcoholic liquors sold at state stores on and after the fifteenth day of April, one thousand nine hundred seventy-five, for the purpose of paying into the veterans bonus bond sinking fund for retirement of the Vietnam veterans bonus bonds, and establishing the fifteenth day of April, one thousand nine hundred seventy-five as the earliest date on which the governor may requisition payments into such fund.

Be it enacted by the Legislature of West Virginia:

That sections nine-a and nineteen-a, article three, chapter

sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, as last amended by chapter one, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be amended and reenacted to read as follows:

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-9a. Additional price increase for payment of Korean veterans bonus bonds, state building revenue bonds and Vietnam veterans bonus bonds.

§60-3-19a. Payment into veterans bonus sinking fund for retirement of Korean veterans bonus bonds; payment into special fund for retirement of state building revenue bonds; and payment into veterans bonus sinking fund for retirement of Vietnam veterans bonus bonds.

§60-3-9a. Additional price increase for payment of Korean veterans bonus bonds, state building revenue bonds and Vietnam veterans bonus bonds.

1 For the purpose of providing revenue for the payment
2 of bonds issued under and by virtue of said "Korean
3 Veterans Bonus Amendment" of one thousand nine hun-
4 dred fifty-six, the commissioner in the exercise of his
5 authority under section nine of this article is hereby di-
6 rected to increase the price of alcoholic liquors in addition
7 to the price increase provided in said section nine hereof,
8 on or before the last day of June, one thousand nine hun-
9 dred fifty-seven, in an amount sufficient to produce an
10 additional revenue of one million eight hundred thousand
11 dollars on an annual volume of business equal to the
12 average for the last three years. Whenever in any fiscal
13 year the amount of money accumulated in the veterans
14 bonus sinking fund for the retirement of Korean veterans
15 bonus bonds shall be sufficient to pay at maturity all out-
16 standing bonus bonds issued under said "Korean Veterans
17 Bonus Amendment" of one thousand nine hundred fifty-
18 six, together with the interest due or payable thereon,
19 then the commissioner is hereby directed to continue in
20 effect the aforesaid price increase of alcoholic liquors and
21 further increase the same as necessary for such continued
22 increase together with such further increase to equal an
23 amount sufficient to provide revenue of three million
24 six hundred thousand dollars on an annual volume of
25 business equal to the average for the last three years

26 for the purpose of providing revenue to be paid into a
27 special fund hereby created in the office of the state
28 treasurer for the purpose of the payment of principal
29 and interest on bonds of the state known as the "State
30 Building Revenue Bonds," and for which payment, to
31 the extent that the state building commission of West
32 Virginia has available space in buildings operated by
33 it in excess of revenue-producing uses, said commissioner
34 shall provide at its established rates and charges such
35 available excess space for use by such officers, depart-
36 ments or agencies of the state as the commissioner of
37 finance and administration or such other officer, agency
38 or department as shall from time to time have the
39 duty to arrange for office space for officers, departments
40 or agencies of the state, shall specify.

41 For the purpose of providing revenue for the payment
42 of any bonds issued under and by virtue of the "Vietnam
43 Veterans Bonus Amendment" of one thousand nine hun-
44 dred seventy-three, the commissioner is hereby directed,
45 on and after the fifteenth day of April, one thousand
46 nine hundred seventy-five, to continue in effect all prior
47 price increases of alcoholic liquors with the excess reve-
48 nues generated from such continued price increases
49 constituting additional charges or increases, such prices
50 otherwise being subject to reduction but for such con-
51 tinuation; and further increase prices if necessary after
52 consideration of all revenue requirements and obliga-
53 tions as set forth in this article, including the revenue
54 requirement and obligation herein provided, so as to
55 equal an amount sufficient to provide for full payment
56 of all interest and principal payments as the same shall
57 accrue, on an annual volume of business equal to the
58 average for the last three years; and such additional
59 charges or price increases so collected shall be irre-
60 vocably dedicated for the payment of principal of and
61 interest on such Vietnam veterans bonus bonds until
62 such bonds are finally paid and discharged. Whenever
63 in any fiscal year the amount of money accumulated in
64 the special fund for the retirement of the state building
65 revenue bonds shall be sufficient to pay at maturity all
66 outstanding state building revenue bonds, together with

67 the interest due or payable thereon, and the amount of
68 money accumulated in the veterans bonus sinking fund
69 for the retirement of Vietnam veterans bonus bonds
70 shall be sufficient to pay at maturity all outstanding
71 bonus bonds issued under said "Vietnam Veterans Bonus
72 Amendment" of one thousand nine hundred seventy-
73 three, together with the interest due or payable thereon,
74 the provision herein made for continuing in effect the
75 aforesaid price increases and the provision herein for a
76 further price increase shall become ineffective at the
77 end of such fiscal year.

§60-3-19a. Payment into veterans bonus sinking fund for retirement of Korean veterans bonus bonds; payment into special fund for retirement of state building revenue bonds; and payment into veterans bonus sinking fund for retirement of Vietnam veterans bonus bonds.

1 On and after the first day of July, one thousand nine
2 hundred fifty-seven, from receipts in excess of the re-
3 quirements of the operating fund of the commissioner,
4 the sum of four hundred fifty thousand dollars shall,
5 upon requisition of the governor, be paid each quarter
6 into the veterans bonus sinking fund to be used for the
7 purpose of retiring bonds issued under said "Korean
8 Veterans Bonus Amendment" of one thousand nine hun-
9 dred fifty-six. Whenever, in any fiscal year, the amount
10 of money accumulated in the veterans bonus sinking
11 fund for the retirement of said Korean veterans bonus
12 bonds shall be sufficient to pay at maturity all outstanding
13 bonus bonds issued under the "Korean Veterans Bonus
14 Amendment" of one thousand nine hundred fifty-six,
15 together with interest due or payable thereon, no further
16 transfer to such sinking fund shall be made after the end
17 of such fiscal year. Thereafter, from receipts in excess
18 of the requirements of the operating fund of the com-
19 missioner, the sum of nine hundred thousand dollars
20 shall be paid by the commissioner each quarter into the
21 special fund created in section nine-a of this article for
22 the purpose of retiring bonds of the state known as the
23 "State Building Revenue Bonds." It shall be the duty

24 and responsibility of the state treasurer to pay the princi-
25 pal and interest on said bonds as they become due and
26 payable. Whenever, in any fiscal year, the amount of
27 money accumulated in the special fund for the retirement
28 of said "State Building Revenue Bonds" is sufficient to
29 pay at maturity all of the outstanding bonds, together
30 with interest due or payable thereon, no further transfers
31 to such special fund shall be made after the end of such
32 fiscal year.

33 On and after the fifteenth day of April, one thousand
34 nine hundred seventy-five, from receipts in excess of
35 the requirements of the operating fund of the commis-
36 sioner, the amount sufficient to provide for full payment
37 of all interest and principal as the same shall accrue,
38 shall, upon requisition of the governor, be paid each
39 quarter into the veterans bonus sinking fund to be used
40 for the purpose of retiring bonds issued under said "Viet-
41 nam Veterans Bonus Amendment" of one thousand nine
42 hundred seventy-three. Whenever, in any fiscal year,
43 the amount of money accumulated in the veterans bonus
44 sinking fund for the retirement of said Vietnam veterans
45 bonus bonds shall be sufficient to pay at maturity all
46 outstanding bonus bonds issued under the "Vietnam
47 Veterans Bonus Amendment" of one thousand nine hun-
48 dred seventy-three, together with interest due and pay-
49 able thereon, no further transfer to such sinking fund
50 shall be made after the end of such fiscal year.

51 Nothing in section nine-a of this article or in this sec-
52 tion nineteen-a contained shall be taken as limiting the
53 power and authority of the Legislature to at any time
54 appropriate the aforesaid receipts for some other purpose
55 than the special fund for the retirement of said "State
56 Building Revenue Bonds" or make other direction or
57 provision respecting receipts devoted to such purpose.

CHAPTER 10

(Com. Sub. for S. B. 269—By Mr. Rogerson and Mr. Susman)

[Passed March 8, 1975; in effect ninety days from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend and reenact sections fifteen and seventeen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the state control of alcoholic liquors, sales by the commissioner; directing the commissioner to plan his purchases so that the stock on hand does not exceed the estimated requirements for ninety days' sales; increasing the amount of stock allowed; regulations as to handling and depositing of moneys collected; directing the commissioner to prescribe such regulations with the approval of the state treasurer; requiring monthly remittances to the state treasury by the commissioner, and providing a criminal penalty for the failure of the commissioner to make such remittances.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-15. Amount of stock allowed; contract for manufacture of state brand.

§60-3-17. Regulations as to handling and depositing of moneys collected; monthly remittances; penalty.

§60-3-15. Amount of stock allowed; contract for manufacture of state brand.

1 In order to avoid the accumulation of excessive stocks
2 in warehouses and stores, the commissioner shall so plan
3 his purchases of alcoholic liquors for sale in state stores
4 and agencies that stock on hand at any time does not
5 exceed the estimated requirements for ninety days' sales,
6 that none of such stock be on a consignment basis
7 and that the amount of operating fund and the value of

8 inventory stock shall not exceed eleven million dollars
9 except during the last quarter of the calendar year,
10 during which time it shall not exceed twenty million
11 dollars.

12 The commissioner may, with the consent of the gover-
13 nor, contract for the manufacture of alcoholic liquors for
14 sale in state stores and agencies. Such liquors shall bear
15 a special designation as "state brand".

16 Listed brands and sizes of spirituous liquors shall not be
17 reordered in quantities greater than at the rate of com-
18 parative gross sales as determined by the last weekly
19 report published prior to each reorder: *Provided*, That
20 listed brands on allocation by the respective suppliers
21 may be reordered upon the basis of anticipated needs to
22 be determined by projecting the adjusted sales records
23 to the period of allocation as fixed by the respective sup-
24 pliers.

25 The initial order of any new or unlisted brand of
26 spirituous liquor, excepting wine, shall not exceed five
27 hundred cases. The initial order of new or unlisted wine
28 brands shall not exceed fifteen hundred cases.

**§60-3-17. Regulations as to handling and depositing of moneys
collected; monthly remittances; penalty.**

1 The commissioner, with the approval of the state trea-
2 surer, shall prescribe regulations for the handling and
3 depositing of all moneys collected by the commissioner.
4 All receipts accruing to and available for the general
5 revenue fund in excess of the requirements of the operat-
6 ing fund and the license fee and additional sales tax
7 imposed by the provisions of this chapter shall be re-
8 mitted by the commissioner to the state treasury monthly
9 within fifteen days next after the end of each calendar
10 month.

11 If the commissioner fails to remit such moneys to the
12 state treasury within the time specified in accordance
13 with the provisions of this section, he shall be guilty of a
14 misdemeanor, and, upon conviction thereof, shall be fined
15 one thousand dollars.

CHAPTER 11

(Com. Sub. for S B. 23—By Mr. Brotherton, Mr. President)

[Passed February 17, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

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

Be it enacted by the Legislature of West Virginia:

Title

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-six.

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

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

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

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

10 “From collections” shall mean that part of the total ap-
11 propriation which must be collected by the spending unit
12 to be available for expenditure. If the authorized amount
13 of collections is not collected, the total appropriation for
14 the spending unit shall be reduced automatically by the

15 amount of the deficiency in the collection. If the amount
16 collected exceeds the amount designated "from collections"
17 the excess shall be set aside in a special surplus fund and
18 may be expended for the purpose of the spending unit as
19 provided by Chapter 5-A, Article 2 of the Code of West
20 Virginia.

1 **Sec. 3. Classification of Appropriations.**—An appro-
2 priation for:

3 "Personal Services" shall be expended only for the pay-
4 ment of salaries, wages, fees and other compensation for
5 skill, work, or employment, except from the appropriations
6 made to the spending units of State Government, there
7 may be transferred upon approval of the Governor, to a
8 special account an amount sufficient to match Federal
9 Funds under any Federal Acts.

10 Unless otherwise specified, appropriations for personal
11 services shall include salaries of heads of spending units;

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

14 "Repairs and Alterations" shall include all expenditures
15 for materials, supplies and labor used in repairing and
16 altering buildings, grounds and equipment, other than per-
17 sonal service;

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

21 "Buildings" shall include construction and alteration of
22 structures and the improvements of lands, sewer and water
23 improvements and shall include shelter, support, storage,
24 protection, or the improvement of a natural condition;

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

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

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

TITLE 2. APPROPRIATIONS.

§1. Appropriations from general revenue.

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BUSINESS AND INDUSTRIAL RELATIONS

Antiquities commission—Acct. No. 478	85
Bureau of labor and department of weights and measures— Acct. No. 450	82
Council of State Governments—Acct. No. 472	85
Department of banking—Acct. No. 480	86
Department of commerce—Acct. No. 465	83
Department of mines—Acct. No. 460	82
Interstate commission on Potomac river basin—Acct. No. 473	85
Interstate education compact—Acct. No. 477	85
Interstate mining compact commission—Acct. No. 451	82
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Ohio river valley water sanitation commission—Acct. No. 474	85
Southern regional education board—Acct. No. 475	85
State commission on manpower, technology and training— Acct. No. 470	84
West Virginia air pollution control commission—Acct. No. 476	85
West Virginia nonintoxicating beer commissioner—Acct. No. 490	86
West Virginia racing commission—Acct. No. 495	86
West Virginia state aeronautics commission—Acct. No. 485	86

CHARITIES AND CORRECTION

Andrew S. Rowan memorial home—Acct. No. 384	75
Anthony correctional center—Acct. No. 369	73
Forestry camp for boys No. 1 (Davis)—Acct. No. 371	73
Huttonsville Correctional Center—Acct. No. 376	74
West Virginia children's home—Acct. No. 380	75
West Virginia forestry camp No. 2 (Leckie)—Acct. No. 373	73
West Virginia industrial home for girls—Acct. No. 372	73

West Virginia industrial school for boys—Acct. No. 370	73
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CONSERVATION AND DEVELOPMENT	
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Department of archives and history—Acct. No. 340	72
Department of education—Acct. No. 286	68
Department of education (aid for exceptional children)— Acct. No. 296	71
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State board of education (early childhood aides)—Acct. No. 297	71
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State department of education (teacher education program)— Acct. No. 277	67
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West Virginia library commission—Acct. No. 350	72
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Commission on mental retardation—Acct. No. 411	78
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Huntington state hospital—Acct. No. 422	80
Lakin state hospital—Acct. No. 423	80
Pinecrest state hospital—Acct. No. 431	81
Roney's Point branch hospital—Acct. No. 417	79
Spencer state hospital—Acct. No. 421	80
State board of education (rehabilitation division)—Acct. No. 440	82
State commission on aging—Acct. No. 406	77
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Board of law examiners—Acct. No. 597	94
Board of osteopathy—Acct. No. 591	93
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Board of registration for professional engineers—Acct. No. 594	93
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State veterinary board—Acct. No. 596	93
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PAYABLE FROM WORKMEN'S COMPENSATION FUND

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§3. Supplemental and deficiency appropriations.

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Department of motor vehicles—Acct. No. 671	112
Department of natural resources—Acct. No. 565	112
Fairmont emergency hospital—Acct. No. 425	111
Forestry camp for boys (Davis)—Acct. No. 371	110
Huttonsville correctional center—Acct. No. 376	111
Interstate education compact—Acct. No. 477	111
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Lakin state hospital—Acct. No. 423	111
Pinecrest hospital—Acct. No. 431	111
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§4. Appropriations from surplus revenue.

§5. Awards for claims against the State.

§6. Reappropriations.

§7. Appropriations from revenue sharing trust fund.

REVENUE SHARING TRUST FUND

Department of agriculture—Acct. No. 9771	118
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§8. Reappropriations—"Revenue sharing trust fund."

§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 costs 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 appropri-
3 ated conditionally upon the fulfillment of the provisions

4 set forth in Chapter 5-A, Article 2 of the Code of West Vir-
 5 ginia, the following amounts, as itemized, for expenditure
 6 during the fiscal year one thousand nine hundred seventy-
 7 six.

LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Year</i> 1975-76
1 Compensation of Members	\$ 205,000
2 Compensation and per diem of officers and	
3 employees	505,000
4 Expenses of Members	120,000
5 Current Expenses and Contingent Fund	120,000
6 To pay cost of printing the 1975 edition of	
7 Blue Book	87,000
8 The distribution of which shall be by the office of the	
9 Clerk of the Senate and shall include seventy-five copies	
10 for each member of the Legislature and two copies to each	
11 classified and approved High and Junior High school and	
12 one to each Elementary school within the state.	
13 The appropriations for the Senate for the fiscal year 1974-	
14 75 are to remain in full force and effect, and are hereby re-	
15 appropriated to June 30, 1976.	
16 Any balances so reappropriated may be transferred and	
17 credited to the 1975-76 accounts.	
18 Upon written request of the Clerk of the Senate the State	
19 Auditor shall transfer amounts between items of the total	
20 appropriation in order to protect or increase the efficiency	
21 of service.	
22 The Clerk of the Senate with approval of the President is	
23 authorized to draw his requisitions upon the Auditor, pay-	
24 able out of the Current Expenses and Contingent Fund of	
25 the Senate, for any bills for supplies and services that may	
26 have been incurred by the Senate and not included in the	
27 appropriation bill, for supplies and services incurred in	
28 preparation for the opening, the conduct of the business	
29 and after adjournment of any regular or extraordinary	

30 session, and for the necessary operation of the Senate
31 offices, the requisition for same to be accompanied by the
32 bills to be filed with the Auditor.

33 The President of the Senate shall have authority to em-
34 ploy such staff personnel during any session of the Legis-
35 lature as shall be needed in addition to staff personnel au-
36 thorized by Senate resolution adopted during any such
37 session. The President of the Senate shall have authority
38 to employ such staff personnel between sessions of the
39 Legislature as shall be needed, the compensation of all
40 staff personnel during and between sessions of the Legis-
41 lature, notwithstanding any such Senate resolution, to be
42 fixed by the President of the Senate. The Clerk is hereby
43 authorized to draw his requisitions for the payments of all
44 such staff personnel upon the State Auditor, payable out
45 of the appropriation for Compensation and per diem of
46 officers and employees or Current Expenses and Contin-
47 gent Fund of the Senate for such services.

48 For duties imposed by law and the Senate, the Clerk of
49 the Senate shall be paid a monthly salary of two thousand
50 five hundred eighty-five dollars, payable out of the amount
51 appropriated for Compensation and per diem of officers
52 and employees.

2—House of Delegates

Acct. No. 102

	<i>Fiscal Year</i>
	<i>1975-76</i>
1 Compensation of Members	\$ 550,000
2 Compensation and per diem of officers and	
3 employees	390,000
4 Expenses of Members	310,000
5 Current Expenses and Contingent Fund	330,000

6 The appropriations for the House of Dele-
7 gates for the fiscal year 1974-75 are to remain
8 in full force and effect, and are hereby reap-
9 propriated to June 30, 1976.

10 Any balances so reappropriated may be
11 transferred and credited to the 1975-76 accounts.

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

17 The Clerk of the House of Delegates, with
18 approval of the Speaker, is authorized to draw
19 his requisitions upon the Auditor, payable out
20 of the Contingent Fund of the House of Dele-
21 gates, for any bills for supplies and services
22 that may have been incurred by the House of
23 Delegates, and not included in the appropria-
24 tion bill, for bills for services and supplies in-
25 curred in preparation for the opening of the
26 session and after adjournment, and for the nec-
27 essary operation of the House of Delegates'
28 offices, the requisition for the same to be ac-
29 companied by bills to be filed with the Auditor.

30 For duties imposed by law and by the House
31 of Delegates, including salary allowed by law
32 as keeper of the rolls, the Clerk of the House
33 of Delegates shall be paid a monthly salary as
34 provided in a House Resolution adopted Jan-
35 uary, 1975, payable from the Per Diem of Offi-
36 cers and Employees Fund or the Contingent
37 Fund of the House of Delegates, and the full-
38 time employees of the House of Delegates shall
39 be paid at the salaries provided in said reso-
40 lution.

41 The Speaker of the House of Delegates,
42 upon approval of the House Committee on
43 Rules, shall have authority to employ such
44 staff personnel during and between sessions
45 of the Legislature as shall be needed, and the
46 Clerk of the House is hereby authorized to
47 draw requisitions upon the State Auditor, pay-
48 able from the Per Diem of Officers and Em-
49 ployees Fund or the Contingent Fund of the
50 House of Delegates, for such services.

3—Joint Expenses

Acct. No. 103

	<i>Fiscal Year</i>
	<i>1974-75</i>
1 Joint Committee on Government and Finance	\$ 1,574,487

	<i>Fiscal Year</i>
	<i>1975-76</i>
1 To pay the cost of legislative printing	\$ 475,000
2 Commission on Interstate Cooperation	35,000
3 Joint Committee on Government and Finance ...	2,679,300
4 Other Legislative Committees	10,000

5 The appropriations for Joint Expenses for the
6 fiscal year 1974-75 are to remain in full force
7 and effect and are hereby reappropriated to
8 June 30, 1976. Any balances so reappropriated
9 may be transferred and credited to the
10 1975-76 accounts.

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

JUDICIAL**4—Supreme Court of Appeals**

Acct. No. 110

1 Salaries of Judges	\$ 187,500
2 Other Personal Services	471,553
3 Current Expenses	121,650
4 Equipment	186,500
5 Total	\$ 967,203

5—General Judicial Account

Acct. No. 111

1 Personal Services	3,937,000
2 Current Expenses (Other)	209,000

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3	Other Court Costs	1,115,000
4	Judges Retirement System	1,000,000
5	Unclassified	400,000
6	Total	\$ 6,661,000

6—State Law Library

Acct. No. 114

1	Personal Services	\$ 123,204
2	Current Expenses	20,050
3	Equipment	78,000
4	Total	\$ 221,254

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	205,128
3	Current Expenses	60,000
4	Equipment	15,000
5	Total	315,128
6	Any unexpended balance remaining at the	
7	close of the fiscal year 1974-75 for "Publica-	
8	tion of Governor's Papers and Inaugural Ex-	
9	pense" in hereby reappropriated for expendi-	
10	ture during the fiscal year 1975-76.	

9—Governor's Office—Custodial Fund

Acct. No. 123

1	Total	\$ 77,500
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2 To be used for current general expenses, includ-
 3 ing compensation of employees, household
 4 maintenance, cost of official functions, and
 5 any additional household expenses occa-
 6 sioned by such official functions.

10—*Governor's Office—Civil Contingent Fund*

Acct. No. 124

1 Total _____ \$ 250,000

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

7 Any unexpended balance remaining in this
 8 appropriation at the close of the fiscal year
 9 1974-75 is hereby reappropriated for expend-
 10 iture during the fiscal year 1975-76.

11—*Governor's Office—Federal-State Coordination*

Acct. No. 125

1 Federal-State Coordination _____ \$ 1,500,000

2 Governor's Committee on Crime, Delinquency
 3 and Correction _____ 575,000

4 Regional Councils—To Match Federal Funds... 220,000

5 Total _____ \$ 2,295,000

6 Any unexpended balance remaining in accounts
 7 "Federal-State Coordination" and "Gover-
 8 nor's Committee on Crime, Delinquency and
 9 Correction" at the close of the fiscal year
 10 1974-75 is hereby reappropriated for expendi-
 11 ture during the fiscal year 1975-76.

12—Governor's Office—Disaster Relief—Federal Matching
Acct. No. 126

1	Total	\$	50,000
2	To match and aid Federal Programs, and any		
3	part of this appropriation may be transferred		
4	to any department for such purposes.		

13—Governor's Office—Commission on Energy,
Economy and Environment

Acct. No. 129

1	Total	\$	—0—
2	Any unexpended balance remaining in this appropriation		
3	at the close of the fiscal year 1974-75 is hereby reappro-		
4	priated for expenditure during the fiscal year 1975-76.		

14—Office of Emergency Services

Acct. No. 130

1	Personal Services	\$	136,500
2	Current Expenses		38,000
3	Equipment		6,000
4	Total	\$	180,500

FISCAL

15—Auditor's Office—General Administration

Acct. No. 150

1	Salary of State Auditor	\$	22,500
2	Other Personal Services		716,247
3	Current Expenses		213,150
4	Equipment		39,700
5	Total	\$	991,597

16—Auditor's Office—Social Security

Acct. No. 151

1	To match contributions of state employees for		
2	social security	\$	8,100,000
3	The above appropriation is intended to cover		
4	the state's share of social security costs for		

5 those spending units operating from Gen-
 6 eral Revenue Fund. The State Department
 7 of Highways, Department of Motor Vehicles,
 8 Workmen's Compensation Commission, Pub-
 9 lic Service Commission, and other depart-
 10 ments operating from Special Revenue Fund
 11 and/or Federal Funds shall pay their propor-
 12 tionate share of the social security cost for
 13 their respective divisions.

14 Any unexpended balance remaining in this
 15 appropriation at the close of the fiscal year
 16 1974-75 is hereby reappropriated for expendi-
 17 ture during the fiscal year 1975-76.

17—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer	\$	22,500
2	Other Personal Services		228,669
3	Current Expenses		62,750
4	Equipment		28,875
5	Total	\$	342,794

18—*Treasurer's Office—School Building Sinking Fund*

Acct. No. 165

1	Total	\$	11,197,500
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2 Any unexpended balance remaining in the
 3 "School Building Sinking Fund" at the close
 4 of the fiscal year 1974-75 is hereby reappro-
 5 priated for expenditure during the fiscal year
 6 1975-76.

19—*Treasurer's Office—Vietnam Veterans Bonus Fund*

Acct. No. 166

1 Any unexpended balance remaining in this
 2 appropriation at the close of the fiscal year
 3 1974-75 is hereby reappropriated for expen-
 4 diture during the fiscal year 1975-76.

20—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services	\$	44,079
2	Current Expenses		3,960
3	Equipment		5,000
4	Total	\$	53,039

21—*State Tax Department*

Acct. No. 180

1	Personal Services	\$	2,902,284
2	Current Expenses		2,047,000
3	Equipment		56,070
4	Circuit Breaker Reimbursement		200,000
5	Total	\$	5,205,354

6 The above appropriation "Circuit Breaker
7 Reimbursement" is to be used in accord-
8 ance with Engrossed House Bill No. 751, 1972
9 Regular Session of the Legislature.

22—*State Tax Department**Property Appraisal*

Acct. No. 185

1	Personal Services	\$	1,202,347
2	Other Expenses		736,150
3	Reimbursement to Counties for computeriza- 4 tion		80,000
5	Total	\$	2,018,497

6 Any balance remaining in the "Property Ap-
7 praisal Account" at the close of the fiscal
8 year 1974-75 is hereby reappropriated for ex-
9 penditure during the fiscal year 1975-76.

23—*Department of Human Resources—**Office of the Secretary*

Acct. No. 186

1	Personal Services	\$	—0—
2	Other Expenses		—0—
3	Total	\$	—0—

24—*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		603,926
5	Current Expenses		161,050
6	Equipment ..		4,000
7	Total	\$	829,476

25—*State Commissioner of Public Institutions**Division of Correction, Work Release Unit*

Acct. No. 191

1	Personal Services	\$	—0—
2	Current Expenses		—0—
3	Repairs and Alterations		—0—
4	Equipment		—0—
5	Total	\$	—0—

26—*Department of Finance and Administration*

Acct. No. 210

1	Personal Services	\$	1,160,552
2	Current Expenses		436,770
3	Repairs and Alterations		79,700
4	Equipment		21,560
5	Postage		462,000
6	Records Management		58,025
7	State Agency Surplus Property		76,400
8	Utilities		500,000
9	Federal Matching		—0—
10	Fire Service Fee		73,965
11	Building Equipment and Supplies		25,000
11A	Major Building Repairs		1,500,000
12	Total	\$	4,393,972
13	The Workmen's Compensation Commission, De-		
14	partment of Welfare, Public Service Com-		
15	mission, Department of Natural Resources,		
16	Department of Motor Vehicles, State Depart-		

17 ment of Highways, State Health Department
18 and State Tax Department—Income Tax
19 Division shall reimburse the Postage appro-
20 priation of the Department of Finance and
21 Administration monthly for all meter service.
22 Any spending unit operating from Special
23 Revenue or receiving reimbursement for
24 postage costs from the Federal Government
25 shall refund to the Postage account of the
26 Department of Finance and Administration
27 such amounts. Should this appropriation for
28 Postage be insufficient to meet the mailing
29 requirements of the State spending units as
30 set out above, any excess postage meter ser-
31 vice requirements shall be a proper charge
32 against the units, and each spending unit
33 shall refund to the Postage appropriation of
34 the Department of Finance and Administra-
35 tion any amounts required for the Depart-
36 ment for postage in excess of this appropria-
37 tion.

38 Any unexpended balance remaining in the
39 "Postage Account" at the close of the fiscal
40 year 1974-75 is hereby reappropriated for
41 expenditure during the fiscal year 1975-76.

42 Any unexpended balances remaining at the close
43 of the fiscal year 1974-75 for "Major Building
44 Repairs" is hereby reappropriated for ex-
45 penditure during the fiscal year 1975-76.
46 (Major Building Repairs to include mainte-
47 nance and repairs to Governor's Mansion).

48 State Department of Highways, shall reimburse
49 the appropriation of the Department of
50 Finance and Administration monthly for all
51 actual expenses incurred pursuant to the
52 provisions of Chapter 17, Article 2-A, Sec-
53 tion 13 of the Code of West Virginia.

54 There also is appropriated for the State Agency
55 for Surplus Property all sums of money
56 collected by that agency from the sale of

57 surplus state property which has been de-
 58 clared expendable by the director of the
 59 Purchasing Division, and a special account
 60 created for expenditure for the purchase of
 61 operating equipment.

27—*State Board of Insurance*

Acct. No. 225

1	Personal Services	\$	40,230
2	Current Expenses		10,860
3	Equipment		500
4	Self-Insurance Fund		445,000
5	Combined Insurance Premiums		705,000
6	Total	\$	1,201,590

7 The above appropriation on line 5 is for the
 8 purpose of paying premiums for fire, auto-
 9 mobile and bonds for the various state
 10 agencies. Should this appropriation be in-
 11 sufficient to meet the premium requirements
 12 of the state spending units, any excess
 13 premium requirements shall be a proper
 14 charge against the units and each spending
 15 unit shall reimburse to the Board of Insur-
 16 ance any amounts required for that depart-
 17 ment for premiums in excess of this appro-
 18 priation.

19 Any unexpended balance remaining in the ap-
 20 propriation for "Self-Insurance Fund" at the
 21 close of the fiscal year 1974-75 is hereby re-
 22 appropriated for expenditure during the fiscal
 23 year 1975-76.

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

LEGAL

28—*Attorney General*

Acct. No. 240

1	Salary of Attorney General	\$	22,500
2	Other Personal Services		812,999

3	Current Expenses	97,925
4	Equipment	16,000
5	Buffalo Creek Legal Expenses	—0—
6	To protect the resources or tax structure of	
7	the State in controversies or legal proceedings	
8	affecting same	3,250
9	Consumer Protection	100,000
10	Total	\$ 1,052,674

11 When legal counsel or secretarial help is ap-
 12 pointed by the Attorney General, for any
 13 state spending unit, this account shall be re-
 14 imburged from such unit's appropriated ac-
 15 count in an amount agreed upon by the At-
 16 torney General and the proper authority of
 17 said spending unit.

18 The above appropriation for "Consumer Pro-
 19 tection" is to be used in accordance with En-
 20 grossed Senate Bill No. 240, 1974 Regular
 21 Session of the Legislature.

22 The above appropriation "Buffalo Creek Legal
 23 Expenses" is to pay for legal expenses in in-
 24 stituting legal proceedings to recompensate
 25 the state and its local governments, including
 26 boards of education, for expenditures in-
 27 curred as a result of the disaster at Buffalo
 28 Creek on February 26, 1972.

29 Any unexpended balance remaining in the ap-
 30 propriation "Buffalo Creek Legal Expenses"
 31 at the close of the fiscal year 1974-75 is hereby
 32 reappropriated for expenditure during the
 33 fiscal year 1975-76.

29—*Commission on Uniform State Laws*
 Acct. No. 245

1	Total	\$ 7,500
2	To pay expenses of members of the Commis-	
3	sion on Uniform State Laws.	

INCORPORATING AND RECORDING

30—Secretary of State

Acct. No. 250

1	Salary of Secretary of State	\$	22,500
2	Other Personal Services		191,586
3	Current Expenses		44,372
4	Equipment		6,000
5	Total	\$	264,458

EDUCATIONAL

31—State Department of Education

Acct. No. 277

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

Acct. No. 279

1	Personal Services	\$	61,247,878
2	Current Expenses		10,488,574
3	Repairs and Alterations		2,400,000
4	Equipment		3,100,000
5	Oak Wilt Research		10,500
6	Veterinary Tuition		220,160
7	Optometry Tuition		54,000
8	Educational T.V.		686,576
9	Bureau for Coal Research		410,000
10	Forestry Products		131,500
11	Regional Research Institute		87,600
12	Agricultural Experimental Station—Intensive		
13	Horticultural Demonstration		27,700
14	Intensive Agricultural-Demonstration Trial		35,000
15	Podiatry Tuition		5,000
16	Individual Accreditation		90,000
17	New Programs		300,000
18	Unclassified		300,000
19	Title I—Matching Funds		130,000
20	Awareness Program		50,000
21	Scholarship Program		1,500,000
22	Facilities and Scholarships Program		50,964

23	West Virginia College of Osteopathic Medicine	—0—
24	Center for Economic Action	48,750
25	Community and Development Research	24,500
26	Total	\$ 81,398,702
27	Any unexpended balance remaining at the close	
28	of the fiscal year 1974-75 for "establishing on	
29	the campus of or property owned by Marshall	
30	University, a "track field" is hereby reappro-	
31	priated for expenditure during the fiscal year	
32	1975-76.	

33—*West Virginia Board of Regents*

Acct. No. 280

1	Personal Services	\$ 365,683
2	Current Expenses	111,100
3	Equipment	3,600
4	Total	\$ 480,383

34—*Marshall University—Medical School*

Acct. No. 284

1	Total	—0—
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35—*West Virginia University—Medical School*

Acct. No. 285

1	Personal Services	\$ 5,268,137
2	Current Expenses	657,800
3	Repairs and Alterations	263,200
4	Equipment	128,900
5	Intern and Residency Support Programs for	
6	Community Hospitals	315,000
7	Total	\$ 6,633,037
8	To be transferred to the West Virginia Uni-	
9	versity—Medical School Fund upon the	
10	requisition of the Governor.	

36—*Department of Education*

Acct. No. 286

1	Personal Services	\$ 794,370
2	Current Expenses	220,900

3	Equipment	11,000
4	National Defense Education Act	400,000
5	Statewide Testing Program	127,180
6	Safety Education—Aid to Counties	210,000
7	State Aid to Children's Home	60,000
8	Regional Education Service Agency	420,000
9	Child Development Program	—0—
10	State Program to Purchase Insurance for	
11	County School System	—0—
12	Total	\$ 2,243,450

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

16 Any part or all of the appropriation for
 17 "National Defense Education Act" may be
 18 transferred to a Special Revenue Fund for
 19 the purpose of matching Federal Funds for
 20 this program.

37—*State Department of Education—School Lunch Program*
 Acct. No. 287

1	Personal Services	\$ 111,568
2	Current Expenses	27,403
3	Aid to Counties—Includes hot lunches and	
4	canning for hot lunches	925,000
5	Total	\$ 1,063,971

38—*State Board of Education—Vocational Division*
 Acct. No. 289

1	Personal Services	\$ 155,636
2	Current Expenses	49,200
3	Equipment	3,575
4	Vocational Aid	6,245,000
5	Adult Basic Education	250,000
6	Total	\$ 6,703,411

39—*Educational Broadcasting Authority*
 Acct. No. 291

1	Personal Services	\$ 48,932
2	Current Expenses	29,075

3	Equipment	2,500
4	Regional ETV	1,240,788

5	Total	\$ 1,321,295
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6 For participation in the construction and operation of Regional ETV stations by Marshall University, Concord College, Bluefield State College, West Virginia Institute of Technology and West Virginia State College and may be transferred to special revenue accounts for matching County and/or Federal Funds.

40—*State Board of Education—Vocational Division*

Acct. No. 292

1	Vocational Summer School	\$ —0—
2	Vocational Equipment Replacement	—0—
3	Adult and Community Education	—0—

4	Total	\$ —0—
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41—*State Board of Education—Vocational Division*

Acct. No. 294

1	Total	\$ 300,000
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2 Any unexpended balance remaining in the appropriation "Aid to Counties" at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

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

Acct. No. 295

1	Professional Services	\$162,679,260
2	Salaries—Other Personnel	32,535,852
3	Fixed Charges	15,324,386
4	Transportation Charges	7,601,776
5	Administration	1,626,793
6	Other Current Expense	19,521,511
7	National Average Attainment	9,918,612
8	Program Improvement	1,569,948

9	Increased Enrollment	700,000
10	Sub Total	\$251,478,138
11	Less Local Share	44,700,009
12	Total	\$206,778,129

43—*Department of Education—Aid for Exceptional Children*

Acct. No. 296

1	Personal Services	\$ 167,937
2	Current Expenses	39,055
3	Out-of-State Instruction	150,000
4	Aid to Counties	4,168,062
5	Total	\$ 4,525,054
6	The appropriation for "Out-of-State Instruc-	
7	tion" may be expended to provide instruction,	
8	care and maintenance for educable persons	
9	who have multiple handicaps and for whom	
10	the state provides no facilities.	

44—*State Board of Education—Early Childhood Aides*

Acct. No. 297

1	Early Childhood Aides	\$ 2,685,540
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45—*Teacher's Retirement Board*

Acct No. 298

1	Teachers Retirement Fund	\$ 47,027,000
2	Expenses Fund	35,000
3	Total	\$ 47,062,000

46—*Department of Education*

Acct. No. 299

1	To fund minimum salaries for Support Per-	
2	sonnel—Total	\$ —0—

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

Acct. No. 333

1	Personal Services	\$ 1,530,446
2	Current Expenses	383,430

3	Repairs and Alterations	79,800
4	Equipment	67,000
5	Total.....	\$ 2,060,676

48—State FFA-FHA Camp and Conference Center

Acct. No. 336

1	Personal Services	\$ 79,915
2	Current Expenses	14,535
3	Repairs and Alterations	19,750
4	Equipment	19,200
5	Total.....	\$ 133,400

49—Department of Archives and History

Acct. No. 340

1	Personal Services	\$ 125,819
2	Current Expenses	53,730
3	Repairs and Alterations	2,000
4	Equipment	30,000
5	Total.....	\$ 211,549

50—West Virginia Library Commission

Acct. No. 350

1	Personal Services	\$ 471,450
2	Current Expenses	152,930
3	Repairs and Alterations	3,500
4	Equipment	5,000
5	Books and Periodicals	60,000
6	Grants-in-Aid	1,000,000
7	Library Matching Funds	1,500,000
8	Total.....	\$ 3,192,880

9 Any unexpended balance remaining in the ap-
 10 propriation "Library Matching Funds" at the
 11 close of the fiscal year 1974-75 is hereby re-
 12 appropriated for expenditure during the fiscal
 13 year 1975-76.

CHARITIES AND CORRECTION

51—*Anthony Correctional Center*

Acct. No. 369

1 Personal Services	\$	258,300
2 Current Expenses		106,835
3 Repairs and Alterations		14,550
4 Equipment		15,000
5 Total	\$	394,685

52—*West Virginia Industrial School for Boys*

Acct. No. 370

1 Personal Services	\$	752,346
2 Current Expenses		272,720
3 Repairs and Alterations		63,650
4 Equipment		36,900
5 Total	\$	1,125,616

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

Acct. No. 371

1 Personal Services	\$	253,246
2 Current Expenses		124,305
3 Repairs and Alterations		16,065
4 Equipment		21,500
5 Total	\$	415,116

54—*West Virginia Industrial Home for Girls*

Acct. No. 372

1 Personal Services	\$	420,528
2 Current Expenses		139,825
3 Repairs and Alterations		34,900
4 Equipment		45,000
5 Vocational Training		5,000
6 Total	\$	645,253

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

Acct. No. 373

1 Personal Services	\$	252,118
2 Current Expenses		138,986

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3	Repairs and Alterations	24,450
4	Equipment	22,000
5	Total	\$ 437,554

56—West Virginia State Prison for Women

Acct. No. 374

1	Personal Services	\$ 134,756
2	Current Expenses	63,523
3	Repairs and Alterations	20,050
4	Equipment	12,600
5	Total	\$ 230,929

57—West Virginia Penitentiary

Acct. No. 375

1	Personal Services	\$ 1,828,155
2	Current Expenses	935,800
3	Repairs and Alterations	84,500
4	Equipment	200,000
5	Completion of cells in North Block Medium	
6	Security	—0—
7	Pre-Fab Structure Replacements of (15) Fif-	
8	teen Guard Towers	—0—
9	Total	\$ 3,048,455

10 Any unexpended balance remaining in the ac-
 11 counts "Replacement of Sanitary System
 12 (Sewers) and Construction of Boiler Plant";
 13 and "Purchase of building and land" at the
 14 close of the fiscal year 1974-75 is hereby re-
 15 appropriated for expenditure during the
 16 fiscal year 1975-76.

17 Any or all of the accounts "Replacement of
 18 Sanitary System (Sewer) and Construction
 19 of Boiler Plant may be used to match and
 20 aid Federal Funds.

58—Huttonsville Correctional Center

Acct. No. 376

1	Personal Services	\$ 1,147,807
2	Current Expenses	411,282

3	Repairs and Alterations	76,603
4	Equipment	19,000
5	Total	\$ 1,654,692

59—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services	\$ 126,420
2	Current Expenses	63,580
3	Repairs and Alterations	14,000
4	Equipment	14,600
5	Total	\$ 218,600

60—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services	\$ 608,979
2	Current Expenses	284,629
3	Repairs and Alterations	40,000
4	Equipment	62,500
5	Total	\$ 996,108

HEALTH AND WELFARE

61—*State Health Department*

Acct. No. 400

1	Personal Services	\$ 1,332,263
2	Current Expenses	240,000
3	Equipment	37,500
4	Emergency Medical Services	45,000
5	Cancer Control and Treatment	253,575
6	Local Health Services	1,500,000
7	Dental Clinics	158,900
8	Heart Disease Control	134,607
9	Maternal and Child Healthmobile Medical	
10	Examination Clinic	463,312
11	Home Health Services	43,050
12	Mobile Chest X-ray & Diagnostic Services for	
13	Tuberculosis Control	86,100
14	Hospital and Medical Facilities Construction	
15	Program	17,500

16	Special Project for Eradication of Tubercu-	
17	losis	262,500
18	Environmental Health Services	184,500
19	Nursing Home Inspection Unit	—0—
20	Biologicals for Immunization and Venereal	
21	Disease	75,000
22	Regional Health Service	214,000
23	Early Childhood Development Program	304,750
24	Plastic Card Birth Certificate Program	—0—
25	In-Patient Hospital Care and Emergency	
26	Service	—0—
27	Total	\$ 5,352,557

62—*Commission on Postmortem Examination*

Acct. No. 401

1	Total	\$ 150,000
2	Any unexpended balance remaining in the ap-	
3	propriation "Commission on postmortem Ex-	
4	amination" at the close of the fiscal year	
5	1974-75 is hereby reappropriated for expendi-	
6	ture during the fiscal year 1975-76.	

63—*Department of Veterans Affairs*

Acct. No. 403

1	In aid of Veterans Day Patriotic Exercises	\$ 5,000
2	To be expended subject to the approval of the	
3	Department of Veterans Affairs upon pres-	
4	entation of satisfactory plans by the Grafton	
5	G.A.R. Post, American Legion, Veterans of	
6	Foreign Wars and Sons of Veterans.	

64—*Department of Veterans Affairs*

Acct. No. 404

1	Personal Services	\$ 367,794
2	Current Expenses	75,700
3	Equipment	5,100
4	Total	\$ 448,594
5	Any unexpended balances remaining in the	
6	appropriation "To Provide Educational Op-	

7 opportunities for Children of War Veterans"
 8 at the close of the fiscal year 1974-75 is
 9 hereby reappropriated for expenditures dur-
 10 ing the fiscal year 1975-76.

65—*Department of Welfare*

Acct. No. 405

1	Personal Services	\$ 4,716,095
2	Current Expenses	2,148,667
3	Equipment	46,865
4	Public Assistance Grants (Classified Aid)	14,218,994
5	Services to Children, Aged, Blind and Disabled	5,407,035
6	Emergency Assistance Program	1,550,000
7	Social Security Matching Fund	470,000
8	T.R.I.P.	1,100,000
		<hr/>
9	Total.....	\$ 29,657,656

66—*State Commission on Aging*

Acct. No. 406

1	Personal Services	\$ 52,710
2	Current Expenses	39,325
3	Equipment	525
4	Programs for Elderly	250,000
		<hr/>
5	Total.....	\$ 342,560

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

Acct. No. 407

1	Personal Services	\$ 1,278,337
2	Current Expenses	377,018
3	Equipment	12,500
		<hr/>
4	Total.....	\$ 1,667,855

68—*Department of Welfare—Medical Program*

Acct. No. 408

1	Personal Services	\$ 1,117,920
2	Current Expenses	904,600

3	Equipment	8,750
4	Direct Services	15,007,037
5	Total	\$ 17,038,307

69—Department of Mental Health

Acct. No. 410

1	Personal Services	\$ 861,000
2	Current Expenses	209,325
3	Equipment	13,000
4	Research and Training	10,000
5	Civil Service Costs	85,000
6	Division of Health Education	20,000
7	Community Mental Retardation Program	750,000
8	Alcohol and Drug Abuse Program	400,000
9	Community Mental Health Programs	1,600,000
10	Children's Mental Health Services	—0—
11	Total	\$ 3,948,325

12 Any unexpended balance remaining in the ac-
 13 count "Mental Health Center—Princeton" at
 14 the close of the fiscal year 1974-75 is hereby
 15 reappropriated for expenditure during fiscal
 16 year 1975-76.

70—Commission On Mental Retardation

Acct. No. 411

1	Personal Services	\$ 51,030
2	Current Expenses	16,770
3	Equipment	2,000
4	Special Services	—0—
5	Total	\$ 69,800

71—Greenbrier School for Mentally Retarded Children

Acct. No. 414

1	Personal Services	\$ 626,325
2	Current Expenses	151,390
3	Repairs and Alterations	100,000
4	Equipment	60,000
5	Total	\$ 937,715

72—*Roney's Point Branch Hospital*

Acct. No. 417

1	Personal Services	\$	195,386
2	Current Expenses		58,281
3	Repairs and Alterations		20,000
4	Equipment		3,750
			<hr/>
5	Total	\$	277,417

73—*Guthrie Center*

Acct. No. 418

1	Personal Services	\$	506,728
2	Current Expenses		211,275
3	Repairs and Alterations		45,000
4	Equipment		35,000
			<hr/>
5	Total	\$	798,003

74—*Colin Anderson Center*

Acct. No. 419

1	Personal Services	\$	3,444,000
2	Current Expenses		547,847
3	Repairs and Alterations		89,150
4	Equipment		120,000
			<hr/>
5	Total	\$	4,200,997

75—*Weston State Hospital*

Acct. No. 420

1	Personal Services	\$	4,654,781
2	Current Expenses		1,550,780
3	Repairs and Alterations		143,325
4	Equipment		114,450
5	Psychiatric Training Center for Student Nurses		150,000
			<hr/>
6	Total	\$	6,613,336

76—*Spencer State Hospital*

Acct. No. 421

1	Personal Services	\$ 2,713,248
2	Current Expenses	920,090
3	Repairs and Alterations	85,000
4	Equipment	75,000

5 Total

		\$ 3,793,338
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6 Any unexpended balance remaining in "Boiler
7 Plant" at the close of fiscal year 1974-75, is
8 hereby reappropriated for expenditure dur-
9 ing fiscal year 1975-76.

77—*Huntington State Hospital*

Acct. No. 422

1	Personal Services	\$ 3,196,677
2	Current Expenses	1,002,100
3	Repairs and Alterations	150,000
4	Equipment	90,000
5	Student Nurse Affiliation Program	43,000

6 Total

		\$ 4,481,777
--	--	--------------

78—*Lakin State Hospital*

Acct. No. 423

1	Personal Services	\$ 1,605,765
2	Current Expenses	478,680
3	Repairs and Alterations	100,000
4	Equipment	65,000

5 Total

		\$ 2,249,445
--	--	--------------

6 Any unexpended balance remaining in the ap-
7 propriation—Renovate Classroom Building,
8 at the close of the fiscal year 1974-75 is here-
9 by reappropriated for expenditure during the
10 fiscal year 1975-76.

79—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services	\$ 935,812
2	Current Expenses	235,642

3	Repairs and Alterations	22,000
4	Equipment	25,000
5	Total	\$ 1,218,454

80—Fairmont Emergency Hospital

Acct. No. 425

1	Personal Services	\$ 414,356
2	Current Expenses	153,860
3	Repairs and Alterations	15,350
4	Equipment	17,600
5	Total	\$ 601,166

81—Welch Emergency Hospital

Acct. No. 426

1	Personal Services	\$ 731,325
2	Current Expenses	283,285
3	Repairs and Alterations	75,000
4	Equipment	70,000
5	Total	\$ 1,159,610

82—Hopemont State Hospital

Acct. No. 430

1	Personal Services	\$ 2,625,000
2	Current Expenses	517,850
3	Repairs and Alterations	60,000
4	Equipment	58,850
5	Total	\$ 3,261,700

83—Pinecrest State Hospital

Acct. No. 431

1	Personal Services	\$ 2,287,950
2	Current Expenses	650,955
3	Repairs and Alterations	40,350
4	Equipment	43,650
5	Total	\$ 3,022,905

84—Denmar State Hospital**Acct. No. 432**

1	Personal Services	\$ 1,609,650
2	Current Expenses	421,460
3	Repairs and Alterations	42,000
4	Equipment	85,000
5	Total	\$ 2,158,110

85—State Board of Education—Rehabilitation Division**Acct. No. 440**

1	Personal Services	\$ 880,000
2	Current Expenses	326,880
3	Rehabilitation Center	1,000,000
4	Case Services	1,722,765
5	Supervisory Services for Vending Stand Pro-	
6	gram for Blind	100,000
7	Training and Special Projects	204,400
8	Social Security Matching Fund	90,000
9	Program for Blind Food Service	150,000
10	Total	\$ 4,474,045

BUSINESS AND INDUSTRIAL RELATIONS**86—Bureau of Labor and Department of
Weights and Measures****Acct. No. 450**

1	Personal Services	\$ 708,750
2	Current Expenses	232,025
3	Equipment	12,970
4	Total	\$ 953,745

87—Interstate Mining Compact Commission**Acct. No. 451**

1	Total	\$ 10,000
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88—Department of Mines**Acct. No. 460**

1	Personal Services	\$ 1,893,024
2	Current Expenses	360,075

3	Equipment _____	53,025
4	Special Mine Drainage Program _____	50,000
5	Mine Training, Education and Certification _____	200,000
6	Subsidence—Federal Matching _____	250,000
7	Total _____	\$ 2,806,124

89—Department of Commerce

Acct. No. 465

1	Personal Services _____	\$ 585,351
2	Current Expenses _____	1,437,770
3	Equipment _____	47,000
4	Mt. State Forest Festival _____	25,000
5	Alpine Festival _____	7,500
6	West Virginia Historical Drama Association _____	55,000
7	Arts and Humanities Fund _____	276,759
8	Industrial Development Revolving Fund _____	500,000
9	New Martinsville Regatta _____	2,500
10	Braxton County Regatta _____	4,000
11	Mothers Day Founders Festival _____	5,000
12	Calhoun County Wood Festival _____	2,500
13	White Water Weekend _____	3,000
14	Cherry River Festival _____	2,000
15	Oil and Gas Festival _____	2,500
16	National Youth Science Camp _____	223,856
17	West Virginia Water Festival _____	7,500
18	Mountain Heritage Arts and Crafts Fair _____	5,000
19	Sternwheel Regatta _____	1,000
20	Wellsburg July 4th Celebration _____	2,000
21	Sistersville Outboard Regatta _____	1,000
22	West Virginia's Participation in American	
23	Bicentennial _____	109,500
24	Ohio River Festival _____	1,000
25	King Coal Festival _____	700
26	Independence Hall, Wheeling, West Virginia...	125,000
27	Total _____	\$ 3,432,436

28 The above appropriations, Mt. State Forest Festival,
 29 tival, Alpine Festival, West Virginia Historical
 30 cal Drama Association, New Martinsville
 31 Regatta, Braxton County Regatta, Mothers
 32 Day Founders Festival, White Water Week-

- 33 end, Cherry River Festival, Sternwheel Re-
 34 gatta, Oil and Gas Festival, Sistersville Out-
 35 board Regatta, West Virginia Water Festival,
 36 Mt. Heritage Arts and Crafts Fair, Ohio River
 37 Festival, Wellsburg July 4th Celebration,
 38 King Coal Festival and Calhoun County
 39 Wood Festival shall be expended only upon
 40 authorization of the Commerce Commissioner
 41 and in accordance with the provisions of
 42 Chapter 5A of the Code of West Virginia.
 43 All Federal moneys received as reimbursement
 44 to the Department of Commerce, for moneys
 45 expended from the General Revenue fund for
 46 Arts and Humanities are hereby reappropri-
 47 ated for the purposes as originally made, in-
 48 cluding Personal Services, Current Expenses
 49 and Equipment.
 50 Any unexpended balance remaining in the ap-
 51 propriation "Independence Hall, Wheeling,
 52 West Virginia" at the close of the fiscal year
 53 1974-75 is hereby reappropriated for expendi-
 54 ture during the fiscal year 1975-76.
 55 Any unexpended balance remaining in the ac-
 56 count "National Youth Science Camp" at the
 57 close of the fiscal year 1974-75 is hereby re-
 58 appropriated for expenditure during the fiscal
 59 year 1975-76.
 60 Any unexpended balance remaining in the ac-
 61 count "West Virginia Bicentennial" at the
 62 close of the fiscal year 1974-75 is hereby re-
 63 appropriated for expenditure during the fiscal
 64 year 1975-76.

90—Ohio River Basin Commission

Acct. No. 469

1 Total\$ 21,600

91—State Commission on Manpower, Technology
 and Training

Acct. No. 470

1 Personal Services\$ 24,518
 2 Current Expenses 7,600

3	Equipment	1,100
4	Total	\$ 33,218
<i>92—Council of State Governments</i>		
Acct. No. 472		
1	Total	\$ 38,130
<i>93—Interstate Commission on Potomac River Basin</i>		
Acct. No. 473		
1	West Virginia's contribution to Potomac River	
2	Basin Interstate Commission	\$ 12,450
<i>94—Ohio River Valley Water Sanitation Commission</i>		
Acct. No. 474		
1	West Virginia's contribution to the Ohio River	
2	Valley Water Sanitation Commission	\$ 40,575
<i>95—Southern Regional Education Board</i>		
Acct. No. 475		
1	West Virginia's contribution to Southern Re-	
2	gional Education Board	\$ 64,000
3	To be expended upon requisition of the Gov-	
4	ernor.	
<i>96—West Virginia Air Pollution Commission</i>		
Acct. No. 476		
1	Personal Services	\$ 397,031
2	Current Expenses	123,050
3	Equipment	9,325
4	Total	\$ 529,406
<i>97—Interstate Education Compact</i>		
Acct. No. 477		
1	West Virginia's contribution to Interstate Edu-	
2	cation Compact	\$ 14,250
<i>98—Antiquities Commission</i>		
Acct. No. 478		
1	Personal Services	\$ 23,392
2	Current Expenses	7,700

APPROPRIATIONS

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3	Equipment	2,000
4	Total	\$ 33,092

99—Department of Banking

Acct. No. 480

1	Personal Services	\$ 249,585
2	Current Expenses	131,990
3	Equipment	3,900
4	Total	\$ 385,475

100—West Virginia State Aeronautics Commission

Acct. No. 485

1	Personal Services	\$ 33,831
2	Current Expenses	22,565
3	Equipment	2,000
4	Aerial Markers	1,200
5	Civil Air Patrol Expenses	18,500
6	Airport Matching	1,000,000
7	Total	\$ 1,078,096

8 Any unexpended balance remaining in the
 9 appropriation "Airport Matching" at the
 10 close of the fiscal year 1974-75 is hereby re-
 11 appropriated for expenditure during fiscal
 12 year 1975-76.

101—West Virginia Nonintoxicating Beer Commission

Acct. No. 490

1	Personal Services	\$ 212,222
2	Current Expenses	73,700
3	Equipment	3,000
4	Total	\$ 288,922

102—West Virginia Racing Commission

Acct. No. 495

1	Personal Services	\$ 329,825
2	Current Expenses	46,416

3	Equipment	2,000
4	Total	\$ 378,241

AGRICULTURE

103—Department of Agriculture

Acct. No. 510

1	Salary of Commissioner	\$ 22,500
2	Other Personal Services	1,117,670
3	Current Expenses	617,502
4	Equipment	25,000
5	Marijuana and Multiflora Rose Eradication	
6	Program	35,000
7	Moving Expenses	—0—
8	Total	\$ 1,817,672
9	Out of the above funds a sum may be used to	
10	match Federal funds for the eradication and	
11	control of pest and plant diseases.	
12	Any unexpended balance remaining in "Eradi-	
13	cation Program" and "Laboratory Facility"	
14	at the close of fiscal year 1974-75 is hereby	
15	reappropriated for expenditure during fiscal	
16	year 1975-76.	

104—Department of Agriculture—Soil Conservation
Committee

Acct. No. 512

1	Personal Services	\$ 199,500
2	Current Expenses	58,000
3	Watershed Program	300,000
4	Mud River Flood Control Project	100,000
5	Channelization of Kelley's Creek	50,000
6	Total	\$ 707,500
7	Any unexpended balance remaining in the	
8	"Watershed Program," "Mud River Flood	
9	Control Project" and "Channelization of	
10	Kelley's Creek" at the close of the fiscal year	

11 1974-75 is hereby reappropriated for expendi-
 12 ture during fiscal year 1975-76.

105—*Department of Agriculture—Division of Rural Resources
 (Matching Fund)*

Acct. No. 513

1	Personal Services	\$	419,818
2	Current Expenses		105,182
3	Total	\$	525,000

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

106—*Department of Agriculture—Meat Inspection*

Acct. No. 514

1	Unclassified	\$	361,200
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2 Any part or all of this appropriation may be
 3 transferred to Special Revenue Fund for the
 4 purpose of matching Federal Funds for the
 5 above-named program.

6 Any unexpended balance remaining in the ap-
 7 propriation "Meat Inspection" at the close
 8 the fiscal year 1974-75 is hereby reappro-
 9 priated for expenditure during the fiscal
 10 year 1975-76.

107—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1	West Virginia State Fair	\$	35,000
2	Agricultural Awards		50,000
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		2,500
8	Webster Logging Festival		2,000
9	Paden City Labor Day Festival		2,000
10	Jackson County Junior Fair		1,500

11	Buckwheat Festival	3,500
12	Clay County Golden Delicious Festival	1,500
13	Potato Festival	1,500
14	Lincoln County Tomato Festival	1,000
15	Mason County Fair	3,500
16	West Virginia Sports Festival	1,500
17	Tyler County Fair	2,500
18	Virginia Point Days (Wayne County)	1,500
19	Huntington River Day Fair	1,000
20	Wood County Fair	3,000
21	Pocahontas County Pioneer Days	1,000
22	Mannington District Fair	1,000
23	Braxton Fair Association	2,000
24	Paw Paw District Fair	1,000
25	Winfield District Fair	1,000
26	Wyoming County Labor Day Festival (4-H	
27	Awards)	2,500
28	Putnam County Midway Fair	1,000
29	Monroe County Farmers Day Festival	1,500
30	Total	\$ 136,950

CONSERVATION AND DEVELOPMENT

108—*Geological and Economic Survey Commission*

Acct. No. 520

1	Personal Services	\$ 457,406
2	Current Expenses	137,905
3	Repairs and Alterations	9,500
4	Equipment	56,673
5	Cooperative Mapping Program	225,000
6	Coal Quality and Reserve Study	200,000
7	Archaeological Dig—Blennerhassett Island	—0—
8	Total	\$ 1,086,484
9	Of the above appropriations for Cooperative	
10	Mapping Program, the sum of \$65,000 may	
11	be used to cooperate with the United States	
12	Geological Survey in Ground Waters Re-	
13	sources Study.	

109—*Department of Natural Resources*
Acct. No. 565

1	Personal Services	\$ 3,600,838
2	Current Expenses	998,743
3	Repairs and Alterations	308,380
4	Equipment	418,950
5	Subsistence for Conservation Officers	342,188
6	Debt Service	675,000
7	Special Works Program	293,000
8	A.R.A.-E.D.A. Parks Program	100,840
9	Clarke-McNary Fire Prevention	400,000
10	Wonderful West Virginia	150,000
11	Water Resources Board	13,802
12	U.S. Geological Survey	52,500
13	Rabies Control	34,302
14	French Creek Game Farm	82,926
15	Berkeley Springs Resort	120,000
16	Reclamation Board of Review	15,000
17	Coal Refuse Disposal and Dam Control Act	207,320
18	Pipestem State Park (operation)	420,000
19	Family Recreation on Public Fishing and Hunt-	
20	ing Areas	—0—
21	Repairs, Replacement of Equipment and Fur-	
22	nishings at State Parks and Forests	—0—
23	Land and Water Reclamation Inventory	—0—
24	Total	\$ 8,233,789

25 Out of the above appropriation for Subsistence
 26 for Conservation Officers, subsistence shall be
 27 paid at the rate of two hundred twenty-eight
 28 dollars (\$228.00) per month to the chief con-
 29 servation officer and each full-time uniformed
 30 conservation officer, under his direct super-
 31 vision, whose primary duties and responsi-
 32 bilities are law enforcement.

33 From the above appropriation "Subsistence for
 34 Conservation Officers," there may be trans-
 35 ferred to a Department of Natural Resources
 36 Special Revenue Account as reimbursement
 37 for payment of subsistence to the chief con-

38 servation officer and each full-time uniformed
 39 conservation officer, under his direct super-
 40 vision, whose primary duties and responsi-
 41 bilities are law enforcement, an amount not
 42 to exceed two hundred twenty-eight dollars
 43 (\$228.00) per month.

44 Any unexpended balance remaining in the ap-
 45 propriations "Capital Improvements, State
 46 Parks," "Grave Creek Mound Park," "Panther
 47 State Forest," Piney Creek Watershed,"
 48 "Purchase of Land—Pipestem State Park,"
 49 "Land Purchase and Development—(Sand-
 50 stone Falls)" and "Land Purchase and Up-
 51 grading Facilities—Laurel Creek" at the close
 52 of the fiscal year 1974-75, is hereby reappro-
 53 priated for expenditure during the fiscal year
 54 1975-76.

55 Any or all of the appropriation "Capital Im-
 56 provements, State Parks" may be used to
 57 match and aid Federal Funds.

58 Any or all funds appropriated for "Clarke-
 59 McNary Fire Prevention" may be transferred
 60 to special fund to match and aid Federal
 61 Funds.

110—*Public Land Corporation*

Acct. No. 566

1 Any unexpended balance remaining in the ap-
 2 propriation for "Public Land Corporation" at
 3 the close of the fiscal year 1974-75, is hereby
 4 reappropriated for expenditure during the
 5 fiscal year 1975-76.

111—*Water Development Authority*

Acct. No. 567

1	Personal Services	\$	63,756
2	Operating Expenses		65,000
3	Total	\$	128,756

PROTECTION

112—*Department of Public Safety*

Acct. No. 570

1	Personal Services	\$ 6,113,733
2	Current Expenses	2,430,000
3	Repairs and Alterations	143,850
4	Equipment	787,900
5	Emergency Fund	5,000
6	Arrest and Witness Fee	225,000
7	Total	\$ 9,705,483

113—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services	\$ 130,139
2	Current Expenses	266,324
3	Repairs and Alterations	24,500
4	Equipment	7,200
5	Compensation of Commanding Officers, Cleri-	
6	cal Allowances and Uniform Allowances.....	95,360
7	Property Maintenance	300,240
8	State Armory Board	1,100,573
9	Total	\$ 1,924,336

MISCELLANEOUS BOARDS AND COMMISSIONS

114—*West Virginia State Board of Land Surveyors*

Acct. No. 585

1	To pay the per diem of members and other	
2	general expenses	7,000
3	From Collections	7,000

115—*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

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

Acct. No. 587

1	To pay the per diem of members and other	
2	general expenses	\$ 56,000
3	From Collections	56,000

117—*State Board of Chiropractic Examiners*

Acct. No. 588

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

118—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses	\$	42,000
3 From Collections		42,000

119—*State Board of Osteopathy*

Acct. No. 591

1 To pay the per diem of members and other		
2 general expenses	\$	4,145
3 From Collections		4,145

120—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1 To pay the per diem of members and other		
2 general expenses	\$	30,000
3 From Collections		30,000

121—*State Board of Registration for Professional Engineers*

Acct. No. 594

1 To pay the per diem of members and other		
2 general expenses	\$	53,695
3 From Collections		53,695

122—*State Board of Architects*

Acct. No. 595

1 To pay the per diem of members and other		
2 general expenses	\$	14,000
3 From Collections		14,000

123—*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

124—*State Board of Law Examiners*

Acct. No. 597

1	To pay the per diem of members and other		
2	general expenses	\$	8,000

125—*Human Rights Commission*

Acct. No. 598

1	Personal Services	\$	184,604
2	Current Expenses		71,015
3	Equipment		3,700
4	Total	\$	259,319

126—*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

127—*West Virginia Public Employees Retirement Board*

Acct. No. 614

1	Employers Accumulation Fund	\$	—0—
2	Expenses Fund		—0—
3	Total	\$	—0—

4 The above appropriation is intended to cover
 5 the full cost of West Virginia Public Employ-
 6 ee's Retirement coverage for those depart-
 7 ments operating from General Revenue Fund
 8 and State Road Fund appropriations. Work-
 9 men's Compensation Commission, Public Ser-
 10 vice Commission, and other departments op-
 11 erating from Special Revenue Funds and/or
 12 Federal Funds shall pay the full cost of cover-
 13 age for their employees from funds available
 14 to those respective accounts. When specific
 15 appropriations are not made such payments
 16 may be made from the balance in the various
 17 Special Revenue Funds in excess of specific
 18 appropriations.

128—*West Virginia Public Employees Insurance Board*

Acct. No. 615

1	Expense Fund	\$ 96,000
2	Public Employees Health Insurance—State	
3	Contribution	14,000,000
4	Total	\$ 14,096,000

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

129—*Insurance Commissioner*

Acct. No. 616

1	Personal Services	\$ 484,050
2	Current Expenses	132,900
3	Repairs and Alterations	5,000
4	Equipment	5,800
5	Total	\$ 627,750

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

4 Chapter 5-A, Article 2, of the Code of West Virginia the
5 following amounts, as itemized, for expenditure during
6 the fiscal year one thousand nine hundred seventy-six.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Federal Aid Construction	\$	—0—
2	Non-Federal Aid Construction		—0—
3	Other Operations		—0—
4	Total	\$	—0—

5 It is the intent to appropriate and make avail-
6 able for expenditure, the balances and all
7 revenues and income of the state road fund,
8 including the proceeds from the sale of bonds,
9 for the maintenance, construction and re-
10 construction of state roads and for other pur-
11 poses in accordance with the provisions of
12 Chapter 17, Code of West Virginia, one thou-
13 sand nine hundred thirty-one, as amended.

14 Funds in excess of amounts herein appropri-
15 ated may be made available by budget
16 amendment upon request of the Highways
17 Commissioner and approval of the Governor.

18 The State Commissioner of Highways shall
19 have the authority to purchase various types
20 of equipment to be used directly and in-
21 directly in the construction and maintenance
22 of roads and for the purchase of inventories,
23 materials and supplies.

24 There is hereby appropriated, within the above
25 items sufficient moneys for the pay-
26 ment of claims, accrued or arising during
27 this budgetary period, to be paid in accord-
28 ance with Chapter 14, Article 2, Sections 7
29 and 8, Code of West Virginia, one thousand
30 nine hundred thirty-one, as amended.

131—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 1,076,250
2	Current Expenses	1,283,736
3	Equipment	30,000
4	Purchase of License Plates	300,000
5	Social Security Matching Fund	73,370
6	Public Employees Health Insurance	51,000
7	Total	\$ 2,814,356

132—*State Tax Department—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 327,598
2	Current Expenses	127,300
3	Equipment	4,800
4	Social Security Matching Fund	21,090
5	Public Employees Health Insurance	13,000
6	Total	\$ 493,788

133—*Department of Education—Veterans Education*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 121,590
2	Other Expenses	47,400
3	Total	\$ 168,990

- 4 Expenditures from this appropriation shall not
 5 exceed the amount to be reimbursed by the
 6 Federal Government.
 7 Federal funds in excess of the amounts here-
 8 by appropriated may be made available by
 9 budget amendment upon request of the State
 10 Superintendent of Schools and approval of

- 11 the Governor for any emergency which
 12 might arise in the operation of this Division
 13 during the fiscal year.

134—*Treasurer's Office*

Acct. No. 800

TO BE PAID FROM SPECIAL REVENUE FUND

1 Abandoned and Unclaimed Property—Trust		
2 and Expenses Fund	\$	29,620

135—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$	74,361
2 Current Expenses		24,500
3 Equipment		1,050
4 Social Security Matching Fund		5,000
5 Public Employees Retirement Matching Fund ..		6,500
6 Public Employees Health Insurance		2,000
7 Total	\$	113,411

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

136—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1 Medical Expenses	\$	5,000
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- 2 The total amount of this appropriation shall
 3 be paid from Special Revenue Fund out of
 4 collections of license fees and fines as pro-
 5 vided by law.

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

137—*Auditor's Office—Land Department Operating Fund*
Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1 Total _____ \$ 12,000

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

5 Special funds in excess of the amount herein
6 appropriated may be made available by bud-
7 get amendments upon request of the State
8 Auditor and the approval of the Governor.

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

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services _____	\$ 245,952
2	Current Expenses _____	13,755
3	Equipment _____	6,500
4	Social Security Matching Fund _____	15,500
5	Public Employees Retirement Matching Fund...	23,625
6	Public Employees Health Insurance _____	13,170
7	Total _____	\$ 318,502

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

12 The above appropriation includes salaries and
13 operating expenses.

14 There is hereby appropriated from this fund,
15 in addition to the above appropriation, the
16 necessary amount for the purchase of sup-
17 plies for resale.

18 Special funds in excess of the amounts here-
19 by appropriated may be made available by
20 budget amendments upon request of the De-

- 21 partment of Finance and Administration and
22 approval of the Governor.

139—*Department of Finance and Administration—
Information System Services Division Fund*

Acct. No. 8151

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	2,033,682
2	Current Expenses		2,837,500
3	Equipment		100,600
4	Social Security Matching Fund		127,500
5	Public Employees Retirement Matching Fund		188,475
6	Public Employees Health Insurance		79,800
7	Total	\$	5,367,557

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

140—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	262,257
2	Current Expenses		38,000
3	Equipment		12,000
4	Social Security Matching Fund		15,000
5	Public Employees Retirement Matching Fund		24,000
6	Public Employees Health Insurance		11,000
7	Total	\$	362,257

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

10 collections made by the Department of Agri-
 11 culture as provided by law. It is the intention
 12 that special funds in excess of the amounts
 13 hereby appropriated may be made available
 14 by budget amendments upon request of the
 15 Commissioner of Agriculture, and approval
 16 of the Governor.

141—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services _____	\$	86,730
2	Current Expenses _____		39,200
3	Equipment _____		1,050
4	Social Security Matching Fund _____		5,000
5	Public Employees Retirement Matching Fund _____		8,597
6	Public Employees Health Insurance _____		2,250
7	Total _____	\$	142,827

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

142—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners _____	\$	—0—
2	Other Personal Services _____		—0—
3	Current Expenses _____		—0—
4	Equipment _____		—0—
5	Social Security Matching Fund _____		—0—
6	Public Employees Retirement Matching Fund _____		—0—
7	Public Employees Health Insurance _____		—0—
8	Total _____	\$	—0—

9 The total amount of this appropriation shall
 10 be paid from Special Revenue Fund out of
 11 collections for special license fees from pub-

12 lic service corporations as provided by law.
 13 Out of the above appropriation \$5,000 may
 14 be transferred to the State Water Resources
 15 Commission of the Department of Natural
 16 Resources for use in cooperation with the
 17 U. S. Geological Survey in a program of
 18 stream gauging.

143—*Public Service Commission—Gas Pipeline Division*
 Acct. No. 8285

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services _____	\$	—0—
2	Current Expenses _____		—0—
3	Equipment _____		—0—
4	Social Security Matching Fund _____		—0—
5	Public Employees Retirement Matching Fund _____		—0—
6	Public Employees Health Insurance _____		—0—
7	Total _____	\$	—0—

8 The total amount of this appropriation shall
 9 be paid from Special Revenue Fund out of re-
 10 cepts collected for or by the Public Service
 11 Commission pursuant to and in the exercise
 12 of regulatory authority over pipeline com-
 13 panies.

144—*Public Service Commission—Motor Carrier Division*
 Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services _____	\$	—0—
2	Current Expenses _____		—0—
3	Equipment _____		—0—
4	Social Security Matching Fund _____		—0—
5	Public Employees Retirement Matching Fund _____		—0—
6	Public Employees Health Insurance _____		—0—
7	Total _____	\$	—0—

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

- 10 receipts collected for or by the Public Ser-
 11 vice Commission pursuant to and in the exer-
 12 cise of regulatory authority over motor car-
 13 riers as authorized by law.

145—*Department of Natural Resources*
 Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 1,869,000
2 Current Expenses	673,526
3 Repairs and Alterations	127,000
4 Equipment	207,215
5 Social Security Matching	115,000
6 Public Employees Health Insurance	100,000
7 Land Purchase and Buildings	350,000
8 Public Employees Retirement Matching Fund....	185,000
9 Total	\$ 3,626,741

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

146—*Department of Public Safety—Inspection Fees*
 Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 198,566
2 Current Expenses	114,165
3 Repairs and Alterations	8,200
4 Equipment	14,530
5 Social Security Matching Fund	1,770
6 Public Employees Health Insurance	7,500
7 Total	\$ 344,731

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

12 Special Funds in excess of the amounts here-
 13 by appropriated may be made available by
 14 budget amendment upon request of the De-
 15 partment of Public Safety and approval of
 16 the Governor for the purpose of repairs to,
 17 or construction of police barracks.

147—*West Virginia Civil Service System*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services _____	\$	343,560
2	Current Expense _____		240,360
3	Social Security Matching Fund _____		24,000
4	Public Employees Retirement Matching Fund _____		33,600
5	Public Employees Health Insurance _____		12,500
6	Total _____	\$	654,020

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

11 The Governor is hereby authorized to make
 12 available by budget amendment, upon re-
 13 quest of the Civil Service Commission.

148—*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		
3	paid from the nonrevolving Capital Improve-		
4	ment Fund created by the 1959 Legislature,		
5	as amended.		

6 Any unexpended balances remaining in the ap-
 7 propriations "Miscellaneous Small Projects,
 8 Creative Arts, Utilities, Roads and Parking,
 9 and Medical Center—Repairs and Altera-
 10 tions" at the close of the fiscal year 1974-75
 11 hereby reappropriated for expenditure dur-
 12 ing fiscal year 1975-76.

149—*Board of Regents—State System
 Special Capital Improvement Fund*

Acct. No. 8535

TO BE PAID FROM SPECIAL REVENUE FUND

1	Miscellaneous Projects _____	\$ 1,000,000
2	West Virginia Northern Community College,	
3	Campus Development _____	2,280,350
4	(Property acquisition, educational facilities—	
5	Wheeling and Weirton, Branch Campus—	
6	New Martinsville)	
7	Fairmont State College, Campus Development	3,470,000
8	(Health and Physical Education Building)	
9	Southern West Virginia Community College,	
10	Campus Development _____	1,469,350
11	(Planning for academic building—Logan,	
12	aircondition academic building, construct ad-	
13	dition to academic building, parking and	
14	bridge development—Williamson)	
15	West Virginia University, Campus Develop-	
16	ment _____	8,688,390
17	(Renovate Martin Hall, Woodburn Hall, Chit-	
18	wood Hall, and Stansbury Hall; convert old	
19	law building to other use; construct facilities	
20	for library and computer; bull performance	
21	testing facility; and property acquisition)	
22	Shepherd College, Campus Development _____	1,672,060
23	(Academic Building "B" development and	
24	planning for Academic Building "C")	
25	West Virginia State College, Campus Develop-	
26	ment _____	1,898,000
27	(Renovate Administration Building and	
28	Fleming Hall and parking)	

29	Marshall University, Campus Development.....	632,200
30	(Property acquisition and parking)	
31	Bluefield State College, Campus Development..	1,612,200
32	(Convert Mahood Hall to educational facility,	
33	renovate Conley Hall, greenhouse, storage	
34	building, campus mall, lighting and parking)	
35	Concord College, Campus Development.....	1,396,000
36	(Library addition)	
37	West Liberty State College, Campus Develop-	
38	ment _____	1,279,660
39	Renovate Main Hall, library alterations,	
40	parking, planning new field house, etc.)	
41	West Virginia Institute of Technology, Campus	
42	Development _____	2,830,280
43	(Conley Hall alterations, new maintenance	
44	building, athletic field development, property	
45	acquisition, parking and roads)	
46	Potomac State College, Campus Development....	304,110
47	(Davis Hall Dormitory remodeling, storm	
48	drains, curbing and paving)	
49	Debt Service and Debt Service Reserve _____	2,300,000
50	The above projects are listed in a stated	
51	order of priority. Projects are to be paid from	
52	proceeds from revenue bonds issued as au-	
53	thorized by law or on a cash basis. It is in-	
54	tended that only complete and usable projects	
55	be constructed and then only in the listed or-	
56	der of priority: <i>Provided, however,</i> That	
57	whenever the amount in the special capital	
58	improvement fund, including both the pro-	
59	ceeds of bonds sales and cash collections, shall	
60	be sufficient to cover all capital expenditures	
61	authorized above, then the listed projects	
62	shall be considered of equal priority and all	
63	of them, or any one or more, may be under-	
64	taken as soon as plans can be prepared and	
65	contracts let therefor.	
66	The total amount of this appropriation shall be	
67	paid from the Special Capital Improvement	
68	Fund created by the 1971 Legislature.	

69 Any unexpended balances remaining in prior
 70 years and in the 1974-75 appropriation are
 71 hereby reappropriated for expenditure dur-
 72 ing fiscal year 1975-76 except the appropria-
 73 tion heretofore authorized by the Legislature
 74 for expenditure during fiscal year 1974-75,
 75 set forth in the Budget Bill, Second Extraor-
 76 dinary Session, 1974, Section 2, Appropria-
 77 tions From Other Funds, pages 54-56 inclu-
 78 sive, Board of Regents—State System Special
 79 Capital Improvement Fund, Account Number
 80 8535, lines 1 through 50 are hereby voided.

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

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service	\$ 1,863,500
2 The total amount of this appropriation shall be 3 paid from the nonrevolving Capital Im- 4 provement Fund created by the 1959 Legisla- 5 ture, as amended.	

6 Any unexpended balances remaining in prior
 7 years and 1974-75 appropriations are hereby
 8 reappropriated for expenditure during fiscal
 9 year 1975-76.

151—*West Virginia University—Medical School*
 Acct. No. 873

TO BE PAID FROM MEDICAL SCHOOL FUND

1 Personal Services	\$ 18,666,032
2 Current Expenses	7,025,114
3 Repairs and Alterations	946,386
4 Equipment	1,558,857
5 Intern and Residency Support Program for 6 Community Hospitals	315,000
7 Total	<u>\$ 28,511,389</u>
8 Special funds in excess of the amounts here- 9 by appropriated may be made available by 10 budget amendment upon request of the Board 11 of Regents and approval of the Governor,	

152—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services _____	\$ 1,942,917
2	Current Expenses _____	953,800
3	Equipment _____	49,130
4	Social Security Matching Fund _____	109,386
5	Public Employees Retirement Matching Fund _____	168,000
6	Public Employees Health Insurance _____	48,000
7	Total _____	\$ 3,271,233

8 There is hereby authorized to be paid out of
 9 the above appropriation for current expenses
 10 the amount necessary for the premiums on
 11 bonds given by the State Treasurer as Bond
 12 Custodian for the protection of the Work-
 13 men's Compensation Fund. This sum shall be
 14 transferred to the Board of Insurance.

153—*West Virginia Alcohol Beverage Control*

Acct. No. 927

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Commissioner _____	\$ 20,000
2	Other Personal Services _____	5,617,589
3	Current Expenses _____	2,558,800
4	Repairs and Alterations _____	40,000
5	Equipment _____	63,000
6	Social Security Matching Fund _____	350,000
7	Public Employees Retirement Matching Fund _____	556,500
8	Public Employees Health Insurance _____	305,000
9	Total _____	\$ 9,510,889

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

13 The above appropriation includes the salaries
 14 of store personnel, store inspectors, store
 15 operating expenses and equipment; and

16 salaries, expenses and equipment of adminis-
17 tration offices.

18 There is hereby appropriated from liquor rev-
19 enues, in addition to the above appropriation,
20 the necessary amount for the purchase of
21 liquor, as provided by law.

1 **Sec. 3. Supplemental and Deficiency Appropriations.—**
2 From the State Fund, General Revenue, except as other-
3 wise provided, there are hereby appropriated the follow-
4 ing amounts, as itemized, for expenditure during the
5 fiscal year one thousand nine hundred seventy-five to
6 supplement the 1974-75 appropriations, and to be available
7 for expenditure upon date of passage.

154—*Supreme Court of Appeals*

Acct. No. 110

1	Salary of Justices	\$	—0—
2	Other Personal Services		—0—
3	Current Expenses		—0—
4	Equipment		—0—
5	Total	\$	—0—

155—*Judicial—Auditor's Office*

Acct. No. 111

1	Personal Services	\$	—0—
2	Other Expenses		—0—
3	Other Court Costs		—0—
4	Unclassified		—0—
5	Total	\$	—0—

Any unexpended balance remaining in this appropriation at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

156—*State Auditor's Office*

Acct. No. 150

1	Personal Services—Total	\$	—0—
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157—*State Auditor's Office*

Acct. No. 151

1 Social Security Matching—Total\$ —0—

158—*Treasurer's Office—Vietnam Veterans
Bonus Fund*

Acct. No. 166

1 Total\$ —0—

159—*Commissioner of Public Institutions*

Acct. No. 190

1 Personal Services\$ —0—

2 Current Expenses\$ —0—

3 Total\$ —0—

160—*Department of Finance and Administration*

Acct. No. 210

1 Current Expenses (Utilities)—Total\$ —0—

161—*West Virginia Board of Regents*

Acct. No. 279

1 Current Expenses—Total\$ —0—

162—*Teachers Retirement*

Acct. No. 298

1 Total\$ —0—

163—*Forestry Camp for Boys (Davis)*

Acct. No. 371

1 Personal Services—Total\$ —0—

164—*West Virginia Penitentiary*

Acct. No. 375

1 Current Expenses\$ —0—

2 Equipment\$ —0—

3 Total\$ —0—

165—*Huttonsville Correctional Center*

Acct. No. 376

1	Personal Services	\$	—0—
2	Current Expenses		—0—
3	Total	\$	—0—

166—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Current Expenses—Total	\$	—0—
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167—*Department of Mental Health*

Acct. No. 410

1	Community Mental Retardation	\$	—0—
2	Northern Panhandle (Morgantown)		—0—
3	Valley Counseling (Wheeling)		—0—
4	Total	\$	—0—

168—*Roney's Point Center*

Acct. No. 417

1	Current Expenses—Total	\$	—0—
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169—*Lakin State Hospital*

Acct. No. 423

1	Current Expenses—Total	\$	—0—
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170—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services—Total	\$	—0—
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171—*Pinecrest State Hospital*

Acct. No. 431

1	Waterline—Total	\$	—0—
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172—*Interstate Education Compact*

Acct. No. 477

1	Total	\$	—0—
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173—*Department of Natural Resources*

Acct. No. 565

1	Clarke-McNary	_____	\$	—0—
2	Pipestem State Park	_____		—0—
3	Total	_____	\$	—0—

174—*Water Development Authority*

Acct. No. 567

1	Current Expenses—Total	_____	\$	—0—
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175—*Public Employees Retirement Board*

Acct. No. 614

1	Employers Accumulation Fund—Total	_____	\$	—0—
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176—*Public Employees Health Insurance*

Acct. No. 615

1	Public Employees Health and Life Insurance—			
2	State Contributions—Total	_____	\$	—0—

177—*State Department of Highways*

Acct. No. 641

1	Total	_____	\$	—0—
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178—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Current Expenses	_____	\$	—0—
2	License Plates	_____		—0—
3	Public Employees Health Insurance	_____		—0—
4	Total	_____	\$	—0—

1 **Sec. 4. Appropriation from Surplus Revenue.**—The
 2 following items are appropriated from the General Reve-
 3 nue Fund, subject to the following terms and conditions:

4 (a). The following items are hereby appropriated and
 5 are to be available for expenditures out of the surplus
 6 in the Treasury, subject to the approval of the Governor.

7 (b). The Governor shall review the revenues of the
 8 State from the date that appropriations hereunder are
 9 expected to be made available for expenditure, and de-
 10 termine whether, in his opinion, revenues then in prospect
 11 or on hand will be sufficient to meet all appropriations
 12 under the 1974 Budget Act, and this section, and make a
 13 finding with respect thereof. In the event that such finding
 14 shall show sufficient revenues on hand or in prospect to
 15 meet all other appropriations and reappropriations made
 16 by the 1974 Budget Act and subject to the foregoing con-
 17 ditions, any or all of the following items may be released
 18 for expenditure by the Governor from the date of passage
 19 of this bill and such appropriation shall remain in full force
 20 and effect until June 30, 1976.

21 In the event that surplus revenues as of June 30, 1975
 22 are not sufficient to meet all appropriations made by this
 23 section, then the appropriation shall be available, in pri-
 24 ority order as listed, only to the extent of the total actual
 25 surplus accrued as of June 30, 1975.

Item I. *West Virginia University Medical Center*

1 Hospital Capital Equipment	\$	—0—
2 Renovation of Student Laboratories		—0—
3 Planning for Out-Patient Facilities and Clinical		
4 Building		—0—
5 Improvements for Emergency Access and		
6 Parking		—0—

Item II. *Department of Mental Health*

1 Fairmont-Morgantown Area Mental Health		
2 Center	\$	—0—
3 Keyser-Romney Area Mental Retardation		
4 Center		—0—
5 Northern Panhandle Regional Mental Retarda-		
6 tion Center		—0—
7 Weirton Area Mental Health Center		—0—
8 Logan-Mingo Area Mental Health Center		—0—

Item III. *Vocational Education—Building*

Construction	\$	—0—
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Item IV. *Department of Motor Vehicles*

1 Statewide Drive-in Facilities	\$	—0—
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Item V. *Department of Natural Resources*

1 Blackwater Falls State Park _____	\$	—0—
2 Beech Fork State Park _____		—0—
3 Bluestone State Park _____		—0—
4 Cacapon State Park _____		—0—
5 Canaan Valley State Park _____		—0—
6 Hawks Nest State Park _____		—0—
7 Holly River State Park _____		—0—
8 Little Beaver State Park _____		—0—
9 Grave Creek Mound _____		—0—
10 North Bend State Park _____		—0—
11 Pendleton Run Area _____		—0—
12 Pinnacle Rock State Park _____		—0—
13 Pipestem State Park _____		—0—
14 Sandstone Falls State Park _____		—0—
15 Tomlinson Run State Park _____		—0—
16 Tygart Lake State Park _____		—0—
17 Valley Falls State Park _____		—0—
18 Watters Smith State Park _____		—0—
19 Staats Mill State Park _____		—0—

Item VI. *Department of Finance and Administration*

1 Major Building Repairs _____	\$	—0—
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Item VII. *Geological and Economic Survey Commission*

1 Purchase of Old Post Office Building in Morgan-		
2 town, West Virginia _____	\$	—0—

Item VIII. *Commissioner of Public Institutions*

1 Denmar State Hospital:		
2 8" waterline for sprinkler system ..\$	—0—	
3 Smoke detecting system for hos-		
4 pital and Nurses' Home _____	—0—	
5 Laundry Building _____	—0—	
6 Employees' parking area _____	—0—	
7 Radiographic and Fluoroscopic		
8 Unit and accessories _____	—0— \$	—0—
9 Hopemont State Hospital:		
10 Fire Alarm System—Administra-		
11 tion Building _____	\$	—0—

12	Fire Alarm System—Unit Halls	—0—	
13	Auxiliary Power Unit	—0— \$	—0—
14	Welch Emergency Hospital:		
15	Renovation of doors, ceiling and		
16	walls of Main Hospital Building	\$ —0—	
17	Finish New Hospital Building	—0— \$	—0—
18	Andrew S. Rowan Memorial Home:		
19	Renovate Central Building (Men's		
20	Old Dormitory)	\$ —0—	—0—
21	Huttonsville Correctional Center:		
22	Visiting Room	\$ —0—	
23	Milking Parlor	—0—	
24	Loading Shed for Cows	—0— \$	—0—
25	West Virginia Penitentiary — Prison		
26	Industries		
27	New Building	\$ —0—	—0—
Item IX. <i>National Track and Field Hall of Fame</i>			
1	Total	\$ —0—	—0—
Item X. <i>Water Development Authority</i>			
1	Capital Outlay	\$ —0—	—0—
1	Sec. 5. Awards for Claims Against the State.—From		
2	the funds designated there are hereby appropriated for		
3	the remainder of the fiscal year 1974-75 and to remain in		
4	effect until June 30, 1976, for payment of claims against		
5	the state, the following amounts as itemized.		
6	Claims versus the Adjutant General (To Be		
7	Paid from General Revenue Fund)		
8	(1) John Moore	\$ —0—	—0—
9	Claims versus the Department of Mental		
10	Health (To Be Paid from General Revenue		
11	Fund)		
12	(1) John H. Brunetti Hardware & Printing	\$ —0—	—0—
13	Claims versus the Board of Vocational Educa-		
14	tion, Division of Vocational Rehabilitation		
15	(To Be Paid from General Revenue Fund)		
16	(1) Cleveland Clinic	\$ —0—	—0—
17	Claims versus the Department of Public Safety		
18	(To Be Paid from General Revenue)		

19	(1)	Walter E. Bradfield, Jr. _____	\$	—0—
20	(2)	Nationwide Mutual Insurance Company		—0—
21	Claims versus the Board of Regents (To Be			
22	Paid from General Revenue Fund)			
23	(1)	Raines Piano & Organ Center, Inc. ____	\$	—0—
24	Claims versus the Department of Highways			
25	(To Be Paid from State Road Fund)			
26	(1)	Coal River Public Service District ____	\$	—0—
27	(2)	Coal River Public Service District ____		—0—
28	(3)	Travelers Indemnity Co., subrogee of		
29		Catherine M. Belcastro _____		—0—
30	(4)	L. M. Casdorff _____		—0—
31	(5)	Mr. and Mrs. T. E. Reed _____		—0—
32	(6)	David R. Dietz _____		—0—
33	(7)	Calvert Fire Insurance Company, sub-		
34		rogee of Cody Mullins _____		—0—
35	(8)	Tygart Valley Telephone Company ____		—0—
36	(9)	Dana H. Carney _____		—0—
37	(10)	State Farm Mutual Automobile Insur-		
38		ance Company, subrogee of Robert		
39		and Sharon Myles _____		—0—
40	(11)	H. Ronald Harris _____		—0—
41	(12)	T. A. Galyean, Jr. & Ann T. Galyean,		
42		John G. Anderson, Trustee, and Hun-		
43		tington Federal Savings and Loan As-		
44		sociation _____		—0—
45	(13)	Clarke W. Greene _____		—0—
46	Claims versus the Rehabilitation Environmen-			
47	tal Action Program (REAP) (To Be Paid			
48	from Special Revenue Fund)			
49	(1)	Lena Solomon _____	\$	—0—
50	(2)	Edward H. Stanley _____		—0—

1 **Sec. 6—Reappropriations**—Any unexpended balances of
2 Items I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII,
3 XIII and XIV in the appropriations made by and under
4 the authority of Section 4 of the 1972 Budget Act, are
5 hereby reappropriated for expenditure during the fiscal
6 year 1975-76.

7 Any unexpended balances of Items I, II, III, IV, V, VI,
8 VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI and XVII
9 in the appropriations made by and under the authority
10 of Section 4 of the 1973 Budget Act, are hereby re-
11 appropriated for expenditure during the fiscal year 1975-76.

1 **Sec. 7. Appropriations from Revenue Sharing Trust Fund.**
2 —The following items are hereby appropriated from the
3 Revenue Sharing Trust Fund to be available for expendi-
4 ture during the fiscal year 1975-76.

*Revenue Sharing Trust Fund—
Teachers Retirement Fund*

Acct. No. 9770

1 Teacher Retirement\$ —0—

*Revenue Sharing Trust Fund—
Governor's Office*

Acct. No. 9720

1 State Fiscal Assistance Act\$ —0—

*Revenue Sharing Trust Fund—
Department of Natural Resources*

Acct. No. 9725

Canaan Valley

1 To complete Recreation Complex\$ —0—

*Revenue Sharing Trust Fund—
State Department of Highways*

Acct. No. 9705

1 To pave roads—West Virginia State Parks and
2 construct overhead walkway to serve the
3 Williamson Campus of the Southern West
4 Virginia Community College\$ —0—

*Revenue Sharing Trust Fund
Huttonsville Correctional Center*

Acct. No. 9735

1 One (1) New Boiler\$ —0—

Revenue Sharing Trust Fund
Department of Agriculture

Acct. No. 9771

1 New Refrigeration Unit _____ \$ —0—

Revenue Sharing Trust Fund
West Virginia Schools for the Deaf and the Blind

Acct. No. 9772

1 Renovation of Blind Boy's Hall _____ \$ —0—

2 Compliance with State Fire Marshal's Re-
3 quirements _____ —0—

4 Equipment for Elementary Deaf Classroom

5 Addition _____ —0—

6 Total _____ \$ —0—

1 **Sec. 8. Reappropriations**—"Revenue Sharing Trust
2 **Fund.**"—Any unexpended balances to the appropriations
3 made by and under Section 8, of the 1973 Budget Act and
4 Supplementary Acts to Chapter 10, Acts of the Legis-
5 lature, Regular Session 1973, and under Section 5 of
6 the 1974 Budget Act, are hereby reappropriated for
7 expenditure during the fiscal year 1975-76.

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

16 (a) An estimate of the amount and sources of all reve-
17 nues accruing to such fund:

18 (b) A detailed expenditure schedule showing for what
19 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 ac-
5 count, and shall be expended according to the provisions of
6 Chapter 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 in to the
3 state treasury is hereby appropriated out of the fund into
4 which 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
11 originally paid.

1 **Sec. 12. Sinking Fund Deficiencies.**—There is hereby
2 appropriated to the governor a sufficient amount to meet
3 any deficiencies that may arise in the mortgage finance
4 bond insurance fund of the West Virginia Housing Devel-
5 opment Fund which is under the supervision and control
6 of the state sinking fund commission as provided by Chap-
7 ter 31, Article 18, Section 20b of the West Virginia Code,
8 1931, as amended, or in the funds of the state sinking fund
9 commission because of the failure of any state agency for
10 either general obligation or revenue bonds or any local
11 taxing district for general obligations bonds to remit
12 funds necessary for the payment of interest and sinking
13 fund requirements. The governor is authorized to transfer
14 from time to time such amounts to the state sinking fund
15 commission as may be necessary for these purposes.

16 The state sinking fund commission shall reimburse
17 the State of West Virginia through the governor from the
18 first remittance collected from the West Virginia Housing
19 Development Fund or from any state agency or local
20 taxing district for which the governor advanced funds,

21 with interest at the rate carried by the bonds for the
22 security or payment of which the advance was made.

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

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
15 out of gross collections.

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

1 **Sec. 15. Appropriations for Local Governments.**—
2 There is hereby appropriated for payment to counties, dis-
3 tricts, and municipal corporations such amounts as will be
4 necessary to pay taxes due county, district, and municipal
5 corporations and which have been paid into the treasury:
6 (a) For the redemption of lands;
7 (b) By public service corporations;
8 (c) For tax forfeitures.

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

1 **Sec. 17. General School Fund.**—The balance of the
2 proceeds of the general school fund remaining after the

3 payment of the appropriations made by this act is appro-
4 priated for expenditure in accordance with Chapter 18,
5 Article 9-A, Section 16 of the Code of West Virginia.

TITLE 3. ADMINISTRATION.

§1. Appropriations conditional.

§2. Constitutionality.

1 **Section 1. Appropriations Conditional.**—The expendi-
2 ture of the appropriations made by this act, except those
3 appropriations made to the legislative and judicial
4 branches of the state government, are conditioned upon
5 the compliance by the spending unit with the require-
6 ments of Chapter 5-A, Article 2, of the Code of West
7 Virginia.

8 Where former spending units have been absorbed by or
9 combined with other spending units by acts of this Legisla-
10 ture, it is the intent of this act that reappropriation shall
11 be to the succeeding or later spending unit created unless
12 otherwise indicated.

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

CHAPTER 12

(H. B. 1450—Originating in the House Committee on Finance)

[Passed April 12, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending and transferring amounts between items of the existing appropriation of the Supreme Court of Appeals as appropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriation of Account No. 110, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be supplemented, amended and transferred to read as follows:

1	JUDICIAL	
2	4— <i>Supreme Court of Appeals</i>	
3	Acct. No. 110	
4	2 Other Personal Services _____	\$ 360,544
5	4 Equipment _____	209,500

6 The purpose of this supplementary appropriation bill is to
 7 supplement, amend and transfer certain moneys from one
 8 item of the existing appropriation to another item of such ap-
 9 propriation for the designated spending unit. The amounts as
 10 itemized for expenditure during the fiscal year one thousand
 11 nine hundred seventy-five shall be available for expenditure
 12 upon the effective date of this act.

CHAPTER 13

(H. B. 1132—Originating in the House Committee on Finance)

[Passed February 21, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to Judicial—Auditor's Office, Account No. 111, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which

it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 111, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	JUDICIAL	
2	<i>5—Judicial—Auditor's Office</i>	
3	Acct. No. 111	
4	1 Salaries of Judges	\$ 450,000
5	2 Other Personal Services	600,000
6	3 Current Expenses	150,000
7	6 Unclassified	700,000
8	Total	\$1,900,000

9 The amount as itemized for expenditure during the fiscal
10 year one thousand nine hundred seventy-five shall be available
11 for expenditure upon the effective date of this bill. Any unex-
12 pended balance remaining in this appropriation at the close of
13 the fiscal year 1974-75 is hereby reappropriated for expenditure
14 during the fiscal year 1975-76.

CHAPTER 14

(H. B. 794—Originating in the House Committee on Finance)

[Passed February 25, 1975; in effect from passage. Appropriation reduced and approved by the Governor. Repassed, notwithstanding the objections of the Governor and the reduction made by him.]

AN ACT making supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust Fund, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five to the Treasurer's Office, Vietnam Veterans Bonus Fund, Account No. 166, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 166, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1		<i>Treasurer's Office</i>	
2		<i>Vietnam Veterans Bonus Fund</i>	
3		Acct. No. 166	
4		TO BE PAID FROM REVENUE SHARING TRUST FUND	
5	1	Total	\$25,000,000.00

6 The foregoing is for payment of the cash bonus to veterans of
7 the Vietnam conflict. The amount as itemized for expenditure
8 during the fiscal year one thousand nine hundred seventy-five
9 shall be available for expenditure upon the effective date of
10 this bill. Any unexpended balance remaining in this account
11 at the close of the fiscal year 1974-75 is hereby reappropriated
12 for expenditure during the fiscal year 1975-76.

CHAPTER 15

(H. B. 792—Originating in the House Committee on Finance)

[Passed February 19, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Department of Finance and Administration. Account No. 210, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 210, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1		EXECUTIVE	
2	24—	<i>Department of Finance and Administration</i>	
3		Acct. No. 210	
4	2	Current Expenses _____	\$ 150,000.00
5		Total	2,692,803.00

6 The amount as itemized for expenditure during the fiscal
 7 year one thousand nine hundred seventy-five shall be available
 8 for expenditure upon the effective date of this bill.

CHAPTER 16

(H. B. 1431—Originating in the House Committee on Finance)

[Passed March 6, 1975; 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 two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 240, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four be transferred to read as follows:

1	LEGAL	
2	26—Attorney General	
3	Acct. No. 240	
4	2 Other Personal Services _____	\$754,285
5	3 Current Expenses _____	110,700
6	4 Equipment _____	21,000

7 The foregoing constitutes transfer of amounts from one
 8 item of appropriation to other items of appropriation within
 9 the total appropriation of the designated spending unit. The
 10 amounts as itemized for expenditure during the fiscal year one
 11 thousand nine hundred seventy-five shall be available for ex-
 12 penditure upon the effective date of this act.

CHAPTER 17

(S. B. 467—Originating in the Senate Committee on Finance)

[Passed February 27, 1975; in effect from passage. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-five, to the office of the Secretary of State, Account No. 250, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appro-

priation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; and

WHEREAS, A special election on proposed constitutional amendments was held on November 6, 1973; and

WHEREAS, The West Virginia Constitution, Article XIV, Section 2, requires that the cost of such special election throughout the state shall be paid out of the state treasury; and

WHEREAS, The Legislature, by a supplementary appropriation act, chapter seventeen, acts of the Legislature, first extraordinary session, one thousand nine hundred seventy-three, appropriated the sum of \$500,000 to the office of the secretary of state, for the purpose of paying the costs of such special election; and

WHEREAS, The amount previously appropriated was insufficient to pay the costs of such special election, and an additional amount of \$26,747 is needed to fully pay such costs; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 250, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following designated line item and sum:

INCORPORATING AND RECORDING

28—Secretary of State

Account No. 250

4a.	1973 Special Election on Constitutional	
4b.	Amendments _____	\$ 26,747

The amount as appropriated and itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill.

CHAPTER 18

(H. B. 793—Originating in the House Committee on Finance)

[Passed February 5, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the West Virginia Board of Regents (Control), Account No. 279, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 279, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	EDUCATIONAL	
2	27— <i>West Virginia Board of Regents (Control)</i>	
3	Acct. No. 279	
4	Current Expenses	\$ 1,496,000.00
5	Total	79,830,253.00

6 The amount as itemized for expenditure during the fiscal
7 year one thousand nine hundred seventy-five shall be avail-
8 able for expenditure upon the effective date of this bill.

CHAPTER 19

(H. B. 1436—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to West Virginia Board of Regents (Control), Acct. No. 279, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following:

1	<i>West Virginia Board of Regents (Control)</i>	
2	Acct. No. 279	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	Construction of Barn at West Virginia	
5	University	\$378,000
6	The amount as itemized for expenditure during the fiscal year	
7	one thousand nine hundred seventy-five shall be available for	
8	expenditure upon the effective date of this bill for the pur-	
9	pose of constructing a barn at West Virginia University. Any	
10	unexpended balance remaining in this account at the close of	
11	the fiscal year 1974-75 is hereby reappropriated for expendi-	
12	ture during the fiscal year 1975-76.	

CHAPTER 20

(S. B. 568—Originating in the Senate Committee on Finance)

[Passed March 7, 1975; 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 two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the budget bill, as amended.

Be it enacted by the Legislature of West Virginia:

That amounts within the total appropriations of Account No. 279, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, as amended, be transferred to read as follows:

EDUCATIONAL

30—*West Virginia Board of Regents (Control)*

Acct. No. 279

1	Greenbrier School of Osteopathic Medicine—	
2	Scholarship Program—In-state Students.....\$	0
3	Unclassified	725,000

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

CHAPTER 21

(S. B. 612—Originating in the Senate Committee on Finance)

[Passed April 14, 1975; in effect from passage. Approved by the Governor after deleting the preamble.]

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-five, to the State Board of Education, Vocational Division, Account No. 289, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill," as amended.

Be it enacted by the Legislature of West Virginia:

That Account No. 289, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line items:

State Board of Education—Vocational Division

Acct. No. 289

Building Construction\$2,000,000

The amount as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill for the purpose of supplementing prior appropriation. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

CHAPTER 22

(H. B. 1108—Originating in the House Committee on Finance)

[Passed February 18, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Teacher's Retirement Board, Account No. 298, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 298, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	EDUCATIONAL
2	42— <i>Teachers Retirement Board</i>
3	Acct. No. 298
4	Benefit Fund—Payments to Retired Teachers....\$7,776,000

5 The amount as itemized for expenditure during the fiscal
 6 year one thousand nine hundred seventy-five shall be available
 7 for expenditure upon the effective date of this bill.

CHAPTER 23

(S. B. 282—By Mr. Rogerson)

[Passed February 20, 1975; in effect from passage. Approved by the Governor.]

AN ACT transferring an amount between items of the total appropriation for a state spending unit as appropriated by Committee Substitute for Senate Bill No. 9, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill.

Be it enacted by the Legislature of West Virginia:

That items of the total appropriation of Account No. 370, Committee Substitute for Senate Bill No. 9, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be transferred to read as follows:

47—West Virginia Industrial School for Boys

Acct. No. 370

1	5	Regular Current Expenses	\$ 238,100
2	11	Regular Equipment	67,700

3 The foregoing constitute transfers of amounts from one
 4 item of appropriation to another item of appropriation
 5 within the total appropriation of the designated spending
 6 unit. The amounts as itemized for expenditure during
 7 the fiscal year one thousand nine hundred seventy-five
 8 shall be available for expenditure upon the effective date
 9 of this bill.

CHAPTER 24

(Com. Sub. for H. B. 1445—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 12, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending and transferring amounts between items of the existing appropriation of the West Virginia Industrial School for Boys as appropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriation of Account No. 370, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be supplemented, amended and transferred to read as follows:

1	CHARITIES AND CORRECTION	
2	<i>47—West Virginia Industrial School for Boys</i>	
3	Account No. 370	
4	2 Regular Personal Services	\$ 661,520
5	8 Regular Repairs and Alterations	118,650

6 The purpose of this supplementary appropriation bill is to
 7 supplement, amend and transfer certain moneys from one
 8 item of the existing appropriation to another item of such ap-
 9 propriation for the designated spending unit. The amounts as
 10 itemized for expenditure during the fiscal year one thousand
 11 nine hundred seventy-five shall be available for expenditure
 12 upon the effective date of this act.

CHAPTER 25

(H. B. 949—Originating in the House Committee on Finance)

[Passed February 22, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the West Virginia Penitentiary, Account No. 375, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 375, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	CHARITIES AND CORRECTION	
2	52—West Virginia Penitentiary	
3	Acct. No. 375	
4	Current Expenses	\$ 244,968

5	Equipment _____	32,500
6	Total _____	\$ 277,468

7 The amount as itemized for expenditure during the fiscal year
8 one thousand nine hundred seventy-five shall be available for
9 expenditure upon the effective date of this bill.

CHAPTER 26

(H. B. 790—Originating in the House Committee on Finance)

[Passed February 4, 1975; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Huttonsville Correctional Center, Account No. 376, reappropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January nine, one thousand nine hundred seventy-five, which included a statement of Federal Revenue Sharing Funds, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July first, one thousand nine hundred seventy-four of such funds amounted to \$52,668,523, which said amount is reduced by prior appropriations of \$35,273,811, thereby leaving a net unencumbered cash balance of \$17,394,712 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; and

WHEREAS, Said Account No. 376 as set forth in the 1973 Budget Act, chapter ten, acts of the Legislature, regular session 1973, was supplemented by chapter thirteen, acts of the Legislature, first extraordinary session, 1973 which supplementary act appropriated, as a line item to said Account No. 376 and to be paid from Revenue

Sharing Trust Fund "Three new Boilers—\$400,000.00," which appropriation was reappropriated and available for expenditure in 1974-75 by chapter two, acts of the Legislature, second extraordinary session, 1974; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 376, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	CHARITIES AND CORRECTION	
2	<i>Huttonsville Correctional Center</i>	
3	Acct. No. 376	
4	TO BE PAID FROM REVENUE SHARING TRUST FUND	
5	1 Three new Boilers	\$ 200,000.
6	The amount as itemized for expenditure during the fiscal	
7	year one thousand nine hundred seventy-five shall be available	
8	for expenditure upon the effective date of this bill. Any unex-	
9	pended balance remaining in this account at the close of the	
10	fiscal year 1974-75 is hereby reappropriated for expenditure	
11	during the fiscal year 1975-76.	

CHAPTER 27

(H. B. 1093—Originating in the House Committee on Finance)

[Passed February 19, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Huttonsville Correctional Center, Account No. 376, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 376, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to be designated line item:

1	CHARITIES AND CORRECTION	
2	53— <i>Huttonsville Correctional Center</i>	
3	Acct. No. 376	
4	Current Expenses	\$153,000
5	The amount as itemized for expenditure during the fiscal	
6	year one thousand nine hundred seventy-five shall be avail-	
7	able for expenditure upon the effective date of this bill.	

CHAPTER 28

(H. B. 950—Originating in the House Committee on Finance)

[Passed February 19, 1975; in effect from passage. Approved by the Governor.]

AN ACT making supplementary appropriation of public money out of the treasury from the balance of all general revenue remain-

ing unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five to the Andrew S. Rowan Memorial Home, Account No. 384, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, the Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 384, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	CHARITIES AND CORRECTION	
2	55—Andrew S. Rowan Memorial Home	
3	Acct. No. 384	
4	2 Current Expenses	\$25,000

5 The amount as itemized for expenditure during the fiscal
6 year one thousand nine hundred seventy-five shall be avail-
7 able for expenditure upon the effective date of this bill.

CHAPTER 29

(S. B. 604—By Mr. Brotherton, Mr. President, et al.)

[Passed April 13, 1975; in effect from passage. Approved by the Governor after deleting the preamble.]

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-five, to the Department of Mental Health, Account No. 410, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That Account No. 410, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following designated line items and sums:

CHARITIES AND CORRECTION

64—*Department of Mental Health*

Acct. No. 410

7 Community Mental Retardation Program

7a Southern Highlands

Community Mental Health Center Mercer, McDowell, Wyoming Princeton, West Virginia	\$ 26,657.00
Fayette-Monroe-Raleigh-Summers Mental Health Council, Inc. Beckley, West Virginia	48,831.00
Logan-Mingo Area Mental Health Logan, West Virginia	19,000.00
Shawnee Hills Regional Center, Inc. Kanawha, Clay, Boone, Putnam Institute, West Virginia	19,780.00

Valley Community Mental Health Center
 Marion, Monongalia, Preston, Taylor
 Morgantown, West Virginia

31,600.00

The amounts as appropriated and itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill.

CHAPTER 30

(H. B. 795—Originating in the House Committee on Finance)

[Passed February 5, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Roney's Point Branch Hospital, Account No. 417, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

The Account No. 417, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1		CHARITIES AND CORRECTION	
2		67— <i>Roney's Point Branch Hospital</i>	
3		Acct. No. 417	
4	2	Current Expenses	\$ 7,500.00
5		Total	272,457.00

6 The amount as itemized for expenditure during the fiscal
7 year one thousand nine hundred seventy-five shall be available
8 for expenditure upon the effective date of this bill.

CHAPTER 31

(H. B. 951—Originating in the House Committee on Finance)

[Passed February 19, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Lakin State Hospital, Account No. 423, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of

\$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 423, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	CHARITIES AND CORRECTION	
2	73— <i>Lakin State Hospital</i>	
3	Acct. No. 423	
4	2 Current Expenses	\$45,000
5	The amount as itemized for expenditure during the fiscal	
6	year one thousand nine hundred seventy-five shall be available	
7	for expenditure upon the effective date of this bill.	

CHAPTER 32

(H. B. 1348—Originating in the House Committee on Finance)

[Passed March 6, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Hopemont State Hospital, Account No. 430,

chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 430, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	<i>Hopemont State Hospital</i>	
2	Acct. No. 430	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	1	Fire Alarm System—Administration Building...\$ 9,000
5	2	Fire Alarm System—Unit Halls 12,000

6 The amount as itemized for expenditure during the fiscal
 7 year one thousand nine hundred seventy-five shall be available
 8 for expenditure upon the effective date of this bill for the
 9 purpose of supplementing prior appropriation. Any unex-
 10 pended balance remaining in this account at the close of the
 11 fiscal year 1974-75 is hereby reappropriated for expenditure
 12 during the fiscal year 1975-76.

CHAPTER 33

(Com. Sub. for H. B. 1446—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 12, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending and transferring amounts between items of the existing appropriation of Hopemont State Hospital as appropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriation of Account No. 430, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be supplemented, amended and transferred to read as follows:

1	CHARITIES AND CORRECTION	
2	77— <i>Hopemont State Hospital</i>	
3	Acct. No. 430	
4	1 Personal Services _____	\$ 2,453,500
5	2 Current Expenses _____	536,500

6 The purpose of this supplementary appropriation bill is to
 7 supplement, amend and transfer certain moneys from one item
 8 of the existing appropriation to another item of such appro-
 9 priation for the designated spending unit. The amounts as
 10 itemized for expenditure during the fiscal year one thousand
 11 nine hundred seventy-five shall be available for expenditure
 12 upon the effective date of this act.

CHAPTER 34

(H. B. 791—Originating in the House Committee on Finance)

[Passed February 5, 1975; 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 two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 431, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four be transferred to read as follows:

1	CHARITIES AND CORRECTION	
2	78— <i>Pinecrest State Hospital</i>	
3	Acct. No. 431	
4	1 Personal Services	\$2,149,000.00
5	3 Repairs and Alterations	70,350.00

6 The foregoing constitutes transfer of amounts from one
7 item of appropriation to another item of appropriation within
8 the total appropriation of the designated spending unit. The
9 amounts as itemized for expenditure during the fiscal year one
10 thousand nine hundred seventy-five shall be available for ex-
11 penditure upon the effective date of this act.

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CHAPTER 35

(H. B. 1349—Originating in the House Committee on Finance)

[Passed March 6, 1975; 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 funds remaining unap-

propriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Denmark State Hospital, Account No. 432, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 432, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	<i>Denmar State Hospital</i>
2	Acct. No. 432
3	TO BE PAID FROM REVENUE SHARING TRUST FUND
4	1 8" waterline for sprinkler system .....\$80,000

5 The amount as itemized for expenditure during the fiscal
6 year one thousand nine hundred seventy-five shall be available
7 for expenditure upon the effective date of this bill for the
8 purpose of supplementing prior appropriation. Any unexpended
9 ed balance remaining in this account at the close of the
10 fiscal year 1974-75 is hereby reappropriated for expenditure
11 during the fiscal year 1975-76.

CHAPTER 36

(H. B. 1441—Originating in the House Committee on Finance)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending and transferring amounts between items of an existing appropriation for a certain state spending unit as appropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, 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. 432, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, as amended, be supplemented, amended and transferred to read as follows:

1	CHARITIES AND CORRECTION	
2	79—Denmar State Hospital	
3	Acct. No. 432	
4	1 Personal Services	\$1,478,000
5	2 Current Expenses	456,000

6 The foregoing constitutes the supplementing, amending and
7 transfer of amounts from one item of an existing appropria-
8 tion to another item of such appropriation within the present
9 total appropriation of the designated spending unit. The
10 amounts as itemized for expenditure during the fiscal year
11 one thousand nine hundred seventy-five shall be available for
12 expenditure upon the effective date of this act.

CHAPTER 37

(S. B. 610—Originating in the Senate Committee on Finance)

[Passed April 14, 1975; 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 funds

remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Department of Natural Resources, Account No. 565, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 565, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

Department of Natural Resources

Acct. No. 565

Pipestem State Park—Capital Improvements:

Additional Sewage—Camp Ground	\$ 60,000
Main Lodge—Roof Repair	56,000
Equipment Replacement	20,000

Total	\$ 136,000
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The amounts as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill for the purpose of supplementing prior appropriation. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

CHAPTER 38

(H. B. 1203—Originating in the House Committee on Finance)

[Passed February 22, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the Department of Natural Resources, Account No. 565, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 565, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	CONSERVATION AND DEVELOPMENT	
2	105— <i>Department of Natural Resources</i>	
3	Acct. No. 565	
4	Clarke-McNary Fire Prevention _____	\$200,000.00
5	Pipestem State Park (operation)	200,000.00
6	Total _____	\$400,000.00
7	The amount as itemized for expenditure during the fiscal	
8	year one thousand nine hundred seventy-five shall be available	
9	for expenditure upon the effective date of this bill.	

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CHAPTER 39

(H. B. 1426—Originating in the House Committee on Finance)

[Passed April 12, 1975; in effect ninety days 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-five, to the Public Land Corporation, Account No. 566, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor has stated that he will be able to acquire federal moneys to match any appropriation of state moneys for the purpose of providing for a National Track and Field Hall of Fame; and

WHEREAS, The Attorney General of West Virginia rendered an opinion, dated February 18, 1975, wherein he stated that public moneys may only be appropriated by the Legislature where title to land and buildings would be in the name of the state of West Virginia and a public agency thereof and that appropriations made to any private identity would violate Article X, Section 6 of the State Constitution; and

WHEREAS, The Legislature intends that any expenditure of this appropriation be contingent upon receipt by the Governor of the aforesaid federal funds; and

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120 which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving net unencumbered balances of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following:

1 TITLE II—APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue

3 CONSERVATION AND DEVELOPMENT

4 106—*Public Land Corporation*

5 Acct. No. 566

6 National Track and Field Hall of Fame \$852,500

7 The purpose of this bill is to provide state general revenue
8 moneys to match federal funds in providing for a National
9 Track and Field Hall of Fame, the land and buildings of
10 such to be in the name of the state of West Virginia and a
11 public agency thereof. Such state moneys herein appropriated

12 shall be available for expenditure upon the effective date of
 13 the bill. Any unexpended balance remaining in this account
 14 at the close of the fiscal year 1974-75 is hereby reappropriated
 15 for expenditure during the fiscal year 1975-76. Such moneys
 16 may be transferred to a special fund to match and aid federal
 17 funds.

CHAPTER 40

(S. B. 608—Originating in the Senate Committee on Finance)

[Passed April 14, 1975; in effect from passage. Approved by the
 Governor after deleting the preamble.]

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-five, to the Water Development Authority, Account No. 567, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill," as amended.

Be it enacted by the Legislature of West Virginia:

That Account No. 567, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line items:

Water Development Authority

Acct. No. 567

Capital Outlay _____\$3,000,000

The amount as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill for the purpose of supplementing prior appropriation. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

CHAPTER 41

(Com. Sub. for H. B. 1444—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 12, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending and transferring amounts between items of the total appropriation of the Department of Public Safety as appropriated by chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 570, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four be supplemented, amended and transferred to read as follows:

1	PROTECTION	
2	107— <i>Department of Public Safety</i>	
3	Acct. No. 570	
4	1 Personal Services _____	\$ 5,894,519
5	2 Current Expenses _____	2,500,000
6	3 Repairs and Alterations _____	193,850

7 The purpose of this supplementary appropriation bill is to
8 supplement, amend and transfer certain moneys from one
9 item of the existing appropriation to another item of such
10 appropriation for the designated spending unit. The amounts
11 as itemized for expenditure during the fiscal year one thousand
12 nine hundred seventy-five shall be available for expenditure
13 upon the effective date of this act. Any unexpended balance
14 remaining in the appropriation for "Current Expenses" at the
15 close of the fiscal year 1974-75 is hereby reappropriated for
16 expenditure during the fiscal year 1975-76.

CHAPTER 42

(H. B. 1131—Originating in the House Committee on Finance)

[Passed February 21, 1975; in effect from passage. Appropriation reduced by \$1,100,000 and approved by the Governor.]

AN ACT making 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-five to the West Virginia Public Employees Retirement Board, Account No. 614, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 614, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1		PROTECTION	
2	122—	<i>West Virginia Public Employees Retirement Board</i>	
3		Acct. No. 614	
4	Employers Accumulation Fund	.....	\$4,000,000
5	The amount as itemized for expenditure during the fiscal		
6	year one thousand nine hundred seventy-five shall be available		
7	for expenditure upon the effective date of this bill.		

CHAPTER 43

(H. B. 891—Originating in the House Committee on Finance)

[Passed February 15, 1975; in effect from passage. Approved by the Governor.]

AN ACT making 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-five to the West Virginia Public Employees Insurance Board, Account No. 615, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net

unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 615, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	PROTECTION	
2	123— <i>West Virginia Public Employees Insurance Board</i>	
3	Acct. No. 615	
4	Public Employees Health Insurance—	
5	State Contribution	\$13,321,000.
6	The amount as itemized for expenditure during the fiscal	
7	year one thousand nine hundred seventy-five shall be available	
8	for expenditure upon the effective date of this bill.	

◇

CHAPTER 44

(H. B. 1238—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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-five to the State Department of Highways, Account No. 641, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill," as amended.

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds transferred from the Department of

Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered cash balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 641, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, as amended, be supplemented by adding thereto the following sum to the designated line item:

- | | | |
|---|--|----------------|
| 1 | <i>State Department of Highways</i> | |
| 2 | Acct. No. 641 | |
| 3 | General Operations | ...\$3,800,000 |
| 4 | The amount as itemized for expenditure during the fiscal | |
| 5 | year one thousand nine hundred seventy-five shall be avail- | |
| 6 | able for expenditure upon the effective date of this bill. Any | |
| 7 | or all of the above appropriation may be transferred to the | |
| 8 | state road fund for disbursement. | |

↕

CHAPTER 45

(H. B. 1237—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 the state road fund remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five to the Department of Motor Vehicles, Account No. 671, chapter two, acts of

the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The governor submitted an Executive Budget (the Budget Document) dated January 9, 1975, which on page IV reflected estimated revenues for the State Road Fund for the fiscal year 1974-75 in the amount of \$450,030,000; and

WHEREAS, The Legislature, in chapter two, acts of the Legislature, second extraordinary session, 1974, known as the budget bill, made appropriations from the State Road Fund for the fiscal year 1974-75 in the amount of \$389,392,347; and

WHEREAS, It therefore appears that a balance well in excess of the amount to be appropriated by the terms of this supplementary appropriation bill remains available for appropriation and expenditure in said fiscal year 1974-75, and it is the purpose of the Legislature to appropriate a portion of such balance by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 671, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 2. Appropriations from Other Funds.	
3	128— <i>Department of Motor Vehicles</i>	
4	Acct. No. 671	
5	TO BE PAID FROM STATE ROAD FUND	
6	2	Current Expenses .....\$30,000
7	4	Purchase of License Plates 36,000
8	7	Public Employees Health Insurance 22,300
9		Total <u>\$88,300</u>

10 The amount as itemized for expenditure during the fiscal
 11 year one thousand nine hundred seventy-five shall be available
 12 for expenditure upon the effective date of this bill.

CHAPTER 46

(S. B. 565—Originating in the Senate Committee on Finance)

[Passed March 5, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of the special revenue account of the Alcohol Beverage Control Commissioner remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to the Alcohol Beverage Control Commissioner, Account No. 837, supplementing chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor's Executive Budget for the fiscal year 1974-75 on page 353, reflects special revenue in the Alcohol Beverage Control Commissioner's special revenue fund available for appropriation in the amount of \$13,900,000; and

WHEREAS, The budget bill for the fiscal year 1974-75 as enacted by the Legislature contained appropriations from such fund in the amount of \$9,201,585; and

WHEREAS, An amount well in excess of the amount so appropriated is still available for appropriation for the fiscal year 1974-75 and the Legislature desires to make the following supplementary appropriation out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 837, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sum to be designated line item:

144—*West Virginia Alcohol Beverage Control Commissioner*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

8 Public Employees Health Insurance \$132,000

The amount as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill.

∴

CHAPTER 47

(H. B. 679—By Mr. Speaker, Mr. McManus)

[Passed March 5, 1975; in effect from passage. Approved by the Governor.]

AN ACT making an amendment to Account No. 854 of section two, Title II, chapter two, Acts of the Legislature, Second Extraordinary Session, one thousand nine hundred seventy-four, known as the "Budget Bill," reappropriating unexpended balances remaining from prior years' appropriations for expenditure during fiscal year 1974-1975.

WHEREAS, In Account No. 854, section two, Title II, chapter six, acts of the Legislature, Regular Session, 1971, commonly referred to as the "Budget Bill," the Legislature on lines 41 and 42 thereof, appropriated \$375,000.00 to be expended for "West Virginia Institute of Technology Maintenance Building and Allied Equipment"; and

WHEREAS, Said appropriated moneys have not to this date been expended but have been reappropriated in the "Budget Bill" by the Legislature in said account for the fiscal years 1972-1973 (chapter seven, Acts of the Legislature, Regular Session, 1972), 1973-1974 (chapter 10, Acts of the Legislature, Regular Session, 1973), and 1974-1975 (chapter two, Acts of the Legislature, Second Extraordinary Session, 1974); and

WHEREAS, The West Virginia board of regents in the exercise of its discretion granted by the Legislature in chapter eighteen, article twenty-six, section eight, code of West Virginia, one thousand nine hundred thirty-one, as amended, is of the opinion that the aforesaid appropriation of \$375,000.00 should be immediately expended for the purchase of land on which to construct said maintenance building; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 854, section two, Title II, chapter two, acts of the Legislature, Second Extraordinary Session, 1974, be amended and reenacted to include, in addition to provisions therein presently set forth, a specific line item appropriation as follows, in lieu of the line item appropriation set forth on lines 41 and 42 of Account No. 854 in chapter six, acts of the Legislature, Regular Session, 1971, "West Virginia Institute of Technology Maintenance Building and Allied Equipment," as reappropriated:

1 **TITLE II—APPROPRIATIONS**

2 **Section 2. Appropriations from Other Funds.**

3 148—*Board of Regents Special Capital Improvement Fund*

4 Acct. No. 854

5 **TO BE PAID FROM SPECIAL REVENUE FUND**

6 West Virginia Institute of Technology either

7 Land acquisition for or construction of

8 Maintenance Building and Allied Equipment \$375,000.00.

9 The above designated itemized appropriation shall be
10 available for expenditure upon the effective date of this act.

†

CHAPTER 48

(S. B. 393—By Mr. Rugarton)

[Passed February 20, 1975; in effect from passage. Approved by the Governor.]

AN ACT transferring an amount between items of the total appropriation for a state spending unit as appropriated by Committee Substitute for Senate Bill No. 9, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill.

Be it enacted by the Legislature of West Virginia:

That items of the total appropriation of Account No. 900, Committee Substitute for Senate Bill No. 9, acts of the Legis-

lature, second extraordinary session, one thousand nine hundred seventy-four, be transferred to read as follows:

150—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	1	Personal Services	\$1,700,000
2	2	Current Expenses	1,084,000
3	3	Equipment	148,000
4	6	Public Employees Health Insurance	63,000

5 The foregoing constitute transfers of amounts from one
6 item of appropriation to another item of appropriation
7 within the total appropriation of the designated spending
8 unit. The amounts as itemized for expenditure during the
9 fiscal year one thousand nine hundred seventy-five shall
10 be available for expenditure upon the effective date of
11 this bill.

†

CHAPTER 49

(H. B. 1434—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to the Department of Agriculture, Account No. 970, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year

1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 970:

1	<i>Department of Agriculture</i>
2	Acct. No. 970
3	TO BE PAID FROM REVENUE SHARING TRUST FUND
4	1 Laboratory construction \$1,000,000
5	The amount as itemized for expenditure during the fiscal
6	year one thousand nine hundred seventy-five shall be available
7	for expenditure upon the effective date of this bill for the
8	purpose of providing for construction of a laboratory facility.
9	Any unexpended balance remaining in this account at the close
10	of the fiscal year 1974-75 is hereby reappropriated for ex-
11	penditure during the fiscal year 1975-76.

⋮

CHAPTER 50

(S. B. 598—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust

Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Department of Natural Resources, Account No. 972, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 972, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

*Revenue Sharing Trust Fund—Department of
Natural Resources*

Acct. No. 972

TO BE PAID FROM REVENUE SHARING TRUST FUND

1	Twin Falls State Park _____	\$ 75,000
2	Museum _____	\$ 25,000
3	Multi-purpose Arena	
4	(Feasibility Study) _____	25,000
5	Expansion of 9-hole golf course	
6	(Feasibility Study) _____	25,000

The amounts as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

CHAPTER 51

(H. B. 1357—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to the Department of Natural Resources, Account No. 972, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 972:

1	<i>Department of Natural Resources</i>	
2	Acct. No. 972	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	Acquisition of land, right-of-way and certain	
5	personal property situate in Fayette County,	
6	West Virginia	\$250,000

7 The amount as itemized for expenditure during the fiscal
8 year one thousand nine hundred seventy-five shall be avail-
9 able for expenditure upon the effective date of this bill for the
10 purpose of purchasing the land, right-of-way, railroad tracks,
11 trestles and ties situate between Thurmond and Minden in
12 Fayette County, West Virginia.

CHAPTER 52

(S. B. 561—Originating in the Senate Committee on Finance)

[Passed March 5, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to West Virginia Penitentiary, Account No. 9719, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 9719, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

West Virginia Penitentiary

Acct. No. 9719

TO BE PAID FROM REVENUE SHARING TRUST FUND

1	Completion of Cells in North Block—	
2	Maximum Security	\$200,000
3	Pre-Fab Structure for Replacement of	
4	(15) Guard Towers	55,250
5	Total	\$255,250

The amount as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill for the purpose of supplementing prior appropriations. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

CHAPTER 53

(S. B. 593—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to Department of Natural Resources, Account No. 9725, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill".

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the

sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered 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. 9725, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

*Revenue Sharing Trust Fund—
Department of Natural Resources*

Acct. No. 9725

TO BE PAID FROM REVENUE SHARING TRUST FUND

- | | | |
|---|--------------------------------|-------------|
| 1 | Canaan Valley _____ | \$2,000,000 |
| 2 | To complete recreation complex | |

The amount as itemized for expenditure during the fiscal year one thousand nine hundred seventy-five shall be available for expenditure upon the effective date of this bill for the purpose of supplementing prior appropriations. Any unexpended balance remaining in this account at the close of the fiscal year 1974-75 is hereby reappropriated for expenditure during the fiscal year 1975-76.

♦

CHAPTER 54

(H. B. 1380—Originating in the House Committee on Finance)

[Passed March 6, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of all funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred

seventy-five, to the Department of Agriculture, Account No. 9738, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 9738.

1	<i>Department of Agriculture</i>	
2	Acct. No. 9738	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	National Association of State Departments of	
5	Agriculture	\$8,000

6 The amount as itemized for expenditure during the fiscal
7 year one thousand nine hundred seventy-five shall be available
8 for expenditure upon the effective date of this bill for the
9 purpose of participating in the national convention of the
10 National Association of State Departments of Agriculture.
11 Any unexpended balance remaining in this account at the
12 close of the fiscal year 1974-75 is hereby reappropriated for
13 expenditure during the fiscal year 1975-76.

CHAPTER 55

(H. B. 1381—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to West Virginia Board of Regents (Control), Account No. 9745, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 9745.

1	<i>West Virginia Board of Regents (Control)</i>	
2	Acct. No. 9745	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	1 West Virginia University, Morgantown	
5	Campus: to comply with miscellaneous	
6	orders of the fire marshal and	
7	insurance commissioner	\$ 401,250

8	2	Bluefield State, Conley Hall:	
9		Renovate plumbing	65,000
10	3	West Virginia State, Replace under	
11		ground cables, and replace and improve	
12		campus overall lighting	145,000
13	4	Shepherd, Physical Ed. Building: Roof	
14		repair, replace floors and install	
15		ventilation system in basement	165,000
16	5	Glenville State, Health and Physical Ed.	
17		Building: Reroof	40,000
18	6	Concord, Replace and enlarge sewer main	
19		to sewer plant, and demolish water	
20		tank	65,000
21	7	West Liberty State, Hall of Fine Arts:	
22		Improve ventilation and heating system	50,000
23	8	West Virginia Northern Community	
24		College, Hazel Atlas Building:	
25		Renovate heating, lighting, etc.	80,000
26	9	West Virginia University, Downtown	
27		Campus: Replace electrical distribution	
28		system	375,000
29	10	Fairmont State, Administration Building:	
30		Replace windows	200,000
31	11	West Virginia University, Beechurst	
32		Avenue Heating Plants: Install emer-	
33		gency generators and transfer switches .	100,000
34	12	Glenville State, Transformers for all	
35		buildings to increase voltage	85,000
36	13	Marshall University, Science Hall:	
37		Replacement and/or rehabilitation	
38		of floors, electrical apparatus,	
39		plumbing, ventilation, etc.	600,000

40	15	Glenville State, housing for telephone	
41		and central power cut-off unit,	
42		waterproof basement of Firestone Lodge	71,750
43	16	Glenville State, Science building: Install	
44		new plumbing including sewer lines ---	57,000
45		The amount as itemized for expenditure during the fiscal	
46		year one thousand nine hundred seventy-five shall be avail-	
47		able for expenditure upon the effective date of this bill for	
48		the purpose of making major renovations, repairs and safety	
49		upgrading projects. Any unexpected balance remaining in	
50		this account at the close of the fiscal year 1974-75 is hereby	
51		reappropriated for expenditure during the fiscal year 1975-76.	

CHAPTER 56

(H. B. 1359—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to the Department of Agriculture, Account No. 9771, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 9771:

- 1 *Department of Agriculture*
 2 Acct. No. 9771
 3 TO BE PAID FROM REVENUE SHARING TRUST FUND
 4 Refrigeration Unit, Inwood Storage Facility _____\$200,000
 5 The amount as itemized for expenditure during the fiscal
 6 year one thousand nine hundred seventy-five shall be avail-
 7 able for expenditure upon the effective date of this bill for the
 8 purpose of providing refrigeration facilities within the storage
 9 structure. Any unexpended balance remaining in this account
 10 at the close of the fiscal year 1974-75 is hereby reappropriated
 11 for expenditure during the fiscal year 1975-76.

CHAPTER 57

(H. B. 1358—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 funds remaining unappropriated from the Revenue Sharing Trust Fund for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, to West Virginia Schools for the Deaf and the Blind, Account No. 9772, chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of

Federal Revenue Sharing Funds, further detailed in the Governor's communication of January 24, 1975, including the fiscal year 1974-75, in all of which it is set forth and stated that there has been received, through January 7, 1975, the sum of \$74,684,580, which said amount is reduced by prior year's appropriations of \$41,210,458, thereby leaving a net unencumbered balance of \$33,474,122, available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extarordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following new account, designated Acct. No. 9772:

1	<i>West Virginia Schools for the Deaf and The Blind</i>	
2	Acct. No. 9772	
3	TO BE PAID FROM REVENUE SHARING TRUST FUND	
4	1	Compliance with State Fire Marshal's
5		Requirements _____ \$475,000
6	2	Equipment for Elementary Deaf Classroom
7		Addition _____ 125,000
8		Total _____ \$600,000

9 The amounts as itemized for expenditure during the fiscal
 10 year one thousand nine hundred seventy-five shall be available
 11 for expenditure upon the effective date of this bill for the
 12 purpose of meeting fire safety standards and providing equip-
 13 ment. Any unexpended balance remaining in this account
 14 at the close of the fiscal year 1974-75 is hereby reappropriated
 15 for expenditure during the fiscal year 1975-76.

CHAPTER 58

(H. B. 1440—Originating in the House Committee on Finance)

[Passed April 12, 1975; 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 the special revenue account of the Alcohol Beverage Control Commissioner remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, for payment of claims against the state and the Alcohol Beverage Control Commissioner, supplementing chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the "Budget Bill."

WHEREAS, The Governor's Executive Budget for the fiscal year 1974-75 on page 353, reflects special revenue in the Alcohol Beverage Control Commissioner's special revenue fund available for appropriation in the amount of \$13,900,000; and

WHEREAS, The budget bill for the fiscal year 1974-75 as enacted by the Legislature contained appropriations from such fund in the amount of \$9,201,585; and

WHEREAS, An amount well in excess of the amount so appropriated is still available for appropriation for the fiscal year 1974-75 and the Legislature desires to make the following supplementary appropriation out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That chapter two, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, known as the Budget Bill, be supplemented by adding thereto the following:

1	TITLE II—APPROPRIATIONS	
2	Section 3. Awards for Claims Against the State.	
3	TO BE PAID FROM SPECIAL REVENUE FUND	
4	Claims against the alcohol beverage control commissioner:	
5	(1) Helen L. Freed	\$ 850.00
6	(2) W. M. Harris	\$ 850.00

7	(3) Wilda F. Currence	\$ 775.00
8	(4) Barbara Rae Norton	\$ 700.00
9	(5) Aluna J. Ware	\$ 550.00
10	(6) Mary Louise Singleton	\$ 550.00
11	(7) Wayne L. Main	\$ 1,000.00
12	(8) Louis H. Harper	\$ 625.00
13	(9) Shirley Ann Kimble	\$ 625.00
14	(10) Leonard D. Watson	\$ 775.00
15	(11) Donal L. Smith	\$ 775.00
16	(12) Cecile H. Ruddell	\$ 850.00
17	(13) James F. Kirby	\$ 850.00

18 The purpose of this bill is to provide payment for claims
 19 against the Alcohol Beverage Control Commissioner and
 20 out of his special revenue fund, such appropriation being
 21 available for expenditure during the fiscal year ending June
 22 thirtieth, one thousand nine hundred seventy-five and upon
 23 the effective date of this act. Any unexpended balance
 24 remaining at the close of fiscal year 1974-75 is hereby re-
 25 appropriated for expenditure during fiscal year 1975-76.

CHAPTER 59

(S. B. 569—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-five, for the purpose of appropriating money for payment of a claim against the state in the amount of \$44,825.17 to Russell Transfer, Inc.

WHEREAS, The Governor submitted to the Legislature the Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, including the fiscal year 1974-75, in which it is set forth and stated that cash balances and investments, as of July 1, 1974, and funds trans-

ferred from the Department of Welfare after the close of fiscal year 1974, amount to \$106,542,995, and in addition thereto, estimated revenues for fiscal year 1974-75 of \$557,154,120, which said amounts total \$663,697,115, and as reduced by net appropriation balances forwarded of \$68,156,381, and regular appropriations for fiscal year 1974-75 of \$504,266,182, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75 of \$13,000,000, thereby leaving a net unencumbered balance of \$104,274,552 available for appropriation and expenditure for said fiscal year 1974-75; a portion of said net unencumbered balance is hereby appropriated by the terms of this supplementary appropriation bill; and

WHEREAS, The Legislature, chapter three, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, found and declared a certain claim of Russell Transfer, Inc., against the Department of Finance and Administration, in the amount of \$44,825.17, to be a moral obligation of the state; and the Legislature, in said act, directed the auditor to issue his warrant for payment of such claim, among others, out of funds appropriated therefore; and

WHEREAS, The above amount was appropriated for payment by the Legislature in the Budget Bill for fiscal year 1974-75, but such claim and amount was disapproved and deleted by the Governor from the Budget Bill pursuant to his constitutional authority to disapprove items in said Budget Bill; and

WHEREAS, The Legislature finds that such claim remains a valid moral obligation against the state, and desires that such claim be paid out of the amount appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That from the fund designated herein, there is hereby appropriated, for payment of a claim against the state, out of the balance of general revenue remaining available for appropriation out of the public treasury for the fiscal year ending June thirtieth, one thousand nine hundred seventy-five, the following item and amount:

CLAIM VERSUS THE DEPARTMENT OF FINANCE AND ADMINISTRATION
(To be paid from general revenue fund)

1 Russell Transfer, Inc. \$44,825.17

2 The amount as appropriated and itemized for expendi-
3 ture during the fiscal year ending June thirtieth, one thou-
4 sand nine hundred seventy-five shall be available for
5 expenditure upon the effective date of this act.

6 If this amount or any portion thereof remains un-
7 expended at the close of such fiscal year, it is hereby
8 reappropriated for expenditure during fiscal year 1975-76.

CHAPTER 60

(H. B. 1442—Originating in the House Committee on Finance)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT supplementing, amending, transferring and redesignating purpose in an existing appropriation, as appropriated by section four, Title III, chapter two, acts of the Legislature, Second Extraordinary Session, one thousand nine hundred seventy-four, known as the "Budget Bill," reappropriating unexpended balances remaining from prior years' appropriations for expenditure during fiscal year 1974-75.

WHEREAS, In subitem G, Item XIII, section four, Title II, chapter ten, acts of the Legislature, Regular Session, 1973, commonly referred to as the "Budget Bill," the Legislature on lines 2, 3 and 4 thereof appropriated \$135,000.00 to be expended for "Roofing Main Hospital Building, Nursing Home and installing copper gutters on both," and on line 5 thereof, appropriated \$50,000.00 for a "New Sewage System," and on lines 6 and 7 thereof, appropriated \$10,000.00 for "Installation New Tile, Main Hospital Building," and on lines 8, 9 and 10 thereof, appropriated \$50,000.00 for "Remodeling Nurses' Home to house Administrative Offices and two apartments" all to be expended at "Welch Emergency Hospital"; and

WHEREAS, Said appropriated moneys have not to this date been expended but have been reappropriated in the "Budget Bill" for the

CHAPTER 61

(H. B. 1433—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to Auditor's Office—General Administration, Account No. 150, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 150, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	FISCAL	
4	15—Auditor's Office—General Administration	
5	Acct. No. 150	
6	4a Mental Hygiene Fund	\$100,000

7 The purpose of this bill is to supplement the aforesaid
 8 account and item therein for paying those certain fees and
 9 expenses as provided by law to be assumed by the state. This
 10 appropriation shall be available for expenditure in the fiscal
 11 year of 1975-76.

CHAPTER 62

(H. B. 1419—Originating in the House Committee on Finance)

[Passed March 6, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-six, to the State Department of Education, Account No. 277, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a state-

ment of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 277, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	EDUCATIONAL	
4	31— <i>State Department of Education</i>	
5	Acct. No. 277	
6	1 Teacher Education Program	\$ 6,250.

7 The purpose of this bill is to supplement the aforesaid
8 account and item therein for expenditure in the fiscal year
9 1975-76.

CHAPTER 63

(H. B. 1422—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to the West Virginia Board of Regents (Control), Acct. No. 279, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's

Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 279, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

1 **TITLE II—APPROPRIATIONS**

2 **Section 1. Appropriations from General Revenue.**

3 **EDUCATIONAL**

4 32—*West Virginia Board of Regents (Control)*

5 Acct. No. 279

6 23 West Virginia College of Osteopathic

7 Medicine _____ \$ 1,290,000

8 The purpose of this bill is to provide operational moneys for
9 this new public institution coming under the jurisdiction of
10 the West Virginia Board of Regents.

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CHAPTER 64

(H. B. 1428—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-six, to the West Virginia Board of Regents (Control), Acct. 279, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 279, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	EDUCATIONAL	
4	32— <i>West Virginia Board of Regents (Control)</i>	
5	Acct. No. 279	
6	1 Personal Services	\$ 3,732,626

7	2	Current Expenses	1,496,200
8	3	Repairs and Alterations	120,000
9	4	Equipment	155,000
10	5	Oak Wilt Research	700
11	6	Veterinary Tuition	55,060
12	7	Optometry Tuition	22,000
13	8	Educational T.V.	32,000
14	9	Bureau for Coal Research	20,000
15	10	Forestry Products	6,000
16	11	Regional Research Institute	4,380
17	12	Agricultural Experimental Station—	
18	13	Intensive Horticultural Demonstration ..	2,000
19	15	Podiatry Tuition	6,000
20	17	New Programs	60,000
21	18	Unclassified	30,000
22	21	Scholarship Program	150,000
23	22	Facilities and Scholarships Program	25,000
24	24	Center for Economic Action	2,437
25	25	Community and Development Research ..	2,160
26	25a	Architecture Education Tuition	50,000

27 The purpose of this bill is to supplement the aforesaid ac-
 28 count and items therein for expenditure in the fiscal year
 29 1975-76.

CHAPTER 65

(H. B. 1424—Originating in the House Committee on Finance)

[Passed March 6, 1975; in effect July 1, 1975. Disapproved by the Governor,
 and repassed notwithstanding his objections.]

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-six, to the West Virginia Board of Regents, Account No. 280, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 280, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	EDUCATIONAL	
4	33— <i>West Virginia Board of Regents</i>	
5	Acct. No. 280	
6	1 Personal Services	\$ 44,000

7 The purpose of this bill is to supplement moneys in the
8 personal services item for new positions, Director Health Af-
9 fairs and ADP Programmer. Such moneys are expendable in
10 fiscal year 1975-76.

CHAPTER 66

(H. B. 1423—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to Marshall University—Medical School, Account No. 284, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the “Budget Bill.”

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor’s Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor’s overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 284, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	EDUCATIONAL	
4	34— <i>Marshall University—Medical School</i>	
5	Acct. No. 284	
6	1 Unclassified Total	\$ 871,915

7 The purpose of this bill is to fund the medical school at Mar-
8 shall University, such moneys to be available for expenditure
9 in the fiscal year 1975-76.

CHAPTER 67

(S. B. 591—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-six, to West Virginia University—Medical School, Account No. 285, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 285, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

EDUCATIONAL

35—West Virginia University—Medical School

Acct. No. 285

1	Personal Services	\$1,585,000
2	Current Expenses	200,000
3	Repairs and Alterations	25,000

4	Equipment	25,000
5	Family Practice Support Program	200,000
6	Total	\$2,035,000
7	To be transferred to the West Virginia University—	
8	Medical School Fund upon requisition of the Governor.	

CHAPTER 68

(H. B. 1420—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the Department of Education, Account No. 286, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76,

Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 286, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS		
2	Section 1. Appropriations from General Revenue.		
3	EDUCATIONAL		
4	36—Department of Education		
5	Acct. No. 286		
6	8	Regional Education Service Agency	\$ 21,000
7	12	Project 0629-061, Identification and	
8		Remediation of Learning Disabilities —	50,000
9	13	Project 0629-062, Diagnosis and Re-	
10		mediation of Learning Disabilities	50,000
11	14	Project 0629-067, Early Learning and	
12		Child Care	50,000
13	15	Project 0629-077, Early Learning and	
14		Child Care	50,000
15	16	Project 0629-078, Early Learning and	
16		Child Care	50,000

17 The purpose of this bill is to supplement the aforesaid ac-
 18 count and items therein for expenditure in the fiscal year 1975-
 19 76.

CHAPTER 69

(H. B. 1435—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repealed notwithstanding his objections.]

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-six, to the State Department of Education—Professional Educators—Account No. 290, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 290, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	EDUCATIONAL	
4	<i>State Department of Education—</i>	
5	<i>Professional Educators</i>	
6	Acct. No. 290	
7	Professional Educators	\$ 11,195,148

8 Such amount is appropriated to increase each professional
 9 educator's basic salary by \$500 over and above that specified
 10 in Chapter 18A, Article 4, Section 2 of the Code. The number
 11 of professional educators so affected shall be that number
 12 employed by the various county boards of education as of the
 13 end of the third school month of the 1974-75 school year,
 14 exclusive of such educators employed with Federal funds. In-
 15 cluded in the sum are sufficient dollars to cover the fixed
 16 charges of matching social security payments and workmen's
 17 compensation costs.

CHAPTER 70

(H. B. 1430—Originating in the House Committee on Finance)

[Passed March 6, 1975; in effect July 1, 1975. Disapproved by the Governor,
 and repassed notwithstanding his objections.]

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-six, to the Educational

Broadcasting Authority, Account No. 291, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 291, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1

TITLE II—APPROPRIATIONS

2 **Section 1. Appropriations from General Revenue.**

3

EDUCATIONAL

4

39—*Educational Broadcasting Authority*

5

Acct. No. 291

6 4 Regional ETV _____ \$ 47,103

7 The purpose of this bill is to supplement the aforesaid ac-
 8 count and item therein for expenditure in the fiscal year 1975-
 9 76.

CHAPTER 71

(H. B. 1438—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor,
 and repassed notwithstanding his objections.]

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-six, to the Department of Education, Account No. 299, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 299, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1 TITLE II—APPROPRIATIONS

2 Section 1. Appropriations from General Revenue.

3 EDUCATIONAL

4 46—*Department of Education*

5 Acct. No. 299

6	1	To fund minimum salaries for Support	
7	2	Personnel	.....\$8,278,791

8 The purpose of this bill is to provide moneys for the afore-
9 said account, purpose and item therein set forth; such moneys
10 to be available for expenditure in the fiscal year 1975-76.

CHAPTER 72

(H. B. 1417—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the State Health Department, Account No. 400, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,-750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 400, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS		
2	Section 1. Appropriations from General Revenue.		
3	HEALTH AND WELFARE		
4	61—State Health Department		
5	Acct. No. 400		
6	6	Local Health Services _____	\$ 125,000
7	19	Nursing Home Inspection Unit _____	90,300
8	20	Biologicals for Immunization and	
9	21	Venereal Disease _____	135,000

10 The purpose of this bill is to supplement the aforesaid ac-
 11 count and items therein for expenditure in the fiscal year
 12 1975-76.

†

CHAPTER 73

(S. B. 590—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to Department of Welfare, Account No. 405, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 405, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

HEALTH AND WELFARE

65—Department of Welfare

Acct. No. 405

1 Personal Services \$ 873,746

CHAPTER 74

(H. B. 1429—Originating in the House Committee on Finance)

[Passed March 6, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the State Commission on Aging, Account No. 406, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 406, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	HEALTH AND WELFARE	
4	66— <i>State Commission on Aging</i>	
5	Acct. No. 406	
6	3 Equipment _____	\$ 175
7	4 Programs for Elderly _____	30,000

8 The purpose of this bill is to supplement the aforesaid ac-
 9 count and items therein for expenditure in the fiscal year
 10 1975-76.

CHAPTER 75

(S. B. 595—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to Department of Mental Health, Account No. 410, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 410, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

69--*Department of Mental Health*

Acct. No. 410

10 Logan-Mingo Area Mental Health Center \$1,200,000

CHAPTER 76

(H. B. 1418—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the Department of Mental Health, Account No. 410, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 410, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	HEALTH AND WELFARE	
4	69— <i>Department of Mental Health</i>	
5	Acct. No. 410	
6	7 Community Mental Retardation Program..\$	200,000
7	9 Community Mental Health Programs _____	800,000
8	The purpose of this bill is to supplement the aforesaid	
9	account and items therein for expenditure in the fiscal year	
10	1975-76.	

CHAPTER 77

(Com. Sub. for H. B. 1410—By Mr. Wanstreet, and Mr. Damron, 10th Dist.)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-six, to the State Board of Education—Rehabilitation Division, Account No. 440, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the “Budget Bill.”

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a

statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 440, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS		
2	Section 1. Appropriations from General Revenue.		
3	HEALTH AND WELFARE		
4	85— <i>State Board of Education—Rehabilitation Division</i>		
5	Acct. No. 440		
6	1	Personal Services	\$ 232,000
7	2	Current Expenses	88,000

8	3	Rehabilitation Center	131,172
9	5	Supervisory Services for Vending Stand	
10	6	Program for Blind	50,000
11		The purpose of this bill is to supplement the aforesaid ac-	
12		count and items therein for expenditure in the fiscal year	
13		1975-76.	

CHAPTER 78

(S. B. 588—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to Department of Mines, Account No. 460, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such

revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 460, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

BUSINESS AND INDUSTRIAL RELATIONS

88—Department of Mines

Acct. No. 460

1 Personal Services \$165,000

The above appropriation for "Personal Services" shall be used to implement Senate Bill No. 246, 1975 regular session of the Legislature.

♦

CHAPTER 79

(H. B. 1427—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to the Department of Commerce, Account No. 465, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 465, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

- 1 TITLE II—APPROPRIATIONS
- 2 Section 1. Appropriations from General Revenue.
- 3 BUSINESS AND INDUSTRIAL RELATIONS
- 4 89—*Department of Commerce*
- 5 Acct. No. 465
- 6 26 Independence Hall, Wheeling, West Virginia....\$773,000

7 The purpose of this bill is to supplement the aforesaid ac-
8 count and item therein for expenditure in the fiscal year
9 1975-76.

:

CHAPTER 80

(H. B. 1432—Originating in the House Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. 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-six, to the Department of Commerce, Account No. 465, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's

Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 465, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	BUSINESS AND INDUSTRIAL RELATIONS	
4	89— <i>Department of Commerce</i>	
5	Acct. No. 465	
6	11 Mothers Day Founders Festival _____	\$10,000
7	The purpose of this bill is to supplement the aforesaid	
8	account and item therein for expenditure in the fiscal year	
9	1975-76.	

⋮

CHAPTER 81

(S. B. 607—Originating in the Senate Committee on Finance)

[Passed April 13, 1975; in effect July 1, 1975. 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-six, to Department of Commerce, Account No. 465, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 465, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

Department of Commerce

Acct. No. 465

Personal Services	\$ 15,398
Current Expenses	6,000
West Virginia's Participation in American Bicentennial	300,000

CHAPTER 82

(S. B. 574—Originating in the Senate Committee on Finance)

[Passed March 7, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to Department of Agriculture, Account No. 510, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 510, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

AGRICULTURE

103—*Department of Agriculture*

Acct. No. 510

2	Other Personal Services.....	\$28,000
3	Current Expenses	10,000
8	Total.....	\$38,000

CHAPTER 83

(S. B. 564—Originating in the Senate Committee on Finance)

[Passed March 5, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to Geological and Economic Survey Commission, Account No. 520, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 520, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

CONSERVATION AND DEVELOPMENT

108—*Geological and Economic Survey Commission*

Acct. No. 520

2	Current Expenses	\$ 43,059
6	Coal Quality and Reserve Study	80,000
7	Archaeological Investigations	30,000
8	Total	\$153,059

CHAPTER 84

(S. B. 600—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to Department of Natural Resources, Account No. 565, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 565, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

CONSERVATION AND DEVELOPMENT

109—*Department of Natural Resources*

Acct. No. 565

14 French Creek Game Farm \$75,000

CHAPTER 85

(S. B. 587—*Originating in the Senate Committee on Finance*)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to the Public Land Corporation, Account No. 566, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above

estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 566, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

110—*Public Land Corporation*

Acct. No. 566

1 Blennerhassett Island Development \$2,640,000

All or any appropriations to this account for Blennerhassett Island may be transferred to the account of the Blennerhassett Historical Park Commission or such other agency as may be engaged in the development of Blennerhassett Island as an historical park upon the requisition of the Governor.

CHAPTER 86

(H. B. 1425—Originating in the House Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. 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-six, to the Department of Public Safety, Account No. 570, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 570, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following sums to the designated line items:

1	TITLE II—APPROPRIATIONS	
2	Section 1. Appropriations from General Revenue.	
3	PROTECTION	
4	112— <i>Department of Public Safety</i>	
5	Acct. No. 570	
6	1 Personal Services _____	\$ 314,820

CHAPTER 87

(S. B. 573—Originating in the Senate Committee on Finance)

[Passed March 7, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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-six, to Adjutant General—State Militia, Account No. 580, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the “Budget Bill.”

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1975-76, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of

state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 580, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

PROTECTION

113—Adjutant General—State Militia

Acct. No. 580

1	Personal Services	\$ 6,000
2	Current Expenses	25,000
7	Property Maintenance	16,958
8	State Armory Board	63,543
9	Total	\$111,501

CHAPTER 88

(S. B. 599—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the Human Rights Commission, Account No. 598, an act, Enrolled Committee Substitute for Senate Bill No. 23,

enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 598, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

PROTECTION

125—*Human Rights Commission*

Acct. No. 598

1	Personal Services	\$15,270
2	Current Expenses	44,000
3	Equipment	1,010
4	Total	<u>\$60,280</u>

CHAPTER 89

(S. B. 563—Originating in the Senate Committee on Finance)

[Passed March 5, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

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-six, to the West Virginia Public Employees Retirement Board, Account No. 614, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The estimated revenue in the state fund, general revenue, to be received in the fiscal year 1975-76, as contained on page V of the Executive Budget for the fiscal year 1975-76, submitted by the Governor for the 1975 regular session, totals \$558,750,000; and

WHEREAS, In addition to the estimate of revenue submitted by the Governor for the 1975-76 fiscal year, there existed available for appropriation cash balances, estimated expirations, and estimated surplus revenue for the fiscal year 1974-75, all as further contained on page V of said Executive Budget; and

WHEREAS, The Legislature, basing its action upon the above estimates as duly provided by the Governor, enacted a budget bill for the fiscal year 1975-76, which bill became law, and which thereby made appropriations to various accounts of state spending units, and which as to total appropriations out of general revenues, were well within the total of all such revenues available for appropriations for the fiscal year 1975-76; and

WHEREAS, It appearing from the Governor's Executive Budget that a sufficient balance of general revenue is thus available

for supplementary appropriations for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; 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. 614, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

PROTECTION

127—*West Virginia Public Employees Retirement Board*

Acct. No. 614

1	Employers Accumulation Fund	\$5,770,000
2	Expense Fund	85,000
3	Total	\$5,855,000

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

CHAPTER 90

(S. B. 575—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Federal Aid Construction—Interstate	
2	Program	\$81,300,000

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

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

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

CHAPTER 91

(S. B. 576—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM THE STATE ROAD FUND

3 Appalachian Program\$ 76,000,000

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

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

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

CHAPTER 92

(S. B. 577—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

4 Other Federal Aid Programs.....\$48,600,000

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

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

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

CHAPTER 93**(S. B. 578—Originating in the Senate Committee on Finance)**

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

5 Non-Federal Aid Construction\$41,900,000

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

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

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

CHAPTER 94**(S. B. 579—Originating in the Senate Committee on Finance)**

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

6	Maintenance—Expressway, Trunkline and	
7	Feeder	\$ 49,500,000

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

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

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

CHAPTER 95

(S. B. 586—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

8 Maintenance—State Local Service\$40,500,000

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

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

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

CHAPTER 96

(S. B. 581—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

9 General Operations\$ 24,000,000

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

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

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

CHAPTER 97

(S. B. 582—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

10 Equipment Purchases\$1,000,000

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

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

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

CHAPTER 98

(S. B. 583—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

11 Inventory Purchases \$ 2,000,000

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

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

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

CHAPTER 99

(S. B. 584—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Department of Highways, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 670, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain appropriations, itemizations, and language of appropriation for Account No. 670, State Department of Highways; and

WHEREAS, The Legislature considered the appropriations, itemizations, and language in the Governor's proposed budget bill relative to said account, and having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Department of Highways out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 670, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item and language of appropriation:

Sec. 2. Appropriations from Other Funds.

130—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

12 Debt Service\$57,200,000

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

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

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

CHAPTER 100

(S. B. 585—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the Department of Motor Vehicles, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 671, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature, in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor, in his proposed budget bill for the fiscal year 1975-76 recommended certain other appropriations out of the state road fund; and

WHEREAS, The Legislature considered the other recommended appropriations from the state road fund in the Governor's proposed budget bill and, having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the Department of Motor Vehicles out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 671, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legis-

lature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item:

Sec. 2. Appropriations from Other Funds.

131—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

6a Public Employees Retirement Matching Fund\$114,450

CHAPTER 101

(S. B. 586—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the treasury from the State Road Fund, to the State Tax Department—Gasoline Tax Division, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, Account No. 672, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal year 1975-76, page IV, reflected estimated revenues in the state road fund available for appropriation for said fiscal year in the amount of \$425,486,000; and

WHEREAS, The Legislature in the aforesaid budget bill made appropriations out of the state road fund in the amount of \$3,308,144, thereby reducing the amount available for appropriation out of such fund to \$422,177,856; and

WHEREAS, The Governor in his proposed budget bill for the fiscal year 1975-76 recommended certain other appropriations out of the state road fund; and

WHEREAS, The Legislature considered the other recom-

mended appropriations from the state road fund in the Governor's proposed budget bill and, having considered same, declined to make such appropriations in the budget bill as enacted; and

WHEREAS, The amount of \$422,177,856 is therefore still available for appropriation for the fiscal year 1975-76, and it is the purpose of the Legislature to make the following supplementary appropriation to the State Tax Department—Gasoline Tax Division out of such amount, by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 672, Title II, Section 2, of Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by the following item:

Sec. 2. Appropriations from Other Funds.

132—*State Tax Department—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

5a Public Employees Retirement Matching Fund.....\$34,000

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CHAPTER 102

(S. B. 570—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making supplementary appropriations of public money out of the treasury from the special revenue account of the Public Service Commission remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, to the Public Service Commission, Account No. 828, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular

session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for Special Revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 828 indicates that estimated receipts and balance available for appropriation totals \$1,816,129; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriations to the Public Service Commission out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 828, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

142—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners.....	\$ 60,000
2	Other Personal Services.....	1,005,940
3	Current Expenses	409,042
4	Equipment	32,905
5	Social Security Matching Fund	54,750
6	Public Employees Retirement Matching Fund ...	108,250
7	Public Employees Health Insurance	42,000
8	Total.....	\$1,712,887

The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for special license fees from public service corporations as provided by law. Out of the above appropriation \$5,000 may be transferred to the State Water Resources Commission of the Department of Natural Resources for use in cooperation with the U. S. Geological Survey in a program of stream gauging.

CHAPTER 103

(S. B. 572—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making supplementary appropriations of public money out of the treasury from the special revenue account of the Public Service Commission—Motor Carrier Division, remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, to the Public Service Commission—Motor Carrier Division, Account No. 829, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for Special Revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 829 indicates that estimated receipts and balance available for appropriation totals \$1,330,997; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriations to the Public Service Commission—Motor Carrier Division, out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 829, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

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

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services\$492,625

2	Current Expenses	223,423
3	Equipment	5,060
4	Social Security Matching Fund	27,500
5	Public Employees Retirement Matching Fund.....	40,000
6	Public Employees Health Insurance	22,000
7	Total	\$810,608

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

CHAPTER 104

(S. B. 589—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making a supplementary appropriation of public money out of the treasury from the special revenue account of the Department of Natural Resources remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, to the Department of Natural Resources, Account No. 830, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for special revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 830 indicates that estimated receipts and balance available for appropriation totals \$5,349,637; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriation to the Department of Natural Resources out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 830, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

145—*Department of Natural Resources*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

8a. Personal Services—Additional Salary for
Conservation Officers\$ 140,000

Out of the above appropriation, "Additional Salary for Conservation Officers", there shall be paid an additional amount of one hundred dollars (\$100.00) per month to the Chief Conservation Officer and each full-time uniformed conservation officer under his direct supervision whose primary duties and responsibilities are law enforcement.

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CHAPTER 105

(S. B. 603—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making supplementary appropriations of public money out of the treasury from the special revenue account of the Department of Public Safety—Inspection Fees, Account No. 835, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for special revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 835 indicated that estimated receipts and balance available for appropriation totals \$1,589,210; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriation to the Department of Public Safety—Inspection Fees, out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 835, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

146—Department of Public Safety—Inspection Fees

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services\$12,000

CHAPTER 106

(S. B. 392—Originating in the Senate Committee on Finance)

[Passed March 9, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the treasury from the special revenue funds of the West Virginia University—Medical School Fund, for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, to the West Virginia University—Medical School, Account No. 873, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor's Executive Budget for the fiscal

year 1975-76 on page 388 reflected special revenues in the West Virginia University—Medical School Fund, available for appropriation in the amount of \$28,511,389; and

WHEREAS, The Legislature has recommended certain appropriations, itemizations, and language of appropriation for the above account from the General Revenue Fund, Account No. 285, to be transferred to Account No. 873; and

WHEREAS, The Legislature desires to make the following supplementary appropriation to the West Virginia University—Medical School, out of such amounts; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 873, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

151—West Virginia University—Medical School

Acct. No. 873

TO BE PAID FROM MEDICAL SCHOOL FUND

1	Personal Services	\$1,585,000
2	Current Expenses	200,000
3	Repairs and Alterations	25,000
4	Equipment	25,000
5	Family Practice Support Program	200,000
6	Total.....	\$2,035,000

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

CHAPTER 107

(S. B. 601—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making supplementary appropriations of public money out of the treasury from the special revenue account of the West Virginia Alcohol Beverage Control, Account No. 927, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for special revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 927 indicates that estimated receipts and balance available for appropriation totals \$14,000,000; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriation to the West Virginia Alcohol Beverage Control, out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 927, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

Sec. 2. Appropriations from Other Funds.

153—West Virginia Alcohol Beverage Control

Acct. No. 927

TO BE PAID FROM SPECIAL REVENUE FUND

8a Agency Operating Expenses\$14,400

CHAPTER 108

(S. B. 571—Originating in the Senate Committee on Finance)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT making supplementary appropriations of public money out of the treasury from the special revenue account of the Public Service Commission—Gas Pipeline Division, remaining unappropriated for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, to the Public Service Commission—Gas Pipeline Division, Account No. 8285, an act, Enrolled Committee Substitute for Senate Bill No. 23, enacted by the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Governor, by correspondence dated February 26, 1975, certified financial statements for Special Revenue accounts for the 1975-76 fiscal year; and

WHEREAS, The financial statement for Account No. 8285 indicates that estimated receipts and balance available for appropriation totals \$343,247; and

WHEREAS, It is the purpose of the Legislature to make the following supplementary appropriations to the Public Service Commission—Gas Pipeline Division, out of such amount; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 8285, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following:

143—Public Service Commission—Gas Pipeline Division

Acct. No. 8285

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	_____	\$ 86,702
2 Current Expenses	_____	47,300

3	Equipment	5,000
4	Social Security Matching Fund	4,750
5	Public Employees Retirement Matching Fund	9,600
6	Public Employees Health Insurance	3,520
7	Total	\$156,872

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

CHAPTER 109

(S. B. 602—Originating in the Senate Committee on Finance)

[Passed April 12, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the state treasury, County Coal Revenue Fund, created by section two-l, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, supplementing Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill.

WHEREAS, The Constitution of West Virginia, Article X, Section 6a, which section was ratified in 1972, authorizes the Legislature to impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities, or other political subdivisions of the state; and

WHEREAS, Enrolled Committee Substitute for Senate Bill No. 285, an act of the Legislature, regular session, one thousand nine hundred seventy-five, amended sections two, two-k, three-b and twenty-five, article thirteen, chapter eleven of said code, and further amended said article by adding thereto a new section, designated two-l; and

WHEREAS, Said Enrolled Committee Substitute for Senate

Bill No. 285 created in the state treasurer's office a special fund known as the "County Coal Revenue Fund"; and

WHEREAS, Said Enrolled Committee Substitute for Senate Bill No. 285 imposed an additional business and occupation tax on the severance, extraction, and production of coal, and dedicated a certain portion of the net proceeds from such additional tax to the County Coal Revenue Fund; and

WHEREAS, The net proceeds from the additional business and occupation tax imposed under Enrolled Committee Substitute for Senate Bill No. 285 are additional revenues over and above the Governor's estimates for fiscal year 1975-76, and such proceeds provide the revenue necessary to pay the appropriation hereby made; and

WHEREAS, It is the purpose of the Legislature, by the terms of this supplementary appropriation bill to appropriate for expenditure from the County Coal Revenue Fund the revenues dedicated thereto by the aforesaid act of the Legislature; therefore,

Be it enacted by the Legislature of West Virginia:

That Title II, Enrolled Committee Substitute for Senate Bill No. 23, an act of the Legislature, regular session, one thousand nine hundred seventy-five, known as the budget bill, be supplemented by adding thereto the following section:

Sec. 15a. Appropriation from County Coal Revenue Fund.

There is hereby appropriated for payment to counties in the fiscal year 1975-76 such amounts as may be deposited in the County Coal Revenue Fund pursuant to general law. The amounts paid to the respective counties shall be calculated and distributed as required by such general law.

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CHAPTER 110

(H. B. 1437—Originating in the House Committee on Finance)

[Passed March 9, 1975; 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 fiscal year 1974-75 and for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six, for payment of certain claims against the state and designated agencies thereof, Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the "Budget Bill."

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 9, 1975, which included a statement of the state fund, general revenue, setting forth therein the cash balance and investments as of July 1, 1974, and funds transferred from the Department of Welfare after the close of fiscal year 1974; and further included the estimate of revenues for fiscal year 1974-75, less net appropriation balances forwarded and regular appropriations for fiscal year 1974-75, which said regular appropriations are offset by estimated expirations for fiscal year 1974-75; and

WHEREAS, The Governor's Executive Budget Document further included estimates of revenues for fiscal year 1975-76 of \$558,750,000 available for appropriation; and

WHEREAS, The Legislature has heretofore and during the regular session, 1975, enacted certain supplementary appropriation bills for fiscal year 1974-75 and a Budget Bill for fiscal year 1975-76, Enrolled Committee Substitute for Senate Bill No. 23, all well within the Governor's overall estimates of available revenues thereby leaving general revenues available for further appropriation; and

WHEREAS, It thus appearing from the aforesaid and the Governor's Executive Budget Document that a sufficient balance of general revenue is available for supplementary appropriations for fiscal year 1974-75 and for the fiscal year ending June thirtieth, one thousand nine hundred seventy-six; therefore,

Be it enacted by the Legislature of West Virginia:

That Enrolled Committee Substitute for Senate Bill No. 23, acts of the Legislature, regular session, one thousand nine hundred seventy-five, known as the Budget Bill, be supplemented by adding thereto the following:

1

TITLE II—APPROPRIATIONS

2 Section 5. Awards for Claims Against the State.

3

TO BE PAID FROM GENERAL REVENUE FUND

4	Claims against the Adjutant General:	
5	(1) John Moore	416.38
6	(2) Jerry W. Ware	2,060.00
7	Claims against the Department of Mental Health:	
8	(1) John H. Brunetti Hardware and Painting	2,264.43
9	(2) Hoffman La Roche, Inc.	275.94
10	(3) Mildred Mitchell-Bateman, M.D.	2,500.00
11	Claim against the board of vocational education	
12	division of vocational rehabilitation:	
13	(1) Cleveland Clinic	805.88
14	Claim against the Department of Public Safety:	
15	(1) Walter E. Bradfield, Jr.	100.00
16	Claim against the Board of Regents:	
17	(1) Raines Piano and Organ Center, Inc.	399.50
18	Claim against the Department of	
19	Natural Resources:	
20	(1) Baltimore Contractors, Inc.	200,000.00
21	Claim against the nonintoxicating Beer Commission:	
22	(1) Central Investment Corporation	7,777.37
23	Claims against the Department of Public Institutions:	
24	(1) Midland Wholesale Grocery Company	\$ 151.23
25	(2) State Food Stores, Inc.	\$ 80.00
26	(3) Wheeling Hospital, Inc.	\$ 864.20
27	(4) Medical Supply Company, Inc.	\$ 13.50
28	(5) Independent Dressed Beef Company, Inc.	\$ 369.60
29	(6) Norteman Packing Co.	\$ 5,652.11
30	(7) Cook Motor Lines, Inc.	\$ 9.36
31	(8) Electronic Materials Corporation	\$ 62.38
32	(9) Schering Corporation	\$ 419.05
33	(10) Oscar Ruttenberg, d/b/a Ruttenberg's	
34	Store	\$ 149.61
35	(11) West Virginia State Industries	\$25,071.62

36	(12) Storck Baking Company, Inc. _____	\$ 1,699.24
37	(13) Polis Brothers _____	\$ 672.80
38	(14) Mt. Clare Provision Company _____	\$ 4,459.14
39	(15) Lever Brothers Company _____	\$ 1,160.60
40	(16) Physicians Fee Office _____	\$ 109.85
41	(17) Industrious Blind Enterprise _____	\$ 402.12
42	(18) Pepsi-Cola Bottling Co. of Moundsville,	
43	Inc. _____	\$ 1,057.20
44	(19) M & W Distributors, Inc. _____	\$ 46.94
45	(20) Valley Welding Supply Company _____	\$ 98.58
46	(21) Southern Chemical Company, a Division	
47	of Southern Machinery Company _____	\$ 4,090.78
48	(22) Tri-State Drug Company _____	\$ 131.46
49	(23) Standard Brush & Broom Company _____	\$ 175.98
50	(24) Reynolds Memorial Hospital _____	\$ 1,289.07
51	(25) Dermatology Service, Inc. _____	\$ 40.00
52	(26) A. H. Robins Company _____	\$ 320.00
53	(27) William McNinch, d/b/a McNinch	
54	Hardware _____	\$ 19.10
55	(28) The National Colloid Company _____	\$ 220.00
56	(29) Columbia Gas of West Virginia, Inc. _____	\$ 7,283.91
57	(30) Aristotle A. Rabanal, M. D. _____	\$ 15.00
58	(31) Louis Anthony Co., Inc. _____	\$ 1,545.70
59	(32) American Can Company _____	\$ 565.00
60	(33) Merck, Sharp & Dohme _____	\$ 694.36
61	(34) Mutual Wholesalers of Wheeling, Inc. _____	\$ 5.76
62	(35) West Virginia Newspaper Publishing Co. _____	\$ 98.70
63	(36) Wheeling Electric Company _____	\$ 1,219.36
64	(37) Kellogg Sales Company _____	\$ 1,840.00
65	(38) Marion Paper, Inc. _____	\$ 4,366.74
66	(39) Exxon Company, U.S.A. _____	\$ 219.71
67	(40) Wheeling Wholesale Grocery Co. _____	\$ 445.00
68	(41) Procter & Gamble Distributing Co. _____	\$ 266.50
69	(42) Monroe, Division of Litton Business	
70	Systems, Inc. _____	\$ 32.00
71	(43) The Upjohn Company _____	\$ 79.05
72	(44) Hoffman-LaRoche, Inc. _____	\$ 526.50
73	(45) C & P Telephone Co. of West Virginia _____	\$ 39.76
74	(46) Myers Drug Store, Inc. _____	\$ 83.00
75	(47) Alling & Cory _____	\$ 72.45

76	(48) Hong I. Seung, M. D. _____	\$ 40.00
77	(49) Marshall County Co-operative, Inc. _____	\$ 82.13
78	(50) The Kroger Co. _____	\$ 31.86
79	(51) Ohio Valley Medical Center, Inc. _____	\$ 32.00
80	(52) Standard Brands Incorporated _____	\$ 948.00
81	(53) Economics Laboratory, Inc. _____	\$ 3,396.00
82	(54) Wyeth Laboratories, Division of	
83	American Home Products Corporation _____	\$ 176.00
84	(55) Hillandale Farms, Inc. _____	\$ 318.75
85	(56) Winans Sanitary Supply Company, Inc. _____	\$ 46.80
86	(57) Consolidated Midland Corporation _____	\$ 210.00
87	(58) Robert E. Durig, O. D. _____	\$ 801.00
88	(59) Doctors Asaad, Inc. _____	\$ 100.00
89	(60) Doctors Barger and Gordon, Inc. _____	\$ 1,035.19
90	(61) Ambulatory Care Associates, Inc. _____	\$ 20.00
91	(62) Ohio Valley Drug Company _____	\$ 30.00
92	(63) IBM Corporation _____	\$ 218.75
93	(64) The City of Moundsville Water Department _____	\$ 2,464.19
94	(65) Crescent Print Shop _____	\$ 42.97
95	(66) Pfizer Inc. _____	\$ 3,788.52
96	(67) Valley Animal Clinic _____	\$ 89.00

97 The purpose of this bill is to fund, from the state's general
 98 revenues, payment of claims against the state and its desig-
 99 nated agencies, such appropriations being for the remainder
 100 of the fiscal year 1974-75 and to remain in effect until June
 101 30, 1976.

CHAPTER 111

(S. B. 59—By Mr Hamilton, Mr. Ward and Mr. Fanning)

[Passed February 24, 1975; in effect ninety days from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend and reenact section twelve, article eight, chapter thirty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to branch banking and bank holding companies.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

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

1 (a) No banking institution shall:

2 (1) Install or maintain any branch bank; or

3 (2) Engage in business at any place other than at its
4 principal office in this state: *Provided*, That at any time
5 any such banking institution may operate one and only
6 one off-premises walk-in or drive-in banking facility, on
7 or in conjunction with or entirely separate from a parking
8 lot for the customers of such banking institution, for the
9 purpose of receiving bank deposits of all kinds, cashing
10 checks, making change, selling and issuing money orders
11 and travelers checks and receiving payments on install-
12 ment, savings and rental accounts, and for no other pur-
13 poses, provided such off-premises banking facility is
14 located within two thousand feet of the banking house
15 premises of the banking institution operating such off-
16 premises facility measured between the nearest points of
17 the banking house premises and the premises on which
18 such off-premises banking facility is located.

19 (b) It shall be unlawful for any individual, partner-
20 ship, society, association, firm, institution, trust, syndi-
21 cate, public or private corporation, or any other legal
22 entity, or combination of entities acting in concert, to
23 directly or indirectly own, control or hold with power to
24 vote, twenty-five percent or more of the voting shares of
25 each of two or more banks, or to control in any manner
26 the election of a majority of the directors of two or more
27 banks: *Provided, however*, That it shall be unlawful for
28 any financial institution, as defined in subsection (j),

29 section two, article one of this chapter, or any other
30 financial organization having similar purposes as those
31 specifically mentioned in said subsection (j) to directly
32 or indirectly own, control or hold with power to vote,
33 twenty-five percent or more of the voting shares of any
34 one or more banks, or to control in any manner the elec-
35 tion of a majority of the directors of any one or more
36 banks, but the foregoing provisions of this provision shall
37 not apply to shares held by a financial institution in a
38 fiduciary capacity. It is further specifically provided that
39 nothing herein contained shall in anywise affect the
40 ownership or control of financial institutions other than
41 banks and banking institutions as defined in subsection
42 (b), section two, article one of this chapter.

43 (c) Any violation of any provision of this section shall
44 constitute a misdemeanor offense punishable by appli-
45 cable penalties as provided in section fifteen of article
46 eight of this chapter.

CHAPTER 112

(S. B. 567—Originating in the Senate Committee on Finance)

[Passed March 7, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to the creation of the Blennerhassett historical park commission as a public corporation within the executive branch of government; authorizing said commission to engage in certain activities and exercise certain powers for the development of Blennerhassett island and related locations in the county of Wood into an educational, cultural and recreational attraction so as to enhance said island and related locations as a significant historical, natural and archaeological resource for the state and the nation; giving certain legislative findings;

relating to the composition of said commission and the terms, reimbursement and meetings of its members; empowering said commission to enter into agreements with private and certain out-of-state persons, firms, corporations and agencies; relating to certain powers, duties and responsibilities of said commission; giving certain local governmental agencies authority to assist said commission; requiring a certain cooperation; authorizing said commission to issue and sell revenue bonds not exceeding a certain principal amount for specific purposes and specifying the procedures therefor and the manner thereof; relating to certain trust agreements for holders of bonds and a certain sinking fund for payment of bonds; requiring that a certain credit of the state not be pledged; and relating to exempting said revenue bonds from taxation.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. BLENNERHASSETT HISTORICAL PARK COMMISSION.

- §29-8-1. Legislative findings.
- §29-8-2. Blennerhassett historical park commission established; public members; government members; terms; meeting; quorum; compensation; expenses.
- §29-8-3. General powers of Blennerhassett historical park commission as public corporation.
- §29-8-4. Duties of Blennerhassett historical park commission with respect to the development of Blennerhassett island.
- §29-8-5. Cooperation of state agencies and local government with Blennerhassett historical park commission; powers of local government with respect to development.
- §29-8-6. Authority of Blennerhassett historical park commission for issuance and sale of revenue bonds; what constitutes undertaking.
- §29-8-7. Issuance of revenue bonds.
- §29-8-8. Trust agreement for holders of bonds.
- §29-8-9. Sinking fund for payment of bonds.
- §29-8-10. Credit of state not pledged; bonds exempt from taxation.

§29-8-1. Legislative findings.

- 1 The Legislature hereby finds and declares that:

2 (1) Blennerhassett island, situate in the Ohio river
3 near the city of Parkersburg, is a significant historical,
4 natural and archaeological resource of importance to this
5 state and the nation;

6 (2) A well-planned and executed program for the de-
7 velopment of educational, cultural and recreational at-
8 tractions related to events known and believed to have
9 occurred on and near scenic Blennerhassett island will
10 be of great benefit to all the people of this state and con-
11 stitutes a most worthy public undertaking;

12 (3) The primary responsibility for the planning and
13 execution of such a program rests upon the state of West
14 Virginia, while the secondary responsibility for develop-
15 ment rests upon private and other public resources; and

16 (4) The best and most feasible means of accomplish-
17 ing the foregoing is by the establishment and mainte-
18 nance of the Blennerhassett historical park commission.

**§29-8-2. Blennerhassett historical park commission established;
public members; government members; terms; meet-
ing; quorum; compensation; expenses.**

1 There is hereby established within the executive
2 branch of government the "Blennerhassett historical
3 park commission" (hereafter in this article referred to
4 as the "commission"). The commission shall be com-
5 posed of ten public members and may have, in addition,
6 not more than five government members. The ten pub-
7 lic members shall be citizens and residents of this state,
8 appointed by the governor, with the advice and consent
9 of the Senate, for overlapping terms of four years, except
10 that three of the original appointments shall be for terms
11 of one year, three of the original appointments shall be
12 for terms of two years, three of the original appoint-
13 ments shall be for terms of three years and one of the
14 original appointments shall be for a term of four years.
15 The governor shall make his initial appointments of
16 citizen members within forty days after this section takes
17 effect.

18 Each public member shall be qualified to carry out the

19 functions of the commission under this article by reason
20 of his special interest, training, education or experience.

21 No person shall be eligible to appointment as a public
22 member who is an officer or member of any political
23 party executive committee; the holder of any other pub-
24 lic office or public employment under the United States
25 government or the government of this state or a political
26 subdivision of this state; or an employee of the com-
27 mission. Not more than six public members shall belong
28 to the same political party, and not more than three
29 public members shall be citizens and residents of the
30 county of Wood.

31 The governor may, in his discretion, appoint from
32 among the department heads serving within the execu-
33 tive branch of government not more than five govern-
34 ment members to serve as ex officio members of the
35 commission.

36 At its first meeting, which shall be held within fifty
37 days after this section takes effect, the commission shall
38 elect from among its public members a chairman, who
39 shall preside over its meetings until the second Monday
40 in September of the next year. Thereafter, the commis-
41 sion shall elect a chairman from among its public mem-
42 bers on the second Monday in September of each year.

43 All public members shall be eligible for reappointment
44 once by the governor. A public member shall, unless
45 sooner removed, continue to serve until his term expires
46 and his successor has been appointed and has qualified.
47 A vacancy caused by the death, resignation or removal
48 of a public member prior to the expiration of his term
49 shall be filled only for the remainder of such term.

50 For the purpose of carrying out its powers, duties and
51 responsibilities under this article, six members of the
52 commission shall constitute a quorum for the transaction
53 of business so long as at least five members constituting
54 the quorum are public members. Each public member
55 and each government member shall be entitled to one
56 vote. The commission shall meet at a time and place
57 designated by the chairman at least four times each fiscal

58 year. Additional meetings may be held when called by
59 the chairman or when requested by five members of the
60 commission or by the governor. All meetings of the
61 commission shall be open to the public. Each member
62 shall be reimbursed for all reasonable and necessary ex-
63 penses actually incurred in the performance of his duties
64 under this article.

**§29-8-3. General powers of Blennerhassett historical park com-
mission as public corporation.**

1 The commission shall be a public corporation and, as
2 such, may:

3 (1) Contract and be contracted with;

4 (2) Plead and be impleaded;

5 (3) Sue and be sued;

6 (4) Have and use a common seal;

7 (5) Make bylaws for the management and regulation
8 of its affairs and activities;

9 (6) Acquire real and personal property by purchase
10 or lease;

11 (7) Establish and maintain an office in the county of
12 Wood;

13 (8) Exercise its corporate powers in the state of Ohio
14 to the extent permitted by the laws of the state of Ohio;

15 (9) Employ and fix the compensation of such per-
16 sonnel as it considers necessary or expedient;

17 (10) Accept and use gifts, grants and any other re-
18 sources or funds made available to it from any source,
19 whether public or private;

20 (11) Cooperate with the public land corporation and,
21 with its permission, use property belonging to the public
22 land corporation;

23 (12) Enter into any agreement with the state of Ohio
24 or any person, firm or corporation therein for the provi-

25 sion of electricity, water, sewer and such similar services
26 to Blennerhassett island as are necessary;

27 (13) Own or operate, or both, by itself or in con-
28 junction with any other public agency or any private
29 person, firm or corporation, such facilities and equip-
30 ment as it considers necessary or convenient for the im-
31 plementation of its duties under this article. Without
32 limiting the generality of the foregoing, such facilities
33 and equipment may include boats, docks, an amphi-
34 theatre, parking facilities, the reconstructed Blenner-
35 hassett mansion and other buildings;

36 (14) Cooperate fully with all persons, organizations
37 and agencies, whether public or private, to the extent
38 necessary or expedient to accomplish the duties imposed
39 upon it by this article;

40 (15) Fix, revise from time to time, charge and collect
41 fees for its acts and undertakings;

42 (16) In accordance with other pertinent provisions of
43 this article, finance undertakings in whole or in part by
44 the issuance and sale of revenue bonds; and

45 (17) Promulgate rules and regulations, in accordance
46 with the provisions of chapter twenty-nine-a of this code,
47 to implement and make effective the powers and duties
48 vested in it by the provisions of this article and take such
49 other steps as may, in its discretion, be necessary or
50 expedient for the proper and effective development of
51 Blennerhassett island and related locations in the county
52 of Wood into a major educational, cultural and recrea-
53 tional attraction.

**§29-8-4. Duties of Blennerhassett historical park commission
with respect to the development of Blennerhassett
island.**

1 Within the limit of funds available from this state,
2 the United States and any other source, whether public
3 or private, the commission shall:

4 (1) Conduct a comprehensive investigation to deter-
5 mine those educational, cultural and recreational attrac-

6 tions which should be developed in this state concerning
7 events known or believed to have occurred on and near
8 Blennerhassett island, the economic feasibility of such
9 attractions, needed capital investment, available or con-
10 templated resources therefor, appropriate locations and
11 accessibility thereto and such other related matters as
12 the commission considers pertinent. The commission shall
13 use the information developed by the Blennerhassett
14 historical commission, provided for in article six, chapter
15 four of this code, as the starting point for this investi-
16 gation;

17 (2) Plan and execute a program for the development
18 of educational, cultural and recreational attractions re-
19 lated to events known or believed to have occurred on
20 and near Blennerhassett island;

21 (3) Plan and execute a program for the development
22 of Blennerhassett island and related locations in the
23 county of Wood so as to preserve and enhance the island
24 and related locations as a significant historical, natural
25 and archaeological resource of importance to this state
26 and the nation;

27 (4) As soon as practicable after the first day of July
28 of each year, submit an annual report to the governor
29 and the Legislature on its affairs and activities during
30 the preceding fiscal year; and

31 (5) Make such written reports to the Blennerhassett
32 historical commission and the joint committee on gov-
33 ernment and finance as the commission considers advis-
34 able or as the Blennerhassett historical commission or
35 the joint committee requests.

36 In carrying out its duties under subdivisions (2) and
37 (3) of this section, the commission shall, as near as prac-
38 ticable, adhere to the recommendations and plans for
39 development contained in the documents prepared for
40 the Blennerhassett historical commission, submitted to
41 it on the eighteenth day of February, one thousand nine
42 hundred seventy-five, and titled as follows: (a) Sum-
43 mary report for the development of Blennerhassett is-
44 land, (b) physical masterplan, (c) interpretive master-

45 plan, (d) environmental impact and (e) market and eco-
46 nomic impact.

§29-8-5. Cooperation of state agencies and local government with Blennerhassett historical park commission; powers of local government with respect to development.

1 (a) All other state and local governmental personnel
2 and agencies shall cooperate to the fullest possible ex-
3 tent with the commission to accomplish the proper and
4 effective development of Blennerhassett island and re-
5 lated locations in the county of Wood into a major edu-
6 cational, cultural and recreational attraction.

7 (b) The county of Wood, the city of Parkersburg,
8 any other municipality in the county and any board,
9 commission, authority, agency or other office created
10 under authority thereof may, in its discretion engage
11 in any activity or undertaking designed to assist the
12 commission in the proper and effective development of
13 Blennerhassett island and related locations in the county
14 of Wood into a major educational, cultural and recrea-
15 tional attraction.

§29-8-6. Authority of Blennerhassett historical park commission for issuance and sale of revenue bonds; what constitutes undertaking.

1 For the purpose of developing Blennerhassett island and
2 related locations in the county of Wood into a major educa-
3 tional, cultural and recreational attraction, the commission
4 may issue and sell revenue bonds not to exceed four
5 million dollars in principal amount, in the manner provid-
6 ed for hereafter in this article, to finance in whole or in
7 part any of the following undertakings:

8 (1) The acquisition of land or any right or interest
9 therein;

10 (2) The construction or acquisition of a new building;

11 (3) The construction of an amphitheatre, parking fa-
12 cilities, docking facilities and such other facilities and
13 structures as the commission considers necessary;

14 (4) The renovation or construction of an addition to
15 any existing building or other structure;

16 (5) The acquisition of furnishings and equipment for
17 any such new or existing building, facility or other struc-
18 ture; and

19 (6) The construction or acquisition of any other capital
20 improvement or capital facility. This authority includes
21 the construction or acquisition of any road, utility or other
22 property, real or personal, and any other undertaking,
23 including site improvement and landscaping, that is nec-
24 essary, appurtenant or incidental thereto.

§29-8-7. Issuance of revenue bonds.

1 The issuance of bonds under the provisions of this
2 article shall be authorized by a resolution of the commis-
3 sion. The resolution shall recite an estimate by the com-
4 mission of the cost of the proposed building or structure,
5 improvements and land and shall provide for the issuance
6 of bonds in an amount sufficient, when sold as hereinafter
7 provided, to provide moneys sufficient to pay such cost,
8 less the amount of any other funds available for the
9 construction or acquisition of the building or structure,
10 improvements and land from any appropriation, grant,
11 gift or contribution therefor. The resolution shall prescribe
12 the rights and duties of the bondholders and the commis-
13 sion. For such purpose, it may prescribe the form of the
14 trust agreement provided for in section eight of this
15 article. The bonds shall be of such series; bear such date
16 or dates; mature at such time or times not exceeding
17 thirty years from their respective dates; bear interest at
18 such rate or rates, payable semiannually; be in such de-
19 nominations; be in such form, either coupon or fully regis-
20 tered without coupons, carrying such registration as to
21 principal only; be payable in such medium of payment
22 and at such place or places; be subject to such terms
23 of redemption at such prices; and be entitled to such
24 priorities as are provided in the resolution authorizing
25 the issuance of the bonds or in any trust agreement made
26 in connection therewith. The bonds shall be signed by
27 the governor and by the chairman of the commission,

28 under the great seal of the state, attested by the secretary
29 of state. The coupons attached thereto shall bear the
30 facsimile signature of the chairman of the commission.
31 In case any of the officers whose signatures appear on
32 the bonds or coupons cease to be such officers before the
33 delivery of such bonds, the signatures shall remain valid
34 for all purposes the same as if such officers had remained
35 in office until the delivery.

36 The commission must offer the bonds for competitive
37 bids from recognized financial investment institutions
38 before the bonds may be sold. The bonds shall be
39 sold in such manner as the commission determines, tak-
40 ing into consideration the financial responsibility of the
41 purchaser, the terms and conditions of the purchase and
42 especially the availability of the proceeds of the bonds
43 when required for payment of the cost of the building or
44 structure, improvements and land, such sale to be made
45 at a price not lower than a price which, when computed
46 upon standard tables of bond values, will show a net re-
47 turn of not more than eight percent a year to the purchaser
48 upon the amount paid therefor. The proceeds of the bonds
49 shall be used solely for the payment of the cost of the
50 building or structure, improvements and land and shall
51 be deposited in the state treasury in a special fund and
52 checked out as provided by law for the disbursement of
53 other state funds. If the proceeds of such bonds, by error
54 in calculation or otherwise, together with any other funds
55 used therefor, as hereinbefore in this article authorized
56 are less than the cost of the building or structure, improve-
57 ments and land, additional bonds may in like manner be
58 issued to provide the amount of the deficiency, but in no
59 case shall they exceed the total amount of bonds autho-
60 rized in section six of this article less the amount of any
61 other funds used therefor; and, unless otherwise provided
62 for in the resolution or trust agreement, they shall be con-
63 sidered to be of the same issue and be entitled to payment
64 from the same fund, without preference or priority, as the
65 bonds issued before for the building or structure, improve-
66 ments and land. If the proceeds of bonds issued for the
67 building or structure, improvements and land, together
68 with the amount of any other funds used therefor, exceeds

69 the cost thereof, the surplus shall be paid into the sinking
70 fund or reserve fund to be established for payment of the
71 principal and interest of the bonds. Before the preparation
72 of definitive bonds, the commission may, under like re-
73 strictions, issue temporary bonds with or without coupons,
74 exchangeable for definitive bonds upon their issuance.

75 The bonds issued under the provisions of this article
76 shall be and have all the qualities of negotiable instru-
77 ments under the provisions of chapter forty-six of this
78 code.

§29-8-8. Trust agreement for holders of bonds.

1 The commission may enter into an agreement with any
2 trust company or with any bank having the powers of a
3 trust company, either within or outside this state, as
4 trustee for the holders of bonds issued under the provi-
5 sions of this article, setting forth therein such duties of the
6 commission with respect to the payment of the bonds; the
7 acquisition, construction, improvement, maintenance,
8 operation, repair and insurance of the building or struc-
9 ture, improvements and land; the conservation and ap-
10 plication of all moneys; the security for moneys on hand
11 or on deposit; and the rights and remedies of the trustee
12 and the holders of the bonds as are agreed upon with the
13 original purchasers of the bonds; and including therein
14 provisions restricting the individual right of action of
15 bondholders as is customary in trust agreements respect-
16 ing bonds and debentures of corporations; protecting and
17 enforcing the rights and remedies of the trustee and the
18 bondholders; and providing for approval by the original
19 purchasers of the bonds of the appointment of consulting
20 engineers and of the security given by those who contract
21 to construct the building, structure or improvement and
22 for approval by the consulting engineers of all contracts
23 for construction. Any such agreement entered into by the
24 commission shall be binding in all respects on the commis-
25 sion and its successors in accordance with its terms. Any
26 provision of any such agreement shall be enforceable by
27 an appropriate proceeding at law.

§29-8-9. Sinking fund for payment of bonds.

1 The commission shall make periodic payments to the
2 state sinking fund commission in an amount sufficient to
3 meet the requirements of any issue of bonds sold under the
4 provisions of this article, as specified in the resolution of
5 the commission authorizing the issue and in any trust
6 agreement entered into in connection therewith. The pay-
7 ments so made shall be placed by the state sinking fund
8 commission in a special sinking fund which shall be pledg-
9 ed to and charged with the payment of the principal of the
10 bonds of such issue and the interest thereon and to the
11 redemption or repurchase of such bonds, such sinking fund
12 to be a fund for all bonds of such issue without distinction
13 or priority of one over another. The moneys in the special
14 sinking fund, less such reserve for payment of principal
15 and interest as is required by the resolution of the commis-
16 sion authorizing the issue and any trust agreement made
17 in connection therewith, may be used for the redemption
18 of any outstanding bonds payable from such fund which
19 by their terms are then redeemable or for the purchase of
20 bonds at the market price, but at not exceeding the price,
21 if any, at which such bonds will be redeemable on the next
22 ensuing date upon which they are redeemable prior to
23 maturity. All bonds so redeemed or purchased shall imme-
24 diately be canceled and shall not again be issued.

§29-8-10. Credit of state not pledged; bonds exempt from taxation.

1 The provisions of this article relating to revenue bonds
2 shall not under any circumstances be construed to autho-
3 rize the commission at any time or in any manner to
4 pledge the credit or taxing power of the state. The revenue
5 bond obligations or debts created by the commission under
6 the provisions of this article shall not under any circum-
7 stances be considered obligations of the state. All bonds
8 issued by the commission under the provisions of this ar-
9 ticle shall be exempt from taxation by this state and any
10 county, school district, municipality or other subdivision
11 thereof.

CHAPTER 113

(H. B. 721—By Mr. Kopp and Mr. Harman)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-a, relating to adoption of the interstate compact on the placement of children, purpose and policies, definitions, requirements and conditions for placement, penalty for illegal placement, retention of jurisdiction by sending agency, institutional care of delinquent children, appointment of a compact administrator, limitations on application of compact, enactment and withdrawal, and providing for a severability clause.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 49. CHILD WELFARE.**ARTICLE 2A. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.**

§49-2A-1. Adoption of compact.

§49-2A-2. Definitions; implementation.

§49-2A-1. Adoption of compact.

1 The interstate compact on the placement of children is
 2 hereby enacted into law and entered into with all other juris-
 3 dictions legally joining therein in form substantially as follows:

4 **INTERSTATE COMPACT ON THE PLACEMENT OF**
 5 **CHILDREN**

6 **Article I. Purpose and Policy.**

7 It is the purpose and policy of the party states to cooperate
 8 with each other in the interstate placement of children to
 9 the end that:

10 (a) Each child requiring placement shall receive the maxi-
11 mum opportunity to be placed in a suitable environment and
12 with persons or institutions having appropriate qualifications
13 and facilities to provide a necessary and desirable degree
14 and type of care.

15 (b) The appropriate authorities in a state where a child
16 is to be placed may have full opportunity to ascertain the
17 circumstances of the proposed placement, thereby promoting
18 full compliance with applicable requirements for the protec-
19 tion of the child.

20 (c) The proper authorities of the state from which the
21 placement is made may obtain the most complete information
22 on the basis of which to evaluate a projected placement
23 before it is made.

24 (d) Appropriate jurisdictional arrangements for the care of
25 children will be promoted.

26 **Article II. Definitions.**

27 As used in this compact:

28 (a) "Child" means a person who, by reason of minority is
29 legally subject to parental, guardianship or similar control.

30 (b) "Sending agency" means a party state, officer or
31 employee thereof; a subdivision of a party state, or officer
32 or employee thereof; a court of a party state; a person,
33 corporation, association, charitable agency or other entity
34 which sends, brings, or causes to be sent or brought any
35 child to another party state.

36 (c) "Receiving state" means the state to which a child is
37 sent, brought, or caused to be sent or brought, whether
38 by public authorities or private persons or agencies, and
39 whether for placement with state or local public authorities
40 or for placement with private agencies or persons.

41 (d) "Placement" means the arrangement for the care of a
42 child in a family free home or boarding home or in a child-
43 caring agency or institution but does not include any institution
44 caring for the mentally ill, mentally defective or epileptic

45 or any institution primarily educational in character, and
46 any hospital or other medical facility.

47 **Article III. Conditions for Replacement**

48 (a) No sending agency shall send, bring, or cause to be
49 sent or brought into any other party state any child for
50 placement in foster care or as a preliminary to a possible
51 adoption unless the sending agency shall comply with each
52 and every requirement set forth in this article and with the
53 applicable laws of the receiving state governing the placement
54 of children therein.

55 (b) Prior to sending, bringing or causing any child to
56 be sent or brought into a receiving state for placement in
57 foster care or as a preliminary to a possible adoption, the
58 sending agency shall furnish the appropriate public authorities
59 in the receiving state written notice of the intention to send,
60 bring, or place the child in the receiving state. The notice
61 shall contain:

62 (1) The name, date and place of birth of the child.

63 (2) The identity and address or addresses of the parents
64 or legal guardian.

65 (3) The name and address of the person, agency or
66 institution to or with which the sending agency proposes to
67 send, bring, or place the child.

68 (4) A full statement of the reasons for such proposed
69 action and evidence of the authority pursuant to which the
70 placement is proposed to be made.

71 (c) Any public officer or agency in a receiving state
72 which is in receipt of a notice pursuant to paragraph (b) of
73 this article may request of the sending agency, or any other
74 appropriate officer or agency of or in the sending agency's
75 state, and shall be entitled to receive therefrom, such sup-
76 porting or additional information as it may deem necessary
77 under the circumstances to carry out the purpose and policy
78 of this compact.

79 (d) The child shall not be sent, brought, or caused to
80 be sent or brought into the receiving state until the ap-

81 appropriate public authorities in the receiving state shall notify
82 the sending agency, in writing, to the effect that the proposed
83 placement does not appear to be contrary to the interests
84 of the child.

85 **Article IV. Penalty for Illegal Placement.**

86 The sending, bringing, or causing to be sent or brought
87 into any receiving state of a child in violation of the terms of
88 this compact shall constitute a violation of the laws respect-
89 ing the placement of children of both the state in which the
90 sending agency is located or from which it sends or brings
91 the child and of the receiving state. Such violation may be
92 punished or subjected to penalty in either jurisdiction in
93 accordance with its laws. In addition to liability for any
94 such punishment or penalty, any such violation shall con-
95 stitute full and sufficient grounds for the suspension or
96 revocation of any license, permit, or other legal authorization
97 held by the sending agency which empowers or allows it to
98 place, or care for children.

99 **Article V. Retention of Jurisdiction.**

100 (a) The sending agency shall retain jurisdiction over the
101 child sufficient to determine all matters in relation to the
102 custody, supervision, care, treatment and disposition of the
103 child which it would have had if the child had remained in
104 the sending agency's state, until the child is adopted, reaches
105 majority, becomes self-supporting or is discharged with the
106 concurrence of the appropriate authority in the receiving
107 state. Such jurisdiction shall also include the power to effect
108 or cause the return of the child or its transfer to another
109 location and custody pursuant to law. The sending agency
110 shall continue to have financial responsibility for support
111 and maintenance of the child during the period of the place-
112 ment. Nothing contained herein shall defeat a claim of
113 jurisdiction by a receiving state sufficient to deal with an
114 act of delinquency or crime committed therein.

115 (b) When the sending agency is a public agency, it may
116 enter into an agreement with an authorized public or private
117 agency in the receiving state providing for the performance

118 of one or more services in respect of such case by the
119 latter as agent for the sending agency.

120 (c) Nothing in this compact shall be construed to prevent
121 a private charitable agency authorized to place children in
122 the receiving state from performing services or acting as
123 agent in that state for a private charitable agency of the
124 sending state; nor to prevent the agency in the receiving state
125 from discharging financial responsibility for the support and
126 maintenance of a child who has been placed on behalf of the
127 sending agency without relieving the responsibility set forth
128 in paragraph (a) hereof.

129

Article VI.

130

Institutional Care of Delinquent Children.

131 A child adjudicated delinquent may be placed in an in-
132 stitution in another party jurisdiction pursuant to this com-
133 pact but no such placement shall be made unless the child
134 is given a court hearing on notice to the parent or guardian
135 with opportunity to be heard, prior to his being sent to
136 such other party jurisdiction for institutional care and the
137 court finds that:

138 1. Equivalent facilities for the child are not available in
139 the sending agency's jurisdiction; and

140 2. Institutional care in the other jurisdiction is in the
141 best interest of the child and will not produce undue hardship.

142

Article VII. Compact Administrator.

143 The executive head of each jurisdiction party to this com-
144 pact shall designate an officer who shall be general coordinator
145 of activities under this compact in his jurisdiction and who,
146 acting jointly with like officers of other party jurisdictions,
147 shall have power to promulgate rules and regulations to carry
148 out more effectively the terms and provisions of this compact.

149

Article VIII. Limitations.

150 This compact shall not apply to:

151 (a) The sending or bringing of a child into a receiving
152 state by his parent, stepparent, grandparent, adult brother

153 or sister, adult uncle or aunt, or his guardian and leaving
154 the child with any such relative or nonagency guardian in
155 the receiving state.

156 (b) Any placement, sending or bringing of a child into
157 a receiving state pursuant to any other interstate compact to
158 which both the state from which the child is sent or brought
159 and the receiving state are party, or to any other agreement
160 between said states which has the force of law.

161 **Article IX. Enactment and Withdrawal.**

162 This compact shall be open to joinder by any state, terri-
163 tory or possession of the United States, the District of
164 Columbia, the Commonwealth of Puerto Rico, and, with the
165 consent of Congress, the Government of Canada or any
166 province thereof. It shall become effective with respect to
167 any such jurisdiction when such jurisdiction has enacted the
168 same into law. Withdrawal from this compact shall be by the
169 enactment of a statute repealing the same, but shall not
170 take effect until two years after the effective date of such
171 statute and until written notice of the withdrawal has been
172 given by the withdrawing state to the governor of each other
173 party jurisdiction. Withdrawal of a party state shall not
174 affect the rights, duties and obligations under this compact
175 of any sending agency therein with respect to a placement
176 made prior to the effective date of withdrawal.

177 **Article X. Construction.**

178 The provisions of this compact shall be liberally con-
179 strued to effectuate the purposes thereof. The provisions
180 of this compact shall be severable and if any phrase, clause,
181 sentence or provision of this compact is declared to be con-
182 trary to the constitution of any party state or of the United
183 States or the applicability thereof to any government, agency,
184 person or circumstance is held invalid, the validity of the
185 remainder of this compact and the applicability thereof to
186 any government, agency, person or circumstance shall not
187 be affected thereby. If this compact shall be held contrary
188 to the constitution of any state party thereto, the compact
189 shall remain in full force and effect as to the remaining

190 states and in full force and effect as to the state affected
191 as to all severable matters.

§49-2A-2. Definitions; implementation.

1 (1) Financial responsibility for any child placed pursuant
2 to the provisions of the interstate compact on the placement
3 of children shall be determined in accordance with the provi-
4 sions of Article V thereof in the first instance. However, in
5 the event of partial or complete default of performance there-
6 under, the provisions of section one, article two of this chapter
7 may be invoked.

8 (2) The "appropriate public authorities" as used in Article
9 III of the interstate compact on the placement of children
10 shall, with reference to this state, mean the department of
11 welfare and said agency shall receive and act with reference
12 to notices required by said Article III.

13 (3) As used in paragraph (a) of Article V of the interstate
14 compact on the placement of children, the phrase "appropriate
15 authority in the receiving state" with reference to this state
16 shall mean the department of welfare.

17 (4) The officers and agencies of this state and its sub-
18 divisions having authority to place children are hereby em-
19 powered to enter into agreements with appropriate officers or
20 agencies of or in other party states pursuant to paragraph (b)
21 of Article V of the interstate compact on the placement of
22 children. Any such agreement which contains a financial com-
23 mitment or imposes a financial obligation on this state or
24 subdivision or agency thereof shall not be binding unless it
25 has the approval in writing of the auditor in the case of
26 the state and of the chief local fiscal officer in the case of a
27 subdivision of the state.

28 (5) Any requirements for visitation, inspection or super-
29 vision of children, homes, institutions or other agencies in
30 another party state which may apply under sections five and
31 eleven of article two of this chapter shall be deemed to be
32 met if performed pursuant to an agreement entered into by
33 appropriate officers or agencies of this state or a subdivision
34 thereof as contemplated by paragraph (b) of Article V of
35 the interstate compact on the placement of children.

36 (6) The provisions of section fifteen, article two of this
37 chapter shall not apply to placements made pursuant to the
38 interstate compact on the placement of children.

39 (7) Any court having jurisdiction to place delinquent chil-
40 dren may place such a child in an institution of or in another
41 state pursuant to Article VI of the interstate compact on the
42 placement of children and shall retain jurisdiction as provided
43 in Article V thereof.

44 (8) As used in Article VII of the interstate compact on
45 the placement of children, the term "executive head" means
46 the governor. The governor is hereby authorized to appoint
47 a compact administrator in accordance with the terms of said
48 Article VII.

CHAPTER 114

(Com. Sub. for H. B. 1078—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 7, 1975; 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:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the alcohol beverage control commissioner and the department of public institutions 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 ser-
3 vices rendered by certain claimants herein and has considered
4 claims against the state, the alcohol beverage control com-
5 missioner and the department of public institutions, agencies
6 thereof, which have arisen due to over-expenditures of depart-

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

25 (a) Claims against the alcohol beverage control commissioner:

26

TO BE PAID FROM SPECIAL REVENUE FUND

27	(1) Helen L. Freed	\$ 850.00
28	(2) W. M. Harris	\$ 850.00
29	(3) Wilda F. Currence	\$ 775.00
30	(4) Barbara Rae Norton	\$ 700.00
31	(5) Aluna J. Ware	\$ 550.00
32	(6) Mary Louise Singleton	\$ 550.00
33	(7) Wayne L. Main	\$1,000.00
34	(8) Louise H. Harper	\$ 625.00
35	(9) Shirley Ann Kimble	\$ 625.00
36	(10) Leonard D. Watson	\$ 775.00
37	(11) Donal L. Smith	\$ 775.00
38	(12) Cecile H. Ruddell	\$ 850.00
39	(13) James F. Kirby	\$ 850.00
		<hr/>
40	TOTAL	\$9,775.00

41 (b) Claims against the Department of Public Institutions:

42

TO BE PAID FROM GENERAL REVENUE FUND

43	(1) Midland Wholesale Grocery Company —	\$ 151.23
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44	(2) State Food Stores, Inc. _____	\$ 80.00
45	(3) Wheeling Hospital, Inc. _____	\$ 864.20
46	(4) Medical Supply Company, Inc. _____	\$ 13.50
47	(5) Independent Dressed Beef Company, Inc. _____	\$ 369.60
48	(6) Norteman Packing Co. _____	\$ 5,652.11
49	(7) Cook Motor Lines, Inc. _____	\$ 9.36
50	(8) Electronic Materials Corporation _____	\$ 62.38
51	(9) Schering Corporation _____	\$ 419.05
52	(10) Oscar Ruttenberg, d/b/a Ruttenberg's	
53	Store _____	\$ 149.61
54	(11) West Virginia State Industries _____	\$25,071.62
55	(12) Storck Baking Company, Inc. _____	\$ 1,699.24
56	(13) Polis Brothers _____	\$ 672.80
57	(14) Mt. Clare Provision Company _____	\$ 4,459.14
58	(15) Lever Brothers Company _____	\$ 1,160.60
59	(16) Physicians Fee Office _____	\$ 109.85
60	(17) Industrious Blind Enterprise _____	\$ 402.12
61	(18) Pepsi-Cola Bottling Co. of	
62	Moundsville, Inc. _____	\$ 1,057.20
63	(19) M & W Distributors, Inc. _____	\$ 46.94
64	(20) Valley Welding Supply Company _____	\$ 98.58
65	(21) Southern Chemical Company, a Division	
66	of Southern Machinery Company _____	\$ 4,090.78
67	(22) Tri-State Drug Company _____	\$ 131.46
68	(23) Standard Brush & Broom Company _____	\$ 175.98
69	(24) Reynolds Memorial Hospital _____	\$ 1,289.07
70	(25) Dermatology Service, Inc. _____	\$ 40.00
71	(26) A. H. Robins Company _____	\$ 320.00
72	(27) William McNinch, d/b/a McNinch	
73	Hardware _____	\$ 19.10
74	(28) The National Colloid Company _____	\$ 220.00
75	(29) Columbia Gas of West Virginia, Inc. _____	\$ 7,283.91
76	(30) Aristotle A. Rabanal, M. D. _____	\$ 15.00
77	(31) Louis Anthony Co., Inc. _____	\$ 1,545.70
78	(32) American Can Company _____	\$ 565.00
79	(33) Merck, Sharp & Dohme _____	\$ 694.36
80	(34) Mutual Wholesalers of Wheeling, Inc. _____	\$ 5.76
81	(35) West Virginia Newspaper Publishing Co. _____	\$ 98.70
82	(36) Wheeling Electric Company _____	\$ 1,219.36
83	(37) Kellogg Sales Company _____	\$ 1,840.00

84	(38) Marion Paper, Inc. _____	\$ 4,366.74
85	(39) Exxon Company, U.S.A. _____	\$ 219.71
86	(40) Wheeling Wholesale Grocery Co. _____	\$ 445.00
87	(41) Procter & Gamble Distributing Co. _____	\$ 266.50
88	(42) Monroe, Division of Litton Business	
89	Systems, Inc. _____	\$ 32.00
90	(43) The Upjohn Company _____	\$ 79.05
91	(44) Hoffmann-LaRoche, Inc. _____	\$ 526.50
92	(45) C & P Telephone Co. of West Virginia _____	\$ 39.76
93	(46) Myers Drug Store, Inc. _____	\$ 83.00
94	(47) Alling & Cory _____	\$ 72.45
95	(48) Hong I. Seung, M. D. _____	\$ 40.00
96	(49) Marshall County Cooperative, Inc. _____	\$ 82.13
97	(50) The Kroger Co. _____	\$ 31.86
98	(51) Ohio Valley Medical Center, Inc. _____	\$ 32.00
99	(52) Standard Brands Incorporated _____	\$ 948.00
100	(53) Economics Laboratory, Inc. _____	\$ 3,396.00
101	(54) Wyeth Laboratories, Division of	
102	American Home Products Corporation _____	\$ 176.00
103	(55) Hillandale Farms, Inc. _____	\$ 318.75
104	(56) Winans Sanitary Supply Company, Inc. _____	\$ 46.80
105	(57) Consolidated Midland Corporation _____	\$ 210.00
106	(58) Robert E. Durig, O. D. _____	\$ 801.00
107	(59) Doctors Asaad, Inc. _____	\$ 100.00
108	(60) Doctors Barger and Gordon, Inc. _____	\$ 1,035.19
109	(61) Ambulatory Care Associates, Inc. _____	\$ 20.00
110	(62) Ohio Valley Drug Company _____	\$ 30.00
111	(63) IBM Corporation _____	\$ 218.75
112	(64) The City of Moundsville Water	
113	Department _____	\$ 2,464.19
114	(65) Crescent Print Shop _____	\$ 42.97
115	(66) Pfizer Inc. _____	\$ 3,788.52
116	(67) Valley Animal Clinic _____	\$ 89.00
117	TOTAL _____	\$82,105.18

CHAPTER 115

(H. B. 1270—By Mr. Kincaid and Mr. Teets)

[Passed March 9, 1975; in effect ninety days 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:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the department of highways; adjutant general; department of mental health; board of vocational education, division of vocational rehabilitation; rehabilitation environmental action program; department of public safety; board of regents; department of natural resources; and the nonintoxicating beer commission, 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 it
6 to be the moral obligation of the state to pay each such claim
7 in the amount specified below, and directs the auditor to issue
8 warrants for the payment thereof out of any fund appropriated
9 and available for the purpose.

10 (a) Claims against the Department of Highways:

11 TO BE PAID FROM STATE ROAD FUND

12	(1) Coal River Public Service District _____\$	201.00
13	(2) L. M. Casdorph _____	61.29
14	(3) Mr. and Mrs. T. E. Reed	600.00
15	(4) David R. Dietz _____	82.40
16	(5) Tygart Valley Telephone Company _____	109.79
17	(6) Dana H. Carney _____	67.61
18	(7) H. Ronald Harris _____	78.92

19	(8) T. A. Galyean, Jr., Ann T. Galyean,	
20	his wife, John G. Anderson, Trustee,	
21	and Huntington Federal Savings and	
22	Loan Association	7,500.00
23	(9) Clarke W. Greene	183.95
24	(10) James R. Lantz	43.30
25	(11) Velva K. Corzine	221.98
26	(12) Mrs. W. G. Via	55.10
27	(13) Monongahela Power Company	82.94
28	(14) Samuel Miller	123.60
29	(15) Harry C. Henderson	6,600.00
30	(16) Clyde M. Ellison	25.00
31	(17) James M. Duffy	25.00
32	(18) John L. Cooper	25.00
33	(19) Norfolk and Western Railway Com-	
34	pany	1,258.29
35	(20) Opal Baker Thomas and Elsey Thomas	1,920.00

36 (b) Claims against the Adjutant General:

37 TO BE PAID FROM GENERAL REVENUE FUND

38	(1) John Moore	416.38
39	(2) Jerry W. Ware	2,060.00

40 (c) Claims against the Department of Mental
41 Health:

42 TO BE PAID FROM GENERAL REVENUE FUND

43	(1) John H. Brunetti Hardware and Paint-	
44	ing	2,264.43
45	(2) Hoffman La Roche, Inc.	275.94
46	(3) Mildred Mitchell-Bateman, M.D.	2,500.00

47 (d) Claim against board of vocational education
48 division of vocational rehabilitation:

49 TO BE PAID FROM GENERAL REVENUE FUND

50	(1) Cleveland Clinic	805.88
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51 (e) Claims against the Rehabilitation Environ-
52 mental Action Program:

53 TO BE PAID FROM SPECIAL REVENUE FUND

54	(1) Lena Solomon	500.00
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55	(2) Edward H. Stanley	200.00
56	(3) Geneva Marie Burch	150.00
57	(f) Claim against the Department of Public	
58	Safety:	
59	TO BE PAID FROM GENERAL REVENUE FUND	
60	(1) Walter E. Bradfield, Jr.	100.00
61	(g) Claim against the Board of Regents:	
62	TO BE PAID FROM GENERAL REVENUE FUND	
63	(1) Raines Piano and Organ Center, Inc. ..	399.50
64	(h) Claim against the Department of Natural	
65	Resources:	
66	TO BE PAID FROM GENERAL REVENUE FUND	
67	(1) Baltimore Contractors, Inc.	200,000.00
68	(i) Claim against the Nonintoxicating Beer Com-	
69	mission:	
70	TO BE PAID FROM GENERAL REVENUE FUND	
71	(1) Central Investment Corporation	7,777.37
72	Total of all claims	\$236,714.67

73 The Legislature finds that the above moral obligations
 74 and the appropriation made in satisfaction thereof shall be
 75 the full compensation for all claimants, and that prior to
 76 the payments to any claimant provided for in this bill, the
 77 court of claims shall receive a release from said claimant
 78 releasing any and all claims for moral obligations arising
 79 from the matters considered by the Legislature in the finding
 80 of the moral obligations and the making of the appropriations
 81 for said claimant. The court of claims shall deliver all releases
 82 obtained from claimants to the department against which the
 83 claim was allowed.

CHAPTER 116

(H. B. 1421—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one hundred two, article six, chapter forty-six-a of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to the West Virginia consumer credit and protection act; relating to the definitions of terms as used in said article six; and defining two new terms, as used in said article six, namely, the terms "consumer" and "consumer transaction."

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-102. Definitions.

1 When used in this article the following words, terms and
2 phrases, and any variations thereof required by the context,
3 shall have the meaning ascribed to them in this article, except
4 where the context indicates a different meaning:

5 (a) "Advertisement" means the publication, dissemination
6 or circulation of any matter, oral or written, including label-
7 ing, which tends to induce, directly or indirectly, any person
8 to enter into any obligation, sign any contract, or acquire any
9 title or interest in any goods or services and includes every word
10 device to disguise any form of business solicitation by using
11 such terms as "renewal," "invoice," "bill," "statement" or "re-
12 minder," to create an impression of existing obligation when
13 there is none, or other language to mislead any person in rela-
14 tion to any sought-after commercial transaction.

15 (b) "Consumer" means a natural person to whom a sale is
16 made in a consumer transaction, and a "consumer transaction"
17 means a sale to a natural person or persons for a personal,
18 family, household or agricultural purpose.

19 (c) "Merchantable" means, in addition to the qualities
20 prescribed in section three hundred fourteen, article two,
21 chapter forty-six of this code, that the goods conform in all
22 material respects to applicable state and federal statutes and
23 regulations establishing standards of quality and safety of
24 goods and, in the case of goods with mechanical, electrical or
25 thermal components, that the goods are in good working order

26 and will operate properly in normal usage for a reasonable
27 period of time.

28 (d) "Sale" includes any sale, offer for sale or attempt to
29 sell any goods for cash or credit or any services or offer for
30 services for cash or credit.

31 (e) "Trade" or "commerce" means the advertising, offer-
32 ing for sale, sale or distribution of any goods or services and
33 shall include any trade or commerce, directly or indirectly,
34 affecting the people of this state.

35 (f) "Unfair methods of competition and unfair or decep-
36 tive acts or practices" means and includes, but is not limited
37 to, any one or more of the following:

38 (1) Passing off goods or services as those of another;

39 (2) Causing likelihood of confusion or of misunderstand-
40 ing as to the source, sponsorship, approval or certification of
41 goods or services;

42 (3) Causing likelihood of confusion or of misunderstand-
43 ing as to affiliation, connection or association with, or certifi-
44 cation by, another;

45 (4) Using deceptive representations or designations of geo-
46 graphic origin in connection with goods or services;

47 (5) Representing that goods or services have sponsorship,
48 approval, characteristics, ingredients, uses, benefits or quan-
49 tities that they do not have, or that a person has a sponsorship,
50 approval, status, affiliation or connection that he does not
51 have;

52 (6) Representing that goods are original or new if they
53 are deteriorated, altered, reconditioned, reclaimed, used or
54 secondhand;

55 (7) Representing that goods or services are of a particular
56 standard, quality or grade, or that goods are of a particular
57 style or model, if they are of another;

58 (8) Disparaging the goods, services or business of another
59 by false or misleading representation of fact;

60 (9) Advertising goods or services with intent not to sell
61 them as advertised;

62 (10) Advertising goods or services with intent not to supply
63 reasonably expectable public demand, unless the advertise-
64 ment discloses a limitation of quantity;

65 (11) Making false or misleading statements of fact con-
66 cerning the reasons for, existence of or amounts of price
67 reductions;

68 (12) Engaging in any other conduct which similarly creates
69 a likelihood of confusion or of misunderstanding;

70 (13) The act, use or employment by any person of any
71 deception, fraud, false pretense, false promise or misrepresenta-
72 tion, or the concealment, suppression or omission of any
73 material fact with intent that others rely upon such conceal-
74 ment, suppression or omission, in connection with the sale
75 or advertisement of any goods or services, whether or not any
76 person has in fact been misled, deceived or damaged thereby;
77 or

78 (14) Advertising, printing, displaying, publishing, distri-
79 buting or broadcasting, or causing to be advertised, printed,
80 displayed, published, distributed or broadcast in any manner,
81 any statement or representation with regard to the sale of
82 goods or the extension of consumer credit including the rates,
83 terms or conditions for the sale of such goods or the ex-
84 tension of such credit, which is false, misleading, or deceptive,
85 or which omits to state material information which is neces-
86 sary to make the statements therein not false, misleading
87 or deceptive.

88 (g) "Warranty" means express and implied warranties des-
89 cribed and defined in sections three hundred thirteen,
90 three hundred fourteen and three hundred fifteen, article
91 two, chapter forty-six of this code and expressions or
92 actions of a merchant which assure the consumer that
93 the goods have described qualities or will perform in a
94 described manner.

CHAPTER 117

(H. B. 1236—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article eight, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen, making covenants, promises, agreements or understandings of indemnification against the sole negligence of the indemnitee, his agents or employees against public policy; providing that no action may be maintained thereon; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

That article eight of chapter fifty-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 fourteen, to read as follows:

ARTICLE 8. ACTIONS ON CONTRACTS.

§55-8-14. Agreements to indemnify against sole negligence of the indemnitee, his agents or employees against public policy; no action maintainable thereon; exceptions.

1 A covenant, promise, agreement or understanding in or in
 2 connection with or collateral to a contract or agreement
 3 entered into on or after the effective date of this section,
 4 relative to the construction, alteration, repair, addition to, sub-
 5 traction from, improvement to or maintenance of any building,
 6 highway, road, railroad, water, sewer, electrical or gas distribu-
 7 tion system, excavation or other structure, project, development
 8 or improvement attached to real estate, including moving and
 9 demolition in connection therewith, purporting to indemnify
 10 against liability for damages arising out of bodily injury to per-
 11 sons or damage to property caused by or resulting from the sole
 12 negligence of the indemnitee, his agents or employees is against
 13 public policy and is void and unenforceable and no action shall
 14 be maintained thereon.

15 This section does not apply to construction bonds or in-
 16 surance contracts or agreements.

CHAPTER 118

(H. B. 1338—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to repeal sections one hundred fifty-nine and one hundred sixty, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three, six, eight, nine, fifteen, nineteen, twenty-seven, twenty-eight, thirty-six, forty-six, forty-eight, forty-nine, fifty-three, fifty-five, fifty-six, sixty, sixty-two, sixty-three, ninety, one hundred four, one hundred eight, one hundred nine, one hundred thirty-one, one hundred forty-four, one hundred forty-eight and one hundred forty-nine of said article one; to further amend said article one by adding thereto two new sections, designated sections fifty-six-a and fifty-six-b; and to amend and reenact sections seventy-seven, eighty, eighty-one and eighty-three, article twelve, chapter eleven of said code, all relating to corporations generally, including business and nonprofit corporations; relating to the application of the West Virginia corporation act; defining terms; relating to the general powers of any such corporation; permitting the indemnification of corporate officers, directors, employees and agents in certain cases; designating the secretary of state as the attorney-in-fact for all domestic corporations and for foreign corporations conducting affairs or doing or transacting business in this state; setting forth procedures for the service of notice and process upon the secretary of state and the acceptance of such service by him as attorney-in-fact; defining acts which constitute the conducting of affairs or the doing or transacting of business by foreign corporations notwithstanding failure to be authorized so to do; relating to notice required of meetings of shareholders or members; relating to articles of incorporation, contents thereof, filing with secretary of state and other requirements with respect thereto; relating to issuance of certificate of incorporation and recordation thereof; relating to articles of merger or consolidation and the filing thereof with secretary of state; relating to issuance of certificate of merger or consolidation, recordation thereof and admission in evidence of such certificate and the effect thereof; relating to order of

involuntary dissolution and filing and recordation thereof; relating to survival of certain remedies and corporate powers following dissolution and effects of such dissolution; relating to admission and qualification of foreign corporations to conduct affairs or do or transact business in this state; relating to activities of foreign corporations permitted to be done in this state without certificate of authority; relating to application by foreign corporation for certificate of authority and contents thereof; prohibiting certificate of authority to transact business to churches and religious denominations which are foreign corporations; relating to effect of certificate of authority; setting forth procedures by which corporation may appoint person to whom notice or process to corporation may be sent by the secretary of state and procedures for change of principal office or name and address of such person; requiring annual reports of domestic and foreign corporations and providing certain requirements in respect thereto; relating to failure to file annual report, notice to corporation of its failure to file same and hearing thereon and appeal therefrom; relating to procedure for withdrawal of foreign corporations and publication of notice and other requirements relating to such withdrawal; relating to issuance of certificate of withdrawal by secretary of state and recordation thereof; relating to grounds for which secretary of state may revoke certificate of authority of foreign corporation, issuance of orders in connection therewith and appeals in such cases; relating to preemptive rights of shareholders of business corporation; relating to corporate officers, their authority and the removal of such officers; relating to articles of amendment, contents thereof and prescribing class voting on proposed amendments in certain cases; relating to voluntary dissolution and revocation of such dissolution by act of corporation; relating to nonprofit corporations, membership certificates therein and prohibiting dividends of such corporations; providing procedure for articles of amendment of such corporation; providing right to restate articles of incorporation and procedure therefor and contents thereof; providing for appeal to circuit court from assessment of corporate license tax by tax commissioner; requiring filing of annual report with the tax commissioner by domestic and foreign corporations; providing for license tax on foreign corporations and for amount, assessment and collection thereof and other requirements with respect

thereto; prescribing filing of preliminary report by foreign corporation and information to be contained therein; providing that payment of such license tax shall be in addition to payment of annual fee to secretary of state as attorney-in-fact; providing for notice to corporations of license tax due and payable; requiring submission of report to tax commissioner with payment of tax and statutory attorney fee and transmission of a copy of such report by tax commissioner to the secretary of state, together with a list of all corporations which have paid license tax; providing that license tax shall be deemed a debt due the state and shall be a lien; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That sections one hundred fifty-nine and one hundred sixty, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three, six, eight, nine, fifteen, nineteen, twenty-seven, twenty-eight, thirty-six, forty-six, forty-eight, forty-nine, fifty-three, fifty-five, fifty-six, sixty, sixty-two, sixty-three, ninety, one hundred four, one hundred eight, one hundred nine, one hundred thirty-one, one hundred forty-four, one hundred forty-eight and one hundred forty-nine of said article one, be amended and reenacted; that said article one be further amended by adding thereto two new sections, designated sections fifty-six-a and fifty-six-b; and that sections seventy-seven, eighty, eighty-one and eighty-three, article twelve, chapter eleven of said code be amended and reenacted, all to read as follows:

Chapter

31. Corporations.

11. Taxation.

CHAPTER 31. CORPORATIONS.

ARTICLE 1. BUSINESS AND NONPROFIT CORPORATIONS.

PART I—SHORT TITLE, CONSTRUCTION AND APPLICATION OF ARTICLE, EFFECT OF REPEAL, AND SEVERABILITY.

§31-1-3. Application of article; application to foreign and interstate commerce.

PART II—CORPORATIONS GENERALLY.

§31-1-6. Definitions.

- §31-1-8. General powers of corporations.
- §31-1-9. Indemnification of officers, directors, employees and agents.
- §31-1-15. Secretary of state constituted attorney-in-fact for all corporations; manner of acceptance or service of notices and process upon secretary of state; what constitutes conducting affairs of doing or transacting business in this state for purposes of this section.
- §31-1-19. Notice of shareholders' or members' meetings.
- §31-1-27. Article of incorporation; contents; matters not required to be set forth; inconsistencies with bylaws; acknowledgement.
- §31-1-28. Filing of articles of incorporation; issuance of certificate of incorporation; recordation of certificate in county clerk's office.
- §31-1-36. Articles of merger or consolidation; filing; issuance of certificate; recordation; admission in evidence.
- §31-1-46. Order of involuntary dissolution; filing with the secretary; recordation.
- §31-1-48. Survival of remedy after dissolution; effect of dissolution.
- §31-1-49. Admission of foreign corporation; acts permitted to be done without certificate of authority.
- §31-1-53. Application for certificate of authority by foreign corporation; contents; churches or religious denominations in corporate capacity prohibited.
- §31-1-55. Effect of certificate of authority.
- §31-1-56. Appointment of person to whom notice or process may be sent by the secretary of state; change of principal office or name and address of person to receive notice or process.
- §31-1-56a. Annual report of domestic and foreign corporations; filing.
- §31-1-56b. Penalties imposed for failure to file annual report; notice; hearings conducted by secretary of state; appeal.
- §31-1-60. Procedure for withdrawal of foreign corporation; publication required; application for certificate of withdrawal; contents; filing; issuance of certificate; recordation.
- §31-1-62. Conditions for revocation of certificate of authority.
- §31-1-63. Issuance of order of revocation; period of appeal.

PART III—BUSINESS CORPORATIONS.

- §31-1-90. Shareholders' preemptive rights.
- §31-1-104. Officers; removal of officers.
- §31-1-108. Class voting on amendments.
- §31-1-109. Articles of amendment.
- §31-1-131. Revocation of voluntary dissolution proceedings by act of corporation.

PART IV—NONPROFIT CORPORATIONS.

- §31-1-144. Membership certificates permitted; dividends prohibited.
- §31-1-148. Articles of amendment.
- §31-1-149. Restated articles of incorporation; procedures for adoption; contents.

PART I—SHORT TITLE, CONSTRUCTION AND APPLICATION OF ARTICLE, EFFECT OF REPEAL, AND SEVERABILITY.

- §31-1-3. Application of article; application to foreign and interstate commerce.

1 Except as may be otherwise provided by the provisions

2 of this article, this article shall become and be operative as
3 of the effective date hereof, and the provisions thereof shall
4 apply to and govern all corporations then existing or there-
5 after formed, and all corporate acts thereafter done: *Provided*,
6 That nothing contained in this article shall be construed to af-
7 fect the existence of any then existing corporation or to impair
8 the validity of any corporate act done and performed in ac-
9 cordance with the preexisting law. In the event of any incon-
10 sistency between any of the provisions of this article and the
11 rights conferred by any special act of the Legislature of the
12 state of Virginia before the formation of the state of West
13 Virginia, or the Legislature of the state of West Virginia sub-
14 sequent to such date, the provisions of such special act shall
15 prevail to the extent of such inconsistency.

16 The provisions of this article shall apply to commerce
17 with foreign nations and among the several states only in-
18 sofar as the same may be permitted under the provisions of
19 the constitution and treaties of the United States.

PART II—CORPORATIONS GENERALLY.

§31-1-6. Definitions.

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

3 (a) "Articles of incorporation" means the original or
4 restated articles of incorporation or articles of consolida-
5 tion and all amendments thereto including articles of mer-
6 ger.

7 (b) "Authorized shares" means the shares of all classes
8 which a business corporation is authorized to issue.

9 (c) "Business corporation" means a corporation organized
10 for profit.

11 (d) "Bylaws" means the code or codes of rules adopted
12 for the regulation or management of the affairs of the corpo-
13 ration, irrespective of the name or names by which such
14 rules are designated.

15 (e) "Capital surplus" means the entire surplus of a busi-
16 ness corporation other than its earned surplus.

17 (f) As used in Part I and Part II of this article, "corpora-
18 tion" or "domestic corporation" means a business corporation
19 or a nonprofit corporation, subject to the provisions of this
20 article, except a foreign corporation.

21 (g) "Director or directors" or "board of directors" shall in-
22 clude those who are vested with the management of the affairs
23 of the corporation, by whatever name they may be called.

24 (h) "Earned surplus" means the portion of the surplus
25 of a business corporation equal to the balance of its net
26 profits, income, gains and losses from the date of incor-
27 porations, or from the latest date when a deficit was elimi-
28 nated by an application of its capital surplus or stated capital
29 or otherwise, after deducting subsequent distributions to share-
30 holders and transfers to stated capital and capital surplus to
31 the extent such distributions and transfers are made out of
32 earned surplus. Earned surplus shall include also any portions
33 of surplus allocated to earned surplus in mergers, consoli-
34 dations or acquisitions of all or substantially all of the out-
35 standing shares or of the property and assets of another cor-
36 poration, domestic or foreign.

37 (i) "Employee" includes officers but not directors. A di-
38 rector may accept duties which make him also an employee.

39 (j) As used in Part I and Part II of this article, "foreign
40 corporation" means a business corporation or nonprofit cor-
41 poration organized under laws other than the laws of this
42 state for a purpose or purposes for which a corporation may
43 be organized under this article.

44 (k) "Insolvent" means inability of a corporation to pay its
45 debts as they become due in the usual course of its business.

46 (l) "Member" means one having membership in a nonpro-
47 fit corporation in accordance with the provisions of its articles
48 of incorporation or bylaws and shall include shareholders where
49 such corporation issues shares.

50 (m) "Net assets" means the amount by which the total
51 assets of a corporation exceed the total debt of the corpo-
52 ration.

53 (n) "Nonprofit corporation" means a corporation no part

54 of the income or profit of which is distributable to its
55 shareholders, members, directors or officers.

56 (o) "Shareholder" means one who is a holder of record of
57 shares in a corporation and may include the term "member."

58 (p) "Shares" means the units into which the proprietary
59 interests in a corporation are divided.

60 (q) "Stated capital" means, at any particular time, the sum
61 of (1) the par value of all shares of a business corporation
62 having a par value that have been issued, (2) the amount of
63 the consideration received by a business corporation for all
64 shares of such corporation without par value that have been
65 issued, except such part of the consideration therefor as may
66 have been allocated to capital surplus in a manner permitted
67 by law, and (3) such amounts not included in clauses (1) and
68 (2) of this subdivision as have been transferred to stated capital
69 of such corporation, whether upon the issue of shares as a
70 share dividend or otherwise, minus all reductions from such
71 sums as have been effected in a manner permitted by law.
72 Irrespective of the manner of designation thereof by the laws
73 under which a foreign corporation is organized, the stated
74 capital of a foreign corporation shall be determined on the
75 same basis and in the same manner as the stated capital of a
76 domestic corporation, for the purpose of computing fees, fran-
77 chise taxes and other charges prescribed by law.

78 (r) "Subscriber" means one who subscribes for shares in
79 a corporation, whether before or after incorporation.

80 (s) "Surplus" means the excess of the net assets of a busi-
81 ness corporation over its stated capital.

82 (t) "Treasury shares" means shares of a business corpora-
83 tion which have been issued and have been subsequently
84 acquired by and belong to such corporation, and have not,
85 either by reason of the acquisition or thereafter, been can-
86 celled or restored to the status of authorized but unissued
87 shares. Treasury shares shall be deemed to be issued shares, but
88 not outstanding shares.

§31-1-8. General powers of corporations.

1 Every corporation shall have the power:

2 (a) To have perpetual succession by its corporate name
3 unless a limited period of duration is stated in its articles of
4 incorporation. Any corporation chartered heretofore and still
5 in existence, which under its agreement of incorporation, had
6 less than perpetual existence, is hereby granted perpetual
7 existence, provided all license fees and taxes due the state of
8 West Virginia shall have been paid.

9 (b) To sue and be sued, complain and defend, in its cor-
10 porate name.

11 (c) To have a corporate seal which may be altered at plea-
12 sure, and to use the same by causing it, or a facsimile there-
13 of, to be impressed or affixed or in any other manner repro-
14 duced.

15 (d) To purchase, take, receive, lease, take by gift, devise
16 or bequest, or otherwise acquire, own, hold, improve, use and
17 otherwise deal in and with real or personal property, or any
18 interest therein, wherever situated.

19 (e) To sell, convey, mortgage, pledge, lease, exchange,
20 transfer and otherwise dispose of all or any part of its prop-
21 erty and assets.

22 (f) To lend money and use its credit to assist its em-
23 ployees.

24 (g) To purchase, take, receive, subscribe for, or otherwise
25 acquire, own, hold, vote, use, employ, sell, mortgage, lend,
26 pledge, or otherwise dispose of, and otherwise use and deal
27 in and with, shares or other interests in, or obligations of,
28 other domestic or foreign corporations, associations, partner-
29 ships, joint ventures or individuals, or direct or indirect obli-
30 gations of the United States or of any other government,
31 state, territory, governmental district or municipality or of any
32 instrumentality thereof.

33 (h) To make contracts and guarantees and incur liabilities,
34 borrow money at such rates of interest as the corporation may
35 determine, issue its notes, bonds and other obligations, and
36 secure any of its obligations by mortgage, deed of trust or
37 pledge of all or any of its property, franchises and income.

38 (i) To lend money for its corporate purposes, invest and

39 reinvest its funds, and take and hold real and personal prop-
40 erty as security for the payment of funds so loaned or in-
41 vested.

42 (j) To conduct its business and affairs, carry on its opera-
43 tions, and have offices and exercise the powers granted by
44 this article, within or without this state.

45 (k) To elect or appoint officers and agents of the corpo-
46 ration, and define their duties and fix their compensation.

47 (l) To make and alter bylaws, not inconsistent with its
48 articles of incorporation or with the laws of this state, for the
49 administration and regulation of the business and affairs of
50 the corporation.

51 (m) To make donations for the public welfare or for char-
52 itable, scientific or educational purposes.

53 (n) To transact any lawful business which the board of
54 directors shall find will be in the aid of governmental policy.

55 (o) To pay pensions and establish pension plans or pension
56 trusts for any or all of its directors, officers and employees,
57 and in the case of business corporations, to establish profit
58 sharing plans, stock bonus plans, stock option plans and other
59 incentive plans for any or all of its directors, officers and em-
60 ployees.

61 (p) To be a promoter, partner, member, associate, or man-
62 ager of any partnership, joint venture, trust or other enter-
63 prise.

64 (q) To cease its corporate activities and surrender its
65 corporate franchise in accordance with the provisions of this
66 article.

67 (r) To have and exercise all powers necessary or convenient
68 to effect its purposes.

§31-1-9. Indemnification of officers, directors, employees and agents.

1 (a) A corporation shall have power to indemnify any
2 person who was or is a party or is threatened to be made a
3 party to any threatened, pending or completed action or

4 proceeding, whether civil, criminal, administrative or investiga-
5 tive (other than an action by or in the right of the corporation)
6 by reason of the fact that he is or was a director, officer,
7 employee or agent of the corporation, or is or was serving at the
8 request of the corporation as a director, officer, employee or
9 agent of another corporation, partnership, joint venture, trust
10 or other enterprise, against expenses (including attorneys' fees),
11 judgments, fines, taxes and penalties and interest thereon, and
12 amounts paid in settlement actually and reasonably incurred by
13 him in connection with such action or proceeding if he
14 acted in good faith and in a manner he reasonably believed
15 to be in or not opposed to the best interests of the cor-
16 poration, and, with respect to any criminal action or pro-
17 ceeding, had no reasonable cause to believe his conduct was
18 unlawful. The termination of any action or proceeding by
19 judgment, order, settlement, conviction, or upon a plea of nolo
20 contendere or its equivalent, shall not, of itself, create a pre-
21 sumption that the person did not act in good faith and in a
22 manner which he reasonably believed to be in or not opposed
23 to the best interest of the corporation, and, with respect to
24 any criminal action or proceeding, that such person did have
25 reasonable cause to believe that his conduct was unlawful.

26 (b) A corporation shall have power to indemnify any
27 person who was or is a party or is threatened to be made a
28 party to any threatened, pending or completed action or
29 proceeding by or in the right of the corporation to procure
30 judgment in its favor by reason of the fact that he is or
31 was a director, officer, employee or agent of the corpora-
32 tion, or is or was serving at the request of the corporation
33 as a director, officer, employee or agent of another corporation,
34 partnership, joint venture, trust or other enterprise against
35 expenses (including attorneys' fees) actually and reasonably
36 incurred by him in connection with the defense or settlement
37 of such action or proceeding if he acted in good faith and in
38 a manner he reasonably believed to be in or not opposed to the
39 best interests of the corporation, except that no indemnifica-
40 tion shall be made in respect of any claim, issue or matter,
41 including, but not limited to, taxes or any interest or penalties
42 thereon, as to which such person shall have been adjudged to
43 be liable for negligence or misconduct in the performance of

44 his duty to the corporation unless and only to the extent
45 that the court in which such action or proceeding was brought
46 shall determine upon application that, despite the adjudication
47 of liability but in view of all circumstances of the case, such
48 person is fairly and reasonably entitled to indemnity for such
49 expenses which such court shall deem proper.

50 (c) To the extent that a director, officer, employee or
51 agent of a corporation has been successful on the merits or
52 otherwise in defense of any action or proceeding referred
53 to in subsections (a) or (b), or in defense of any claim,
54 issue or matter therein, he shall be indemnified against ex-
55 penses (including attorneys' fees) actually and reasonably
56 incurred by him in connection therewith.

57 (d) Any indemnification under subsections (a) or (b)
58 (unless ordered by a court) shall be made by the corpora-
59 tion only as authorized in the specific case upon a deter-
60 mination that indemnification of the director, officer, em-
61 ployee or agent is proper in the circumstances because he
62 has met the applicable standard of conduct set forth in
63 subsections (a) or (b). Such determination shall be made
64 (1) by the board of directors by a majority vote of a quo-
65 rum consisting of directors who were not parties to such
66 action or proceeding, or (2) if such a quorum is not obtain-
67 able, or even if obtainable a quorum of disinterested direc-
68 tors so directs, by independent legal counsel in a written
69 opinion, or (3) by the shareholders or members.

70 (e) Expenses (including attorneys' fees) incurred in de-
71 fending a civil or criminal action or proceeding may be
72 paid by the corporation in advance of the final disposition
73 of such action or proceeding as authorized in the manner
74 provided in subsection (d) upon receipt of an undertaking
75 by or on behalf of the director, officer, employee or agent
76 to repay such amount unless it shall ultimately be determined
77 that he is entitled to be indemnified by the corporation as
78 authorized in this section.

79 (f) The indemnification provided by this section shall
80 not be deemed exclusive of any other rights to which any
81 shareholder or member may be entitled under any bylaw,
82 agreement, vote of shareholders, members or disinterested

83 directors or otherwise, both as to action in his official capacity
84 and as to action in another capacity while holding such office,
85 and shall continue as to a person who has ceased to be a
86 director, officer, employee or agent and shall inure to the
87 benefit of the heirs, executors and administrators of such a
88 person.

89 (g) A corporation shall have power to purchase and
90 maintain insurance on behalf of any person who is or was
91 a director, officer, employee or agent of the corporation, or
92 is or was serving at the request of the corporation as a
93 director, officer, employee or agent of another corporation,
94 partnership, joint partnership, joint venture, trust or other
95 enterprise against any liability asserted against him and
96 incurred by him in any such capacity or arising out of his
97 status as such, whether or not the corporation would have
98 the power to indemnify him against such liability under the
99 provisions of this section.

§31-1-15. Secretary of state constituted attorney-in-fact for all corporations; manner of acceptance or service of notices and process upon secretary of state; what constitutes conducting affairs or doing or transacting business in this state for purposes of this section.

1 The secretary of state is hereby constituted the attorney-
2 in-fact for and on behalf of every corporation created by
3 virtue of the laws of this state and every foreign corporation
4 authorized to conduct affairs or do or transact business
5 herein pursuant to the provisions of this article, with authority
6 to accept service of notice and process on behalf of every
7 such corporation and upon whom service of notice and
8 process may be made in this state for and upon every such
9 corporation. No act of such corporation appointing the
10 secretary of state such attorney-in-fact shall be necessary.
11 Immediately after being served with or accepting any such
12 process or notice, of which process or notice two copies for
13 each defendant shall be furnished the secretary of state with
14 the original notice or process, together with a fee of two
15 dollars, the secretary of state shall file in his office a copy
16 of such process or notice, with a note thereon endorsed of
17 the time of service, or acceptance, as the case may be,

18 and transmit one copy of such process or notice by registered
19 or certified mail, return receipt requested, to the person
20 to whom notice and process shall be sent, whose name and
21 address were last furnished to the state officer at the time
22 authorized by statute to accept service of notice and process
23 and upon whom notice and process may be served; and if no
24 such person has been named, to the principal office of the
25 corporation at the address last furnished to the state officer
26 at the time authorized by statute to accept service of process
27 and upon whom process may be served, as required by law.
28 No process or notice shall be served on the secretary of state or
29 accepted by him less than ten days before the return day
30 thereof. Such corporation shall pay the annual fee prescribed
31 by article twelve, chapter eleven of this code for the services
32 of the secretary of state as its attorney-in-fact.

33 Any foreign corporation which shall conduct affairs or
34 do or transact business in this state without having been
35 authorized so to do pursuant to the provisions of this
36 article shall be conclusively presumed to have appointed
37 the secretary of state as its attorney-in-fact with authority
38 to accept service of notice and process on behalf of such
39 corporation and upon whom service of notice and process
40 may be made in this state for and upon every such corpora-
41 tion in any action or proceeding described in the next
42 following paragraph of this section. No act of such corporation
43 appointing the secretary of state as such attorney-in-fact shall
44 be necessary. Immediately after being served with or accept-
45 ing any such process or notice, of which process or notice
46 two copies for each defendant shall be furnished the secretary
47 of state with the original notice or process, together with
48 a fee of two dollars, the secretary of state shall file in his
49 office a copy of such process or notice, with a note thereon
50 endorsed of the time of service or acceptance, as the case
51 may be, and transmit one copy of such process or notice
52 by registered or certified mail, return receipt requested, to
53 such corporation at the address of its principal office, which
54 address shall be stated in such process or notice. Such
55 service or acceptance of such process or notice shall be
56 sufficient if such return receipt shall be signed by an agent
57 or employee of such corporation, or the registered or certified

58 mail so sent by the secretary of state is refused by the
59 addressee and the registered or certified mail is returned to
60 the secretary of state, or to his office, showing thereon the
61 stamp of the United States postal service that delivery thereof
62 has been refused, and such return receipt or registered or
63 certified mail is appended to the original process or notice
64 and filed therewith in the clerk's office of the court from
65 which such process or notice was issued. No process or
66 notice shall be served on the secretary of state or accepted
67 by him less than ten days before the return date thereof.
68 The court may order such continuances as may be reasonable
69 to afford each defendant opportunity to defend the action
70 or proceedings.

71 For the purpose of this section, a foreign corporation
72 not authorized to conduct affairs or do or transact business
73 in this state pursuant to the provisions of this article shall
74 nevertheless be deemed to be conducting affairs or doing or
75 transacting business herein (a) if such corporation makes a
76 contract to be performed, in whole or in part, by any party
77 thereto, in this state, (b) if such corporation commits a tort
78 in whole or in part in this state, or (c) if such corporation
79 manufactures, sells, offers for sale or supplies any product
80 in a defective condition and such product causes injury to
81 any person or property within this state notwithstanding the
82 fact that such corporation had no agents, servants or employees
83 or contacts within this state at the time of said injury.
84 The making of such contract, the committing of such tort
85 or the manufacture or sale, offer of sale or supply of such
86 defective product as hereinabove described shall be deemed
87 to be the agreement of such corporation that any notice or
88 process served upon, or accepted by, the secretary of state
89 pursuant to the next preceding paragraph of this section
90 in any action or proceeding against such corporation arising
91 from, or growing out of, such contract, tort, or manufacture
92 or sale, offer of sale or supply of such defective product
93 shall be of the same legal force and validity as process duly
94 served on such corporation in this state.

§31-1-19. Notice of shareholders' or members' meetings.

1 Unless otherwise provided in the bylaws, written notice

2 stating the place, day and hour of the meeting and, in case
3 of a special meeting, the purpose or purposes for which the
4 meeting is called, shall be delivered not less than ten nor
5 more than fifty days before the date of the meeting, either
6 personally or by mail, by or at the direction of the president,
7 the secretary, or the officer or persons calling the meeting, to
8 each shareholder of record or member entitled to vote at such
9 meeting. If mailed, such notice shall be deemed to be de-
10 livered when deposited in the United States mail addressed to
11 the shareholder or member at his address as it appears on the
12 corporate records, with postage thereon prepaid.

§31-1-27. Articles of incorporation; contents; matters not required to be set forth; inconsistencies with bylaws; acknowledgment.

1 (a) The articles of incorporation shall set forth:

2 (1) The name of the corporation.

3 (2) The period of duration, which may be perpetual.

4 (3) The purpose or purposes for which the corporation
5 is organized.

6 (4) The address of its principal office, and the name and
7 address of the person to whom shall be sent notice or process
8 served upon, or service of which is accepted by, the secretary
9 of state, if such person has been appointed by the corpora-
10 tion.

11 (5) The name and address of each incorporator.

12 (b) In the case of a business corporation, in addition
13 to those matters required to be set forth by the provisions
14 of subsection (a) of this section, the articles of incorporation
15 shall set forth:

16 (1) The aggregate number of shares which the cor-
17 poration shall have authority to issue; if such shares are
18 to consist of one class only, the par value of each of such
19 shares, or a statement that all of such shares are without
20 par value; or, if such shares are to be divided into classes,
21 the number of shares of each class, and a statement of
22 the par value of the shares of each such class or that such
23 shares are to be without par value.

24 (2) If the shares are to be divided into classes, the
25 designation of each class and a statement of the preferences,
26 limitations and relative rights in respect of the shares of
27 each class.

28 (3) If the corporation is to issue the shares of any
29 preferred or special class in series, the designation of each
30 series and a statement of the variations in the relative rights
31 and preferences as between series insofar as the same are
32 to be fixed in the articles of incorporation, and a statement
33 of any authority to be vested in the board of directors to
34 establish series and fix and determine the variations in the
35 relative rights and preferences as between series.

36 (4) Any provision limiting or denying to shareholders the
37 preemptive right to acquire additional unissued or treasury
38 shares of the corporation.

39 (5) Any provision, not inconsistent with law, which the
40 incorporators elect to set forth in the articles of incorporation
41 for the regulation of the internal affairs of the corporation,
42 including any provision restricting the transfer of shares and
43 any provision which under this article is required or permitted
44 to be set forth in the bylaws.

45 (c) In the case of a nonprofit corporation, in addition
46 to those matters required to be set forth by the provisions
47 of subsection (a) of this section, the articles of incorpora-
48 tion shall set forth any provisions, not inconsistent with
49 law, which the incorporators elect to set forth in such articles
50 of incorporation for the regulation of the internal affairs of
51 the corporation, including any provisions for distribution of
52 assets on dissolution or final liquidation.

53 (d) It shall not be necessary to set forth in the articles
54 of incorporation any of the corporate powers enumerated
55 in this article.

56 (e) Whenever a provision of the articles of incorporation
57 is inconsistent with a bylaw, the provision of the articles of
58 incorporation shall be controlling.

59 (f) The articles of incorporation shall contain a statement
60 of the name and address of the person who, or the firm
61 which, prepared such articles of incorporation.

62 (g) The articles of incorporation shall be acknowledged
63 by the incorporators before a notary public and transmitted
64 with the proper fees to, and shall be filed with, the secretary
65 of state.

§31-1-28. Filing of articles of incorporation; issuance of certificate of incorporation; recordation of certificate in county clerk's office.

1 (a) Duplicate originals, which as used in this article shall
2 mean two copies, howsoever reproduced, both of which are
3 executed in the original, of the articles of incorporation shall
4 be delivered to the secretary of state. If the secretary of state
5 finds that the articles of incorporation conform to law, he
6 shall, when all fees have been paid as prescribed by law, (i)
7 endorse on each of such duplicate originals the word "Filed,"
8 and the month, day and year of the filing thereof; (ii) file one
9 of such duplicate originals in his office; and (iii) issue a certifi-
10 cate of incorporation to which he shall affix the other dupli-
11 cate original.

12 The certificate of incorporation, together with the dupli-
13 cate original of the articles of incorporation affixed thereto
14 by the secretary of state, shall be returned to the incorporators
15 or their representative.

16 (b) If the corporation has its principal office in this state,
17 it shall cause such certificate, or a duly certified copy thereof
18 to be recorded in the office of the clerk of the county commis-
19 sion of the county in which such principal office is located; if its
20 principal office is not within this state but it conducts affairs
21 or does or transacts business herein, then in the county or one
22 of the counties in which it conducts its affairs or does or trans-
23 acts its principal business. If its principal office is without the
24 state and it does not conduct affairs or do or transact business
25 within the state, such charter need not be recorded in a county
26 clerk's office. A failure to comply with the foregoing recorda-
27 tion provision within six months from the date of such certifi-
28 cate shall subject the corporation to a fine of not more than one
29 thousand dollars.

§31-1-36. Articles of merger or consolidation; filing; issuance of certificate; recordation; admission in evidence.

1 (a) Upon approval by the shareholders or members in

2 accordance with the provisions of section one hundred seven-
3 teen or section one hundred fifty of this article, whichever is
4 applicable, the articles of merger or articles of consolidation
5 shall be executed in duplicate by each corporation by its
6 president or a vice president and by its secretary or an assistant
7 secretary, and verified by one of the officers of each corporation
8 signing such articles.

9 (b) Duplicate originals of the articles of merger or articles
10 of consolidation shall be delivered to the secretary of state. If
11 the secretary of state finds that such articles conform to law,
12 he shall, when all fees have been paid as prescribed by law,
13 (i) endorse on each of such duplicate originals the word
14 "Filed," and the month, day and year of the filing thereof; (ii)
15 file one of such duplicate originals in his office; and (iii)
16 issue a certificate of merger or a certificate of consolidation to
17 which he shall affix the other duplicate original.

18 The certificate of merger or certificate of consolidation, to-
19 gether with the duplicate original of the articles of merger or
20 articles of consolidation affixed thereto by the secretary of state,
21 shall be returned to the surviving or new corporation, as the
22 case may be, or its representative.

23 (c) The certificate of merger or certificate of consolidation,
24 or certified copy thereof, shall be recorded in the office of the
25 appropriate county clerk in the same manner as original certif-
26 icates of incorporation are required to be recorded, in ac-
27 cordance with the provisions of subsection (b) of section
28 twenty-eight of this article and received in evidence to the same
29 extent as an original certificate of incorporation or a certified
30 copy of such original.

**§31-1-46. Order of involuntary dissolution; filing with the secretary
of state; recordation.**

1 In proceedings to liquidate the assets and business or affairs
2 of a corporation, when the costs and expenses of such pro-
3 ceedings and all debts, obligations and liabilities of the cor-
4 poration shall have been paid and discharged and all of its re-
5 maining property and assets distributed to its shareholders, or
6 in the case of a nonprofit corporation, in accordance with the
7 provisions of sections one hundred fifty-five and one hundred

8 fifty-six of this article, the court shall enter an order dis-
9 solving the corporation, whereupon the existence of the cor-
10 poration shall cease. In case its property and assets are not
11 sufficient to satisfy and discharge such costs, expenses, debts
12 and obligations and all the property and assets have been
13 applied so far as they will go to their payment, the court shall
14 likewise enter an order dissolving the corporation, whereupon
15 the existence of the corporation shall cease.

16 If the court shall enter an order dissolving a corporation,
17 it shall be the duty of the clerk of such court to cause a certi-
18 fied copy of the order to be filed with the secretary of state, and
19 a certified copy of the order to be recorded in the office of
20 the clerk of the county commission in which the certificate of
21 incorporation is recorded and such county clerk shall make a
22 marginal notation thereof in the manner required by section
23 forty of this article. No fee shall be charged by the secretary of
24 state or county clerk for the filing or recording thereof.

§31-1-48. Survival of remedy after dissolution; effect of dissolution.

1 The dissolution of a corporation either (1) by the issuance
2 of a certificate of dissolution by the secretary of state, or (2)
3 by an order of court when the court has not liquidated the
4 assets and business or affairs of the corporation as provided in
5 this article, or (3) by expiration of its period of duration, shall
6 not take away or impair any remedy available to or against
7 such corporation, its shareholders or members, directors and
8 officers, for any right or claim existing, or any liability in-
9 curred, prior to such dissolution if action or other proceeding
10 thereon is commenced within two years after the date of such
11 dissolution. Any such action or proceeding by or against the
12 corporation may be prosecuted or defended by the corporation
13 in its corporate name. The shareholders or members, directors
14 and officers shall have power to take such corporate or other
15 action as shall be appropriate to protect such remedy, right or
16 claim. If such corporation was dissolved by the expiration of
17 its period of duration, such corporation may amend its articles
18 of incorporation at any time during such period of two years
19 so as to extend its period of duration.

20 At any time after the date of such expiration or dissolution,
21 the shareholders may elect a new board of directors; the di-

22 rector or directors remaining in office may fill any vacancies in
23 the board of directors, and in any executive office, by election
24 or appointment; and such directors or officers and their suc-
25 cessors in office may cause actions or proceedings to be
26 brought, conducted, prosecuted or defended, the real and per-
27 sonal property of the corporation to be conveyed or trans-
28 ferred under the common seal or otherwise, further assurances
29 of previous conveyances to be made, and all lawful acts to be
30 done, in the corporate name, in like manner and with like
31 effect as before such dissolution or expiration; but so far only
32 as shall be necessary or proper to do and perform every act
33 and thing which should have been or should be done and per-
34 formed by the corporation, and for collecting the debts and
35 claims due to the corporation, converting its property and
36 assets into money, prosecuting, defending and protecting its
37 rights, enforcing all claims in its favor, and paying over and
38 distributing its property and assets, or the proceeds thereof, to
39 those entitled thereto.

**§31-1-49. Admission of foreign corporation; acts permitted to be
done without certificate of authority.**

1 (a) No foreign corporation shall have the right to conduct
2 affairs or do or transact business in this state until it shall have
3 procured a certificate of authority so to do from the secretary
4 of state. No foreign corporation shall be entitled to procure a
5 certificate of authority under this article to conduct affairs or
6 do or transact any business in this state which would not be
7 permitted to be conducted, done or transacted by a corpora-
8 tion organized under this article. A foreign corporation shall
9 not be denied a certificate of authority by reason of the fact
10 that the laws of the state or county under which such corpora-
11 tion is organized governing its organization and internal affairs
12 differ from the laws of this state, and nothing in this article
13 contained shall be construed to authorize this state to regulate
14 the organization or the internal affairs of such corporation.

15 (b) Without excluding other activities which may not con-
16 stitute conducting affairs or doing or transacting business in
17 this state, a foreign corporation shall not be considered to be
18 conducting affairs or doing or transacting business in this state,

19 for the purposes of this article, by reason of carrying on in
20 this state any one or more of the following activities:

21 (1) Maintaining or defending any legal action or proceeding
22 or any administrative or arbitration proceeding, or effecting
23 the settlement thereof or the settlement of claims or disputes;

24 (2) Holding meetings of its directors, shareholders or mem-
25 bers or carrying on other activities concerning its internal
26 affairs;

27 (3) Maintaining bank accounts;

28 (4) Creating evidences of debt, mortgages or liens on real
29 or personal property;

30 (5) Securing or collecting debts or enforcing any rights in
31 property securing the same;

32 (6) Conducting its affairs or doing or transacting business
33 in interstate commerce;

34 (7) Granting funds or other gifts;

35 (8) Distributing information to its shareholders or mem-
36 bers; or

37 (9) Conducting an isolated transaction completed within a
38 period of thirty days and not in the course of a number of
39 repeated transactions of like nature.

40 (c) In addition to those activities enumerated in subsection
41 (b) of this section, a foreign corporation shall not be consider-
42 ed to be conducting affairs or doing or transacting business in
43 this state, for the purposes of this article, by reason of carrying
44 on in this state one or more of the following activities:

45 (1) Maintaining offices or agencies for the transfer, exchange
46 and registration of its securities, or appointing and maintain-
47 ing trustees or depositaries with relation to its securities;

48 (2) Effecting sales through independent contractors; or

49 (3) Soliciting or procuring orders, whether by mail or
50 through employees or agents or otherwise, where such orders
51 require acceptance without this state before becoming binding
52 contracts.

53 (d) In addition to those activities enumerated in subsections
54 (b) and (c) of this section, a foreign corporation shall not
55 be considered to be conducting affairs or doing or transacting
56 business in this state, for the purposes of this article, by reason
57 of carrying on in this state one or more of the following ac-
58 tivities:

59 (1) The acquisition by purchase of loans secured by mort-
60 gages or deeds of trust, drawn and executed in compliance with
61 section two, article one-a, chapter thirty-eight of this code on
62 real or personal property situated in West Virginia pursuant to
63 commitment agreements or arrangements made prior to or
64 following the origination or creation of said loans;

65 (2) The ownership, modification, renewal, extension, trans-
66 fer or foreclosure of such loans, or the acceptance of substi-
67 tute or additional obligors thereon;

68 (3) The maintaining or defending of any actions or suits
69 relative to such loans, mortgages or deeds of trust;

70 (4) The maintenance of bank accounts in West Virginia
71 banks in connection with the collection or servicing of such
72 loans;

73 (5) The making, collection and servicing of such loans
74 through a resident person, firm or corporation, or a foreign
75 corporation qualified to do business in West Virginia, engaged
76 in the business of servicing loans for investors;

77 (6) The taking of deeds to the mortgaged property either in
78 lieu of foreclosure or for the purpose of transferring title either
79 to the federal housing administration or to the veterans ad-
80 ministration as the insurer or guarantor;

81 (7) The acquisition of title to property under foreclosure
82 sale or from the owner in lieu of foreclosure;

83 (8) The management, rental, maintenance and sale, or the
84 operating, maintaining, renting or otherwise dealing with, sell-
85 ing or disposing of property acquired under foreclosure sale or
86 by agreement in lieu thereof;

87 (9) Physical inspection and appraisal of property in West
88 Virginia as security for deeds of trust or mortgages and nego-
89 tiations for the purchase of such loans;

90 (10) Any other transaction directly related to the activities
91 above described: *Provided*, That if property acquired in or by
92 reason of any of the activities defined in the provisions of (6),
93 (7) and (8) of this subsection shall be held longer than a
94 period of five years, the provisions of this section shall there-
95 after be inapplicable.

§31-1-53. Application for certificate of authority by foreign corporation; contents; churches or religious denominations in corporate capacity prohibited.

1 (a) A foreign corporation, in order to procure a certificate
2 of authority to conduct affairs, or do or transact business in
3 this state, shall make application therefor to the secretary of
4 state, which application shall set forth:

5 (1) The name of the corporation and the state or country
6 under the laws of which it is incorporated.

7 (2) If the name of the corporation does not contain
8 the word "corporation," "company," "incorporated" or
9 "limited," or does not contain an abbreviation of one of
10 such words, then the name of the corporation with the word
11 or abbreviation which it elects to add thereto for use in this
12 state.

13 (3) The date of incorporation and the period of duration
14 of the corporation.

15 (4) The address of the principal office of the corporation.

16 (5) The name and address of the person to whom shall be
17 sent notice or process served upon, or service of which is
18 accepted by, the secretary of state, if one has been designated.

19 (6) The purpose or purposes of the corporation which
20 it proposes to pursue in conducting its affairs or doing
21 or transacting its business in this state.

22 (7) The names and respective addresses of the directors
23 and officers of the corporation.

24 (8) Such additional information as may be necessary or
25 appropriate in order to enable the secretary of state to deter-
26 mine whether such corporation is entitled to a certificate of
27 authority to conduct its affairs or do or transact business in

28 this state and to determine and assess the fees payable as
29 prescribed by law.

30 (9) The county wherein the corporation intends to record
31 its articles of incorporation, amendments or restatement of such
32 articles of incorporation, pursuant to the provisions of sub-
33 section (c) of section fifty-four of this article.

34 (b) In the case of a business corporation, in addition to
35 those matters required to be set forth under the provisions of
36 subsection (a) of this section, such application shall set forth:

37 (1) A statement of the aggregate number of shares which
38 the corporation has authority to issue, itemized by classes, par
39 value of shares, shares without par value, and series, if any,
40 within a class.

41 (2) A statement of the aggregate number of issued shares
42 itemized by classes, par value of shares, shares without par
43 value, and series, if any, within a class.

44 (3) A statement, expressed in dollars, of the amount of
45 stated capital of the corporation, as defined in this article.

46 (4) An estimate, expressed in dollars, of the value of all
47 property to be owned by the corporation, for the following year,
48 wherever located, and an estimate of the value of the property
49 of the corporation to be located within this state during such
50 year, and an estimate, expressed in dollars, of the gross amount
51 of business which will be done or transacted by the corporation
52 during such year, and an estimate of the gross amount thereof
53 which will be done or transacted by the corporation at
54 or from places of business in this state during such year.

55 (c) Such application shall be made on forms prescribed
56 and furnished by the secretary of state and shall be executed
57 in duplicate by the corporation by its president or vice president
58 and by its secretary or an assistant secretary, and verified by one
59 of the officers signing such application.

60 (d) No church, religious sect or denomination incorporated
61 by the laws of any other state or territory of the United States,
62 the District of Columbia or of any foreign country shall be
63 qualified to conduct affairs or do or transact business in this
64 state in a corporate capacity.

§31-1-55. Effect of certificate of authority.

1 Upon the issuance of a certificate of authority by the
2 secretary of state, the corporation shall be authorized to
3 conduct affairs or do or transact business in this state for
4 those purposes set forth in its application, subject, however,
5 to the right of this state to suspend or to revoke such authority
6 as provided in this article.

§31-1-56. Appointment of person to whom notice or process may be sent by the secretary of state; change of principal office or name and address of person to receive notice or process.

1 (a) A corporation may at any time appoint a person other
2 than the corporation to whom notice or process served upon
3 the secretary of state or service of which is accepted by
4 the secretary of state may be sent, as required by section
5 fifteen of this article, by filing with the secretary of state
6 a statement setting forth:

7 (1) The name of the corporation and the state of its
8 incorporation.

9 (2) The present address of its principal office.

10 (3) Express appointment of and the name and address
11 of the person to whom notice or process shall be sent by the
12 secretary of state under section fifteen of this article.

13 (4) Express authority to the secretary of state to send
14 to such person at the address given, all notices and process
15 served upon the secretary of state or service of which is
16 accepted by the secretary of state.

17 (5) That such appointment was duly authorized by the
18 board of directors of the corporation.

19 Such statement shall be signed by the president or a
20 vice president or secretary or an assistant secretary, of the
21 corporation, verified by the signer and delivered to the
22 secretary of state, and upon receipt thereof shall be filed
23 by the secretary of state in his office.

24 (b) A corporation may at any time change the address of
25 its principal office; or the name and address, or the address,

26 of the person to whom shall be sent notice or process served
27 upon, or service of which is accepted by, the secretary of
28 state. Such change shall become effective as the name and
29 address or address last furnished to the secretary of state
30 for the purposes of section fifteen of this article only when
31 such corporation has filed in the office of the secretary of state
32 a statement setting forth:

33 (1) The name of the corporation.

34 (2) The state under whose laws it was incorporated.

35 (3) If the address of the principal office is changed, then
36 the address of the former or present principal office and
37 the address to which it is changed or to be changed.

38 (4) If the name and address or address only of the person
39 to whom notice or process is to be sent is to be changed,
40 then the name and address of such person to be used from
41 and after the filing of the statement required by this section.

42 (5) That such change was duly authorized by the board
43 of directors.

44 Such statement shall be signed by the president, vice
45 president, secretary or assistant secretary of the corporation
46 and verified by him.

**§31-1-56a. Annual report of domestic and foreign corporations;
filing.**

1 (a) Each domestic corporation, and each foreign cor-
2 poration authorized to conduct affairs or do or transact business
3 within this state, shall file with the secretary of state and
4 with the tax commissioner, within the time prescribed by this
5 article, an annual report setting forth:

6 (1) The name of the corporation and the state or country
7 under the laws of which it is incorporated.

8 (2) The address of its principal office; and, if one has
9 been appointed, the name and address of the person to whom
10 shall be sent notice and process served upon or service of
11 which is accepted by the secretary of state, as provided by
12 sections fifteen and fifty-six of this article.

13 (3) A brief statement of the character of the affairs which
14 the corporation is actually conducting, or the business it is
15 doing or transacting, in this state.

16 (4) The names and respective addresses of the directors
17 and officers of the corporation.

18 (5) In the case of a foreign corporation, the date of
19 incorporation and the following additional information: (i) the
20 date of the certificate of the secretary of state authorizing it
21 to do business in this state, the name of its officer, if any,
22 charged with the duty of making returns of its property for
23 taxation; (ii) the number of shares of its authorized capital
24 stock having a par value and the par value of each share, and
25 the number of its issued and outstanding shares and the par
26 value of each share; (iii) the number of shares of its authorized
27 capital stock having no par value, the number of shares of such
28 stock authorized to be issued and the considerations fixed for
29 the issue of each share of the same by its articles of incor-
30 poration or board of directors, and the number of shares thereof
31 issued and outstanding; (iv) the value of the property owned
32 and used by such corporation within this state, where situate,
33 of what it consists, and the number of acres of land it holds in
34 this state, and the value of its property owned and used without
35 this state; and (v) the proportion of its capital stock which is
36 represented by property owned and used in the state of West
37 Virginia.

38 (b) Such annual report shall be made on forms pre-
39 scribed and furnished by the secretary of state, and the in-
40 formation therein contained shall be given as of the date of the
41 execution of the report. It shall be executed and verified by
42 the corporation by its president, a vice president, secretary or
43 treasurer, or an assistant secretary or treasurer, or, if the
44 corporation is in the hands of a receiver or trustee, it shall
45 be executed on behalf of the corporation by such receiver or
46 trustee.

47 (c) Such annual report of a domestic or foreign corporation
48 shall be delivered to the secretary of state and the tax com-
49 missioner in duplicate, between the first day of January and
50 the thirty-first day of March of each year, except that the first
51 annual report of a domestic or foreign corporation shall be

52 filed between the first day of January and the thirty-first day of
53 March of the year next succeeding the calendar year in which
54 its certificate of incorporation or its certificate of authority,
55 as the case may be, was issued by the secretary of state. Proof
56 to the satisfaction of the secretary of state that prior to the
57 thirty-first day of March such reports were deposited in the
58 United States mail in sealed envelopes, properly addressed to
59 the secretary of state and the tax commissioner, with postage
60 prepaid, shall be deemed compliance with this requirement. If
61 the secretary of state finds that such report conforms to the re-
62 quirements of this article, he shall file the same. If he finds that
63 it does not so conform, he shall promptly return the same to
64 the corporation for any necessary corrections, which correc-
65 tions shall be made and the corrected report be returned by the
66 corporation to the secretary of state and tax commissioner
67 within thirty days, and upon receipt of such corrected report
68 the secretary of state shall file the same.

**§31-1-56b. Penalties imposed for failure to file annual report;
notice; hearings conducted by secretary of state;
appeal.**

1 Each corporation, domestic or foreign, which fails or
2 refuses to file its annual report or corrected annual report,
3 if such corrected report is requested, for three successive
4 years, as required by the provisions of section fifty-six-a
5 of this article, shall be notified by registered or certified
6 mail, return receipt requested, of its failure to file such
7 annual reports. Such notice shall be mailed to the corpora-
8 tion as provided in section fifteen of this article.

9 Such notice shall also advise the corporation that its
10 failure to file all of the annual reports within thirty days of
11 receipt of the notice shall subject such corporation to an
12 order of dissolution or an order revoking its certificate of
13 authority, as the case may be. Such order shall also advise
14 the corporation of its right to a hearing and shall set forth
15 the date and time of the hearing, which hearing shall be held
16 in the office of the secretary of state by the secretary of
17 state or his designee. At such hearing, the corporation shall
18 be afforded an opportunity to explain its reasons for failure
19 to file the required reports.

20 If the corporation fails to file the required reports within
21 such thirty day period or fails to appear at the hearing,
22 as set by the secretary of state, or fails to explain to the
23 satisfaction of the secretary of state its reasons for not
24 filing the reports, then the secretary of state shall issue an
25 order dissolving the corporation or shall issue an order
26 revoking its certificate of authority as the case may be.

27 Any person or corporation aggrieved by the action of the
28 secretary of state with respect to dissolving the corporation
29 or revoking its certificate of authority under this section
30 shall have the same right of appeal as set forth in subsection
31 (b) of section sixty-eight of this article.

**§31-1-60. Procedure for withdrawal of foreign corporation;
publication required; application for certificate of
withdrawal; contents; filing; issuance of certificate;
recording.**

1 (a) A foreign corporation authorized to conduct affairs
2 or do or transact business in this state may withdraw from
3 this state upon procuring from the secretary of state a
4 certificate of withdrawal. In order to procure such certificate
5 of withdrawal, such foreign corporation shall publish a
6 notice of its intention to withdraw from the state, such notice
7 to be published as a Class II legal advertisement in compliance
8 with the provisions of article three, chapter fifty-nine of this
9 code, and the publication area for such publication shall be
10 the county in which its principal office in this state is situated,
11 or if there be no such office in this state, then any county in
12 this state where it conducts its affairs or transacts its business.

13 (b) After publication of the notice required by the pro-
14 visions of subsection (a) of this section, such foreign corpora-
15 tion shall make application to the secretary of state for a
16 certificate of withdrawal, which application shall set forth:

17 (1) The name of the corporation and the state or country
18 under the laws of which it is incorporated.

19 (2) That the corporation has ceased conducting affairs or
20 has ceased doing or transacting business in this state.

21 (3) That the corporation surrenders its authority to conduct
22 affairs or do or transact business in this state.

23 (4) A post-office address to which the secretary of state
24 may mail a copy of any process against the corporation that
25 may be served on him.

26 (5) Such additional information as may be necessary or
27 appropriate in order to enable the secretary of state and tax
28 commissioner to determine and assess any unpaid fees and
29 annual corporate license tax payable by such foreign cor-
30 poration as may be prescribed by law.

31 (c) In the case of a business corporation, in addition to
32 those matters required to be set forth under the provisions
33 of subsection (b) of this section, such application shall set
34 forth:

35 (1) A statement of the aggregate number of shares which
36 the corporation has authority to issue, itemized by classes,
37 par value of shares, shares without par value, and series, if
38 any, within a class, as of the date of such application.

39 (2) A statement of the aggregate number of issued shares,
40 itemized by classes, par value of shares, shares without par
41 value, and series, if any, within a class, as of the date of
42 such application.

43 (3) A statement, expressed in dollars, of the amount of
44 stated capital of the corporation, as of the date of such
45 application.

46 (d) The application for a certificate of withdrawal shall
47 be made on forms prescribed and furnished by the secretary
48 of state and shall be executed by the corporation by its
49 president or a vice president and by its secretary or an
50 assistant secretary, and verified by one of the officers
51 signing the application, or, if the corporation is in the hands
52 of a receiver or trustee, shall be executed on behalf of the
53 corporation by such receiver or trustee and verified by him.
54 Such application shall be accompanied by a copy of the
55 notice required to be published under the provisions of sub-
56 section (a) of this section and the publisher's certificate of
57 such publication.

58 (e) Duplicate originals of such application for a certificate
59 of withdrawal shall be delivered to the secretary of state. If
60 the secretary of state finds that such application conforms to
61 law, he shall, when all fees have been paid, as prescribed
62 by law, (i) endorse on each of such duplicate originals the
63 word "Filed," and the month, day and year of the filing
64 thereof; (ii) file one of such duplicate originals in his office;
65 and (iii) subject to the provisions of section sixty-one of this
66 article, issue a certificate of withdrawal to which he shall
67 affix the other duplicate original.

68 (f) The certificate of withdrawal, together with the duplicate
69 original of the application for withdrawal affixed thereto by
70 the secretary of state, shall be returned to the corporation
71 or its representative. The corporation or its representative
72 shall record the certificate of withdrawal in the office of the
73 clerk of the county commission in which the corporation's cer-
74 tificate of authority is recorded, and the clerk shall note on the
75 margin of the record book in which such certificate of author-
76 ity is engrossed the fact of the withdrawal of the corporation.

§31-1-62. Conditions for revocation of certificate of authority.

1 (a) Subject to the provisions of section sixty-eight of this
2 article, the certificate of authority of a foreign corporation to
3 conduct affairs or do or transact business in this state may be
4 revoked by the secretary of state upon the conditions pres-
5 cribed in this section when:

6 (1) The corporation has failed or refused to file in the of-
7 fice of the secretary of state its annual report or corrected an-
8 nual report as required by section fifty-six-a of this article, or

9 (2) The corporation has failed to file in the office of the
10 secretary of state any amendment to its articles of incorpora-
11 tion as required by the provisions of section fifty-seven of this
12 article, or

13 (3) The corporation has failed to file in the office of the
14 secretary of state any articles of merger, as required by the
15 provisions of section fifty-eight of this article, or

16 (4) A misrepresentation has been made of any material
17 matter in any application, report, affidavit or other document

18 submitted by such corporation pursuant to the provisions of
19 this article.

20 (b) No certificate of authority of a foreign corporation
21 shall be revoked by the secretary of state unless:

22 (1) He shall have given the corporation not less than sixty
23 days' notice thereof by registered or certified mail, return re-
24 ceipt requested, addressed to its principal office, and

25 (2) The corporation shall fail, prior to revocation, to file
26 its annual statement or shall fail to file any amendment to its
27 articles of incorporation or shall fail to file any articles of mer-
28 ger or shall fail to correct any such misrepresentation.

§31-1-63. Issuance of order of revocation; period of appeal.

1 (a) Upon revoking any certificate of authority, the secretary
2 of state shall issue an order of revocation in duplicate, one of
3 which shall be filed in his office and the other shall be mailed
4 by registered or certified mail, return receipt requested, to the
5 corporation at its principal office and a copy of the notice re-
6 quired by the provisions of subsection (b) of section sixty-two
7 of this article shall be attached thereto.

8 (b) Such corporation shall have thirty days from the date
9 of receipt of such order of revocation to appeal the action of
10 the secretary of state in accordance with the provisions of
11 section sixty-eight of this article, and if such appeal be not
12 taken within such thirty-day period, then the order of the
13 secretary of state revoking the certificate of authority of such
14 corporation shall be final and the authority of the corporation
15 to conduct affairs or do or transact business in this state shall
16 cease.

17 (c) When said order of revocation becomes finally effec-
18 tive, whether upon no appeal being taken or being sustained
19 upon appeal, it shall be recorded in the office of the clerk of the
20 county commission of the county in which such corporation's
21 original certificate of authority was recorded, and such clerk
22 shall record the same without charge or fee, and shall note on
23 the margin of the record book in which such certificate of
24 authority is engrossed the fact of the revocation of the certifi-
25 cate of authority of the corporation.

PART III—BUSINESS CORPORATIONS.

§31-1-90. Shareholders' preemptive rights.

1 The articles of incorporation may contain such provisions
2 as may be desired limiting or denying to the shareholders of
3 a corporation the preemptive right to acquire unissued or
4 treasury shares theretofore or thereafter authorized of any or
5 all classes or securities convertible into such shares or carry-
6 ing a right to subscribe to or acquire such shares.

§31-1-104. Officers; removal of officers.

1 (a) The officers of a corporation shall consist of a pres-
2 ident, a secretary, and a treasurer, each of whom shall
3 be elected by the board of directors at such time and in
4 such manner as may be prescribed by the bylaws. Such
5 other officers and assistant officers and agents as may be
6 deemed necessary may be elected or appointed by the
7 board of directors or chosen in such other manner as may
8 be prescribed by the bylaws. Any two or more offices may
9 be held by the same person, except the offices of president and
10 secretary.

11 All officers and agents of the corporation, as between them-
12 selves and the corporation, shall have such authority and per-
13 form such duties in the management of the corporation as may
14 be provided in the bylaws, or as may be determined by reso-
15 lution of the board of directors not inconsistent with the by-
16 laws.

17 (b) Any officer or agent may be removed by the board of
18 directors whenever in its judgment the best interests of the
19 corporation will be served thereby, but such removal shall be
20 without prejudice to the contract rights, if any, of the person
21 so removed. Election or appointment of an officer or agent
22 shall not of itself create contract rights.

§31-1-108. Class voting on amendments.

1 The holders of the outstanding shares of a class shall be
2 entitled to vote as a class upon a proposed amendment, whether
3 or not entitled to vote thereon by the provisions of the articles
4 of incorporation, if the amendment would:

- 5 (a) Increase or decrease the aggregate number of authorized
6 shares of such class.
- 7 (b) Increase or decrease the par value of the shares of such
8 class.
- 9 (c) Effect an exchange, reclassification or cancellation of
10 all or part of the shares of such class.
- 11 (d) Effect an exchange, or create a right of exchange, of
12 all or any part of the shares of another class into the shares of
13 such class.
- 14 (e) Change the designations, preferences, limitations or
15 relative rights of the shares of such class.
- 16 (f) Change the shares of such class, whether with or without
17 par value, into the same or a different number of shares,
18 either with or without par value, of the same class or another
19 class or classes.
- 20 (g) Create a new class of shares having rights and prefer-
21 ences prior and superior to the shares of such class, or in-
22 crease the rights and preferences or the number of authorized
23 shares, of any class having rights and preferences prior or
24 superior to the shares of such class.
- 25 (h) In the case of a preferred or special class of shares,
26 divide the shares of such class into series and fix and deter-
27 mine the designation of such series and the variations in the
28 relative rights and preferences between the shares of such ser-
29 ies, or authorize the board of directors to do so.
- 30 (i) Limit or deny the existing preemptive rights of the shares
31 of such class.
- 32 (j) Cancel or otherwise affect dividends on the shares of
33 such class which have accrued but have not been declared.

§31-1-109. Articles of amendment.

- 1 The articles of amendment shall be executed in dupli-
2 cate by the corporation by its president or a vice presi-
3 dent and by its secretary or an assistant secretary and verified
4 by one of the officers signing such articles, and shall set forth:
- 5 (a) The name of the corporation.

6 (b) The amendments so adopted.

7 (c) The date of the adoption of the amendment by the
8 shareholders, or by the board of directors where no shares
9 have been issued.

10 (d) The number of shares outstanding, and the number
11 of shares entitled to vote thereon, and if the shares of any
12 class are entitled to vote thereon as a class, the designation
13 and number of outstanding shares entitled to vote thereon of
14 each such class.

15 (e) The number of shares voted for and against such
16 amendment, respectively, and, if the shares of any class are
17 entitled to vote thereon as a class, the number of shares
18 of each such class voted for and against such amendment,
19 respectively, or if no shares have been issued, a statement to
20 that effect.

21 (f) If such amendment provides for an exchange, reclassifi-
22 cation or cancellation of issued shares, and if the manner in
23 which the same shall be effected is not set forth in the amend-
24 ment, then a statement of the manner in which the same shall be
25 effected.

26 (g) If such amendment effects a change in the amount
27 of stated capital, then a statement of the manner in which
28 the same is effected and a statement, expressed in dollars, of
29 the amount of stated capital as changed by such amendment.

30 (h) The amendment shall contain a statement of the name
31 and address of the person who, or the firm which, prepared
32 such amendment.

**§31-1-131. Revocation of voluntary dissolution proceedings by act
of corporation.**

1 By the act of the corporation, a corporation may, at any
2 time prior to the issuance of a certificate of dissolution by
3 the secretary of state, revoke voluntary dissolution proceedings
4 theretofore taken, in the following manner:

5 (a) The board of directors shall adopt a resolution recom-
6 mending that the voluntary dissolution proceedings be re-
7 voked, and directing that the question of such revocation be
8 submitted to a vote at a special meeting of shareholders.

9 (b) Written notice, stating that the purpose or one of
10 the purposes of such meeting is to consider the advisability
11 of revoking the voluntary dissolution proceedings, shall be
12 given to each shareholder of record entitled to vote at such
13 meeting within the time and in the manner provided in this
14 article for the giving of notice of special meetings of share-
15 holders.

16 (c) At such meeting a vote of the shareholders entitled
17 to vote thereat shall be taken on a resolution to revoke the
18 voluntary dissolution proceedings, which shall require for
19 its adoption the affirmative vote of a majority of the shares
20 entitled to vote thereon.

21 (d) Upon the adoption of such resolution, a statement of
22 revocation of voluntary dissolution proceedings shall be ex-
23 ecuted in duplicate by the corporation by its president or a vice
24 president and by its secretary or an assistant secretary, and
25 verified by one of the officers signing such statement, which
26 statement shall set forth:

27 (1) The name of the corporation.

28 (2) The names and respective addresses of its officers.

29 (3) The names and respective addresses of its directors.

30 (4) A copy of the resolution adopted by the shareholders
31 revoking the voluntary dissolution proceedings.

32 (5) The number of shares outstanding.

33 (6) The number of shares voted for and against the resolu-
34 tion, respectively.

PART IV—NONPROFIT CORPORATIONS.

§31-1-144. Membership certificates permitted; dividends prohibited.

1 Corporations may have or issue to its members certificates of
2 membership evidencing proportionate ownership of the cor-
3 porate assets, but having no vote as such, the power to vote
4 being reserved to the members. All shares of stock in non-
5 profit corporations now issued and outstanding shall be
6 treated for all purposes as membership certificates. No
7 dividend shall be paid and no part of the income or profit

8 of a corporation shall be distributed to its members, directors
9 or officers. A corporation may pay compensation in a rea-
10 sonable amount to its members, directors, or officers for
11 services rendered, may confer benefits upon its members in
12 conformity with its purposes, and upon dissolution or final
13 liquidation may make distributions to its members as permitted
14 by this article, and no such payment, benefit or distribution
15 shall be deemed to be a dividend or a distribution of income
16 or profit.

§31-1-148. Articles of amendment.

1 The articles of amendment shall be executed in duplicate
2 by the corporation by its president or a vice president and by
3 its secretary or an assistant secretary and shall set forth:

4 (a) The name of the corporation.

5 (b) The amendment so adopted.

6 (c) If there are members entitled to vote thereon, (1)
7 a statement setting forth the date of the meeting of members
8 at which the amendment was adopted, that a quorum was
9 present at such meeting, and that such amendment received
10 a majority of the votes which members present at such meeting
11 or represented by proxy were entitled to cast, or (2) a state-
12 ment that such amendment was adopted by a consent in writing
13 signed by all members entitled to vote with respect thereto.

14 (d) If there are no members, or no members entitled to
15 vote thereon, a statement of such fact, the date of the meeting
16 of the board of directors at which the amendment was adopted,
17 and a statement of the fact that such amendment received the
18 vote of a majority of the directors in office.

19 (e) The amendment shall contain a statement of the name
20 and address of the person who, or the firm which, prepared
21 such amendment.

**§31-1-149. Restated articles of incorporation; procedures for adop-
tion; contents.**

1 A domestic corporation may at any time restate its articles
2 of incorporation as theretofore amended, by a resolution adopt-
3 ed by the board of directors.

4 Upon the adoption of such resolution, restated articles of
5 incorporation shall be executed in duplicate by the corporation
6 by its president or a vice president and by its secretary or as-
7 sistant secretary and verified by one of the officers signing such
8 articles and shall set forth all of the operative provisions of the
9 articles of incorporation as theretofore amended together with
10 a statement that the restated articles of incorporation correctly
11 set forth without change the corresponding provisions of the
12 articles of incorporation as theretofore amended and that the
13 restated articles of incorporation supersede the original articles
14 of incorporation and all amendments thereto.

CHAPTER 11. TAXATION.

ARTICLE 12. LICENSE TAXES.

§11-12-77. Relief from assessment of corporate license tax.

§11-12-80. Filing of annual reports by corporations; license tax on foreign corporations.

§11-12-81. Preliminary report by foreign corporations; assessments; collection of license taxes.

§11-12-83. Notice to corporations taxable; statement on payment; tax as lien.

§11-12-77. Relief from assessment of corporate license tax.

1 Any corporation feeling aggrieved at the assessment of its
2 license tax by the tax commissioner, under the provisions of this
3 article may appeal to the circuit court of the county in which
4 the principal office of such corporation is situated, or is
5 proposed to be situated, or if such principal office is
6 located or to be located outside this state, then such
7 appeal shall be to the circuit court of Kanawha county.
8 Such appeal shall be taken within thirty days from the
9 date of receipt of the notice of the assessment.

10 The appeal shall be taken by the filing of a petition and
11 notice, which petition and notice shall be served upon the tax
12 commissioner as an original notice. When said petition and
13 notice is so served, it shall, with the return thereon, be filed
14 in the office of the clerk of the circuit court and docketed as
15 other cases with the taxpayer as plaintiff and the tax com-
16 missioner as defendant.

§11-12-80. Filing of annual reports by corporations; license tax on foreign corporations.

1 Every domestic corporation and foreign corporation which
2 has qualified to hold property or to do business in this state
3 shall file with the tax commissioner annually on or before the
4 thirty-first day of the third month of each year, two copies of
5 the annual report required by section fifty-six-a, article one,
6 chapter thirty-one of this code.

7 It shall be the duty of the tax commissioner to assess and
8 fix the license tax of each such foreign corporation according to
9 the proportion of its issued and outstanding capital stock
10 which is represented by its property owned and used in
11 this state, which license tax shall be at the rate prescribed
12 in section seventy-eight of this article, plus seventy-five per-
13 cent of such tax. In no event shall any such foreign
14 corporation pay an annual license tax of less than two hundred
15 fifty dollars, which shall be in addition to the fee of the sec-
16 retary of state as statutory attorney-in-fact. The tax commis-
17 sioner may in any case require such additional information as
18 he may deem necessary to enable him to assess and fix the
19 just amount of license tax of such corporation; and it shall be
20 his duty to notify every such corporation of the amount so
21 assessed by him and it shall be the duty of the corporation to
22 pay the same to the tax commissioner within thirty days there-
23 after, and if it fail to do so it shall be liable to the penalties
24 prescribed in sections eighty-six and eighty-seven of this article.

§11-12-81. Preliminary report by foreign corporations; assessments; collection of license taxes.

1 Every foreign corporation, at the time of its application for
2 a certificate of authority under the provisions of article one of
3 chapter thirty-one of this code, shall file with the secretary
4 of state a report preliminary to the annual report required to
5 be filed under the provisions of section eighty of this article,
6 which preliminary report shall contain sufficient information
7 upon which to base an assessment of its license tax for the then
8 current year. It shall be the duty of the secretary of state to
9 make assessment of its license tax for such year, and he may
10 require such further information as he may deem necessary
11 for that purpose. Before issuing such certificate the secretary

12 of state shall collect the amount of license tax he finds to be
13 proper for the license tax year ending with the thirtieth day of
14 the last month of the license tax year. If the certificate be is-
15 sued after the last day of the third month of the license tax
16 year and before the first day of the ensuing license tax year, the
17 secretary of state shall assess and collect such taxes at the
18 rate of one tenth the amount of the annual license tax for each
19 month or fractional part of a month to ensue before the first
20 day of the ensuing license tax year. Thereafter on or before the
21 first day of the license tax year next following the date of the
22 certificate of authority and on or before every succeeding first
23 day of the license tax year the tax commissioner shall collect
24 such tax for a full year: *Provided*, That if the certificate be
25 issued in either of the last two months of the license tax year,
26 the secretary of state shall assess and collect the license tax for
27 such month or months, as well as for a full year beginning with
28 the first day of the ensuing license tax year. When the tax
29 commissioner shall assess and collect the tax on any such for-
30 eign corporation, he may include in the tax for any year any
31 amount that such corporation should have paid for any pre-
32 vious year and failed to pay. The collections hereunder shall
33 be in addition to the annual fee of the secretary of state as stat-
34 utory attorney-in-fact. All moneys collected by the secretary of
35 state and the tax commissioner shall be paid into the state
36 treasury in the manner prescribed by law.

**§11-12-83. Notice to corporations taxable; statement on payment;
tax as lien.**

1 It shall be the duty of the tax commissioner, between the
2 fifteenth day of the third month next preceding the first day
3 of the license tax year and the fifteenth day of the second
4 month next preceding the first day of the license tax year, in
5 each year, to notify each corporation, liable to the tax imposed
6 by this article, of the time of payment of such tax and the
7 amount thereof, together with the statutory attorney fee, if any.
8 Such notices may be sent through the mails, addressed to the
9 corporation at its last known post-office address as shown by
10 the records in the office of the secretary of state. If the tax
11 commissioner shall make a mistake in the amount of such

12 tax such corporation may file a sworn certificate of the presi-
13 dent, vice president or secretary of the corporation, showing
14 such mistake, or showing the actual amount of tax due; and,
15 in that event, it shall be the duty of the tax commissioner to
16 accept the amount due as shown by such certificate, unless con-
17 trary to provisions of this article. The payment of the tax and
18 statutory attorney fee, payable under the provisions of this sec-
19 tion, shall be accompanied by a report on forms provided by the
20 tax commissioner for the purpose, and shall be submitted in du-
21 plicate. The tax commissioner shall forward a copy of such re-
22 port to the secretary of state, together with a list of all corpora-
23 tions which have paid such tax. Such report shall contain, in
24 addition to such information as the tax commissioner deems ap-
25 propriate, the name and address of the corporation, the date of
26 incorporation, the place of its principal office and the names
27 and post-office addresses of its president, secretary and other
28 officers. The amount of such tax shall be deemed a debt due the
29 state, and shall be a lien as to an innocent purchaser for value,
30 on the property and assets of the corporation prior to all other
31 liens, except the lien of the taxes levied on its property for state,
32 county and district purposes, from the time a notice of such
33 lien, specifying the year and the amount for which the lien is
34 claimed, is filed in the office of the clerk of the county commis-
35 sion of the county in which the property subject to such liens is
36 situated. Such clerk shall, upon the filing in his office of any
37 such notice, record such notice in a separate docket in his office
38 to be known as "Corporation License Tax Lien Docket," and
39 index the same in the name of the corporation against whom
40 the lien is claimed. Upon payment of such lien debt there shall
41 be executed by the tax commissioner and delivered to the clerk
42 of the county commission in whose office notice of such lien is
43 filed a release thereof, which said release shall be filed and
44 recorded by such clerk in like manner as releases of judgment
45 liens are filed and recorded. Such tax shall be a preferred
46 debt in case of insolvency.

CHAPTER 119

(H. B. 1228—By Mr. Seibert)

[Passed March 6, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-b, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia housing development fund; relating to the special fund established in the state treasury under the supervision of the state sinking fund commission known as the "mortgage finance bond insurance fund"; providing for deposit of certain moneys therein and payments therefrom; relating to such special fund generally; and providing for appropriations to cover deficiencies in such special fund and reimbursements of the state from certain sources.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-20b. 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
3 "mortgage finance bond insurance fund" into and from
4 which moneys shall be paid as provided in this section.
5 The mortgage finance bond insurance fund shall be
6 under the supervision and control of the state sinking
7 fund commission and all moneys and securities held
8 therein or investments thereof shall be held in trust
9 subject to use and application only as provided herein
10 and in the resolution or resolutions of the housing
11 development fund authorizing the issuance of any mort-
12 gage finance bonds, notwithstanding any other provision
13 of law. The mortgage finance bond insurance fund shall be
14 kept separate and apart from all other moneys and funds of
15 the state and the housing development fund is hereby autho-

16 rized to pledge any amount or amounts held therein to the
17 payment of the principal (including annual sinking fund
18 payments) of, and interest on, mortgage finance bonds in the
19 manner and to the extent and on such terms and conditions
20 as may be provided by the housing development 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 the
24 proceeds of sale of mortgage finance bonds, except federally
25 insured construction loans, federally insured mortgages, or
26 federal mortgages, a special bond insurance commitment fee
27 and special bond insurance premiums. The special bond
28 insurance commitment fees and special bond insurance pre-
29 miums so charged shall be remitted to the state sinking fund
30 commission, promptly after the last day of each calendar
31 quarter, by the housing development fund, or by any trustee,
32 trustees, agent or agents designated by the housing develop-
33 ment fund to receive the same and shall be held, invested and,
34 together with all investment income thereon, reinvested by
35 the state sinking fund commission in investments authorized
36 under section six of this article.

37 (c) Simultaneously with the issuance of any mortgage
38 finance bonds, the housing development fund shall cause to
39 be deposited in the mortgage finance bond insurance fund an
40 amount of the proceeds of sale and delivery of such mortgage
41 finance bonds which together with the sum of the amount then
42 on deposit in the mortgage finance bond insurance fund and
43 in reserves theretofore or then set aside with a trustee or
44 trustees and held pursuant to the resolution or resolutions
45 authorizing the issuance of such bonds only for the payment
46 of designated mortgage finance bonds prior to, or at, their
47 maturity, shall equal the minimum bond insurance require-
48 ment. Except as provided in subsection (e) of this section,
49 amounts on deposit in the mortgage finance bond insurance
50 fund which are in excess of the minimum bond insurance
51 requirement may be withdrawn from the mortgage finance
52 bond insurance fund and paid to or upon the order of the
53 housing development fund upon thirty days' notice in writing to
54 the state sinking fund commission. For the purposes of deter-

55 mining any amounts held in the mortgage finance bond in-
56 surance fund, securities held in or other investments of the
57 mortgage finance bond insurance fund shall be valued at par.
58 If, at any time, the housing development fund shall determine
59 that because of defaults or other reasons, the moneys available
60 therefor shall be insufficient to pay the principal, including the
61 annual sinking fund payment, of, and interest on, mortgage
62 finance bonds becoming due during the next ensuing six-month
63 period, the housing development fund shall give written notice
64 to the state sinking fund commission to transfer the amount of
65 moneys required for such payment, on or before the time and
66 to such trustee or paying agent for any of the mortgage
67 finance bonds as shall be specified in such notice, and the
68 state sinking fund commission shall make such transfer.

69 (d) In the event that the sum of the amount held in the
70 mortgage finance bond insurance fund and in reserves set
71 aside with a trustee or trustees and held pursuant to the
72 resolution or resolutions authorizing the issuance of such
73 bonds only for the payment of designated mortgage finance
74 bonds prior to, or at, their maturity, shall be less than
75 the minimum bond insurance requirement, the chairman of the
76 housing development fund shall certify, on or before the
77 first day of December of each year, the amount of such de-
78 ficiency to the governor of the state, for inclusion, if the
79 governor shall so elect, of the amount of such deficiency
80 in the budget to be submitted to the next session of the
81 Legislature for appropriation to the state sinking fund com-
82 mission for deposit in the mortgage finance bond insurance
83 funds: *Provided*, That the Legislature shall not be required
84 to make any appropriation so requested, and the amount of
85 such deficiencies shall not constitute a debt or liability of
86 the state.

87 (e) Subject to any agreement or agreements with holders
88 of outstanding notes and bonds of the housing development
89 fund, any amount or amounts paid by the state into the
90 mortgage finance bond insurance fund pursuant to this
91 section shall be repaid to the state as, when, and to the
92 extent, amounts held in the mortgage finance bond insurance
93 fund at any time or times after any payment by the state
94 into the mortgage finance bond insurance fund shall exceed

95 the minimum bond insurance requirement at such time or
96 times or as may otherwise be provided by law.

†

CHAPTER 120

(H. B. 839—By Mr. Burke and Mrs. Given)

[Passed February 24, 1975; 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-u, relating to empowering counties and municipalities to treat streams to prevent floods by rechanneling, dredging, removing obstructions, straightening stream channels and carrying out erosion and sedimentation control measures and programs; to acquire property required for such purpose; to levy and accept money and services available for such purpose; and to cooperate with each other to carry out stream treatment; and defining the term "stream" for purposes of the section.

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-u, to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3u. Authority of counties and municipalities to treat streams to prevent floods.

1 To protect people and property from floods, counties and
2 municipalities are hereby empowered to rechannel and dredge
3 streams; remove accumulated debris, snags, sandbars, rocks
4 and any other kinds of obstructions from streams; straighten
5 stream channels; and carry out erosion and sedimentation con-
6 trol measures and programs.

7 For stream treatment to prevent floods as provided in this
8 section, counties and municipalities are hereby further empow-

9 ered to levy, within all constitutional and statutory limitations;
 10 acquire property by purchase, exercise of the right of eminent
 11 domain, lease, gift or grant; accept any and all benefits,
 12 moneys, services and assistance which may be available from
 13 the federal and state government or any private source; issue
 14 and sell bonds within the constitutional and statutory limita-
 15 tions prescribed by law for the issuance and sale of bonds by
 16 counties and municipalities for public purposes generally. Any
 17 such levy shall be equal and uniform throughout the county or
 18 municipality.

19 The power and authority granted in this section, may be
 20 exercised by any county or municipality in cooperation with
 21 each other or separately as provided in section three-i of this
 22 article. Any county or municipality which exercises any power
 23 or authority set forth in this section shall comply with all
 24 applicable provisions of federal and state laws and rules and
 25 regulations lawfully promulgated thereunder.

26 The term "stream" as used in this section means any water-
 27 course, whether natural or man-made, distinguishable by banks
 28 and a bed, regardless of their size, through which water flows
 29 continually or intermittently, regardless of its volume.

CHAPTER 121

{Com. Sub. for S. B. 110—By Mr. Hamilton, Mr. Kusic and Mr. Neeley}

[Passed March 8, 1975; 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 a new section, designated section three-v, authorizing and empowering county commissions to adopt building codes and take other necessary action in order to comply with the National Flood Insurance Act of 1968, as amended; and relating to enforcement.

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-v, to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3v. Floodplain and mudslide area management; legislative findings; power and authority; enforcement; provisions cumulative.

1 (a) The Legislature hereby finds and declares that it
2 is imperative that municipalities and counties in this
3 state be fully authorized and empowered to take all
4 action necessary to comply with the requirements of the
5 National Flood Insurance Act of 1968 (Public Law 91-
6 152), as amended by the Congress of the United States
7 through the fifteenth day of February, one thousand nine
8 hundred seventy-five; that municipalities presently are
9 vested with all statutory power and authority necessary
10 in this regard; and that the purpose of this section is to
11 authorize and empower the several counties of this state
12 to comply with such requirements.

13 (b) As used in this section:

14 (1) "Act" means the National Flood Insurance Act of
15 1968 (Public Law 91-152), as amended by the Congress
16 of the United States through the fifteenth day of Febru-
17 ary, one thousand nine hundred seventy-five; and

18 (2) "Specified area or areas" means the area or areas
19 specified under such act as a floodplain or mudslide area
20 or areas within which control over construction and im-
21 provements must be exercised in order to comply with
22 such act.

23 (c) To the extent and only to the extent necessary to
24 comply with the eligibility requirements of and otherwise
25 fully and in all respects to comply with the requirements
26 of such act, the county commission of each county is
27 hereby authorized and empowered to (i) adopt, adminis-
28 ter and enforce building codes for a specified area or
29 areas within such county, which building codes may
30 establish different requirements for different specified
31 areas; (ii) require and issue building permits for all

32 proposed construction or other improvements in such
33 county: *Provided*, That nothing contained in this sub-
34 division (ii) shall authorize a county commission to
35 refuse to issue a building permit for any proposed con-
36 struction or other improvement outside of a specified area
37 or areas within such county; (iii) conduct inspections
38 of construction and other improvements in a specified
39 area or areas within such county and (iv) other-
40 wise take such action and impose such requirements
41 regarding land use and control measures in a specified
42 area or areas within such county as shall be necessary
43 under such act: *Provided*, That no such building code
44 adopted by a county commission shall apply within nor
45 any authority hereinabove granted exercised by a county
46 commission within the corporate limits of any municipi-
47 pality which has taken appropriate action to comply with
48 such act, unless and until such municipality so provides
49 by ordinance. Any such building code adopted by a coun-
50 ty commission and any other requirements imposed by
51 a county commission under the provisions of this subsec-
52 tion (c) may be enforced by injunctive action in the
53 circuit court of the county.

54 (d) The power and authority conferred upon county
55 commissions in this section is supplemental to and not in
56 derogation of any power and authority heretofore or
57 hereafter conferred by law upon county commissions.

CHAPTER 122

(Com. Sub. for H. B. 1177—By Mr. Peak and Mr. Damron, 10th Dist.)

[Passed March 8, 1975; in effect January 1, 1977. Approved by the Governor.]

AN ACT to amend and reenact section four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing the compensation of certain county assessors, sheriffs and prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That section four, 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.

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

1 For the purpose of determining the compensation to be paid
 2 to the elected county officials of each county, the following
 3 compensations for each county office by class are hereby es-
 4 tablished and shall be used by each county commission in
 5 determining the compensation of each of their county officials
 6 other than compensation of members of the county commis-
 7 sion:

		Sheriff	County Clerk	Circuit Clerk	Assessor	Prosecuting Attorney
8	Class I	\$15,000	\$19,500	\$19,500	\$15,000	\$30,000
9	Class II	\$15,000	\$15,600	\$15,600	\$15,000	\$28,000
10	Class III	\$14,000	\$15,600	\$15,600	\$15,000	\$18,000
11	Class IV	\$13,500	\$13,000	\$13,000	\$13,500	\$17,500
12	Class V	\$12,000	\$11,500	\$11,500	\$12,000	\$14,500
13	Class VI	\$ 9,500	\$ 8,300	\$ 8,300	\$ 9,500	\$10,000
14	Class VII	\$ 4,200	\$ 3,600	\$ 3,000	\$ 3,600	\$ 2,100

15 Any county clerk, circuit clerk, joint clerk of the county
 16 commission and circuit court, if any, county assessors, sheriff
 17 and prosecuting attorney of a Class I county and any prose-
 18 cuting attorney of a Class II county shall devote full time to
 19 his public duties to the exclusion of any other employment.
 20 Notwithstanding the effective date of this section the compen-
 21 sation provided in this section for assessors, sheriffs and prose-
 22 cuting attorneys shall become effective January first, one

23 thousand nine hundred seventy-seven, and the compensation
 24 provided for county clerks, circuit clerks and joint clerks of
 25 county commissions and circuit courts shall become effective
 26 January first, one thousand nine hundred seventy-five.

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

CHAPTER 123

(S. B. 489—By Mr. Brotherton, Mr. President)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article eleven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county parks and recreation commissions and authorizing county parks and recreation commissions to take and hold title to any real or personal property, whether such property be located wholly within or partly within and partly without the county.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-2. Commission a body corporate; perpetual existence; name; power and authority; authority of county commission; indebtedness of commission; agreements; tax exemption.

1 Any parks and recreation commission created by a
 2 county court pursuant to the authority of this article shall
 3 be a public corporate body with perpetual existence and

4 a corporate seal. It shall be known as the (name of
5 county) county parks and recreation commission. Any
6 board of park and recreation commissioners heretofore
7 created under the former provisions of this article shall
8 hereafter be known as the (name of county) county parks
9 and recreation commission, and such commission shall
10 succeed to all of the properties, interest and assets of
11 any such board of park and recreation commissioners.
12 The commission shall have the power and authority to
13 receive and control any gift, federal grant, other grant,
14 donation and bequest or devise; to exercise the right
15 of eminent domain if an order of the county court au-
16 thORIZING exercise of the right as to any proposed ac-
17 quisition is first made and entered; to take and hold title
18 to any real or personal property, whether such prop-
19 erty be located wholly within or partly within and
20 partly without the county; to receive all operating and
21 capital funds appropriated by the county court to the
22 commission; to receive all income and other funds,
23 whether in cash or check, received by the county court
24 and derived from properties and facilities devoted to
25 park and recreational uses and under the control of said
26 commission; to receive all receipts from income pro-
27 ducing park and recreational properties and facilities
28 under the control of the commission; to deposit, in-
29 vest, manage and disburse, all such funds, income or
30 receipts, including the interest or income earned there-
31 on or therefrom; to borrow money and execute and de-
32 liver negotiable notes, mortgage bonds, other bonds,
33 debentures and other evidences of indebtedness there-
34 for, and give such security therefor as shall be requisite,
35 including giving a mortgage or deed of trust on the
36 properties or facilities under the control of the commis-
37 sion or assigning or pledging the gross or net revenues
38 therefrom; to raise funds by the issuance and sale of
39 revenue bonds in the manner provided by the applicable
40 provisions of article sixteen, chapter eight of this code,
41 it being hereby expressly provided that for the purpose
42 of the issuance and sale of revenue bonds, the commis-
43 sion is a "governing body" as that term is used in said
44 article sixteen; to establish, charge and collect reason-

45 able fees and charges for services or for the use of any
46 part of the properties or facilities under its control, or
47 for both services and such use; to sue and be sued;
48 to contract and be contracted with; to obtain one or more
49 insurance policies affording coverage for loss of or dam-
50 age to the properties and facilities under its control and
51 affording public liability coverage for the legal liability
52 of the commission, its officers, agents and employees; to
53 adopt bylaws governing the operation of the commission
54 and specifying the powers and duties of its officers; and
55 to do any and all things which may be necessary or
56 convenient to carry out and effectuate the purposes and
57 provisions of this article.

58 Any such county court is hereby empowered and au-
59 thorized to transfer to any such commission all such
60 funds or income, as provided for in the preceding para-
61 graph of this section, and such county court may re-
62 quire a blanket surety bond covering those individuals
63 authorized to sign checks on behalf of the commission
64 in a penal sum not in excess of twenty-five thou-
65 sand dollars.

66 The commission may incur any proper indebtedness
67 and issue any obligations and give any security there-
68 for which it may deem necessary and advisable in con-
69 nection with carrying out any of its purposes. No in-
70 debtedness or obligation incurred by the commission
71 shall give any right against the county or any member
72 of the county court or any member of the commission.
73 No indebtedness of any nature of the commission shall
74 constitute an indebtedness of the county or the county
75 court or be a charge against any property of the county.
76 The rights of creditors of the commission shall be solely
77 against the commission as a corporate body and shall
78 be satisfied only out of property held by it in its cor-
79 porate capacity.

80 Without in any way limiting the generality of any of
81 the other provisions of this article, the commission may,
82 in connection with obtaining moneys or property for
83 its purposes, enter into any agreement with any person,
84 including the federal government, or any department,

85 agency or subdivision thereof, containing such provisions
86 covenants, terms and conditions as the commission may
87 deem advisable.

88 The commission shall be exempt from the payment
89 of any taxes or fees to the state or any subdivision
90 thereof or any municipality or to any officer or employee
91 of the state or of any subdivision thereof or of any mu-
92 nicipality. The property of the commission shall be
93 exempt from all municipal and county taxes. Bonds,
94 notes, debentures and other evidences of indebtedness
95 of the commission are declared to be issued for a public
96 purpose and to be public instrumentalities, and, together
97 with interest and income thereon, shall be exempt from
98 taxation.

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CHAPTER 124

(Com. Sub. for S. B. 77—By Miss Herndon and Mr. Kusic)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven-a, relating generally to creation of museum commissions; providing authority for municipalities and county commissions to appoint museum commissions by ordinances or orders; specifying provisions of orders or ordinances creating commissions; providing authority for commissions to hire employees; authorizing commission to charge admission fees; granting power of eminent domain to commission; authorizing county commissions and municipalities to make appropriations to museum commissions; authorizing commission to receive funds from other sources; relating to assistance of other governmental agencies; and relating to cooperation and coordination of specified state agencies with commissions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11A. MUSEUM COMMISSIONS.

- §7-11A-1. County commission or municipality may establish museum commission; cooperation; appointments.
- §7-11A-2. Provisions of order or ordinance creating commission.
- §7-11A-3. Commission empowered to employ personnel and charge admission fees.
- §7-11A-4. County commission or municipality may contribute money to commission; commission may receive gifts, etc.
- §7-11A-5. County, city and state agencies shall assist commission.
- §7-11A-6. Commission must cooperate and coordinate activities with state agencies.

§7-11A-1. County commission or municipality may establish museum commission; cooperation; appointments.

1 Any county commission by order entered of record
 2 and any municipality by ordinance or any county and
 3 municipality by joint agreement may, if it or they so
 4 desire, establish a museum commission hereinafter, in
 5 this article referred to as the commission, to consist of
 6 not less than five nor more than ten appointees to be ap-
 7 pointed by the county court or the mayor, as the case
 8 may be, and in the case of cooperative efforts between
 9 counties and municipalities, hereby authorized, each au-
 10 thority is to have equal appointive power.

§7-11A-2. Provisions of order or ordinance creating commission.

1 In any such order or ordinance, the governing body
 2 shall include provisions specifying (1) the terms of the
 3 members of such commission; (2) a method of filling
 4 vacancies; (3) whether the members of the commission
 5 are to be reimbursed for all reasonable and necessary
 6 expenses actually incurred in the performance of their
 7 duties; (4) the officers of the commission to be elected
 8 from the membership thereof; (5) requirements as to
 9 meetings of the commission; (6) requirements as to a
 10 quorum of the commission; (7) requirements as to voting
 11 by members of the commission; and (8) such other mat-

12 ters as may be deemed necessary or desirable for the
13 proper functioning of the commission.

§7-11A-3. Commission empowered to employ personnel and charge admission fees.

1 Any such commission may also be authorized and em-
2 powered by any such ordinance or order to employ, with-
3 in the limits of funds available therefor, such employees,
4 assistants, technical personnel and consultants as are
5 necessary to discharge the duties and responsibilities of
6 the commission which such duties shall be contained in
7 the order or ordinance establishing the commission. Any
8 such commission may, in its discretion, charge admission
9 fees.

10 Any such commission shall have the right and power
11 to exercise eminent domain, with the approval of the
12 county commission wherein the power of eminent domain
13 is sought to be exercised, for the purpose of preserving
14 historical and archeological points of interest in their
15 respective jurisdictions.

§7-11A-4. County commission or municipality may contribute money to commission; commission may receive gifts, etc.

1 Any municipality or county establishing any such com-
2 mission shall have plenary power and authority to ap-
3 propriate and contribute funds to such commission for
4 expenditure by the commission for the purposes of this
5 article and any expenditure and contribution of county
6 commission or municipal funds shall be under this article.
7 Any such commission may receive gifts, grants, dona-
8 tions, bequests or devises from sources other than public
9 funds.

§7-11A-5. County, city and state agencies shall assist commission.

1 Upon the request of any such commission, all agencies
2 of the city, county and state shall assist such commission
3 in the discharge of its duties and functions.

§7-11A-6. Commission must cooperate and coordinate activities with state agencies.

- 1 Every such commission shall cooperate and coordinate
- 2 its activities with the West Virginia department of ar-
- 3 chives and history, the West Virginia historical society
- 4 and the West Virginia antiquities commission.

CHAPTER 125

(S. B. 378—By Mr. Huffman)

[Passed February 26, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fifteen, relating to establishing the "Emergency Ambulance Service Act of 1975"; giving certain legislative findings, a certain declaration of policy and certain definitions; imposing upon county commissions a certain duty to provide emergency ambulance service; giving county commissions certain powers with respect thereto; empowering a county commission to impose and collect a certain special emergency ambulance service fee; authorizing the creation of certain authorities for the provision of emergency ambulance service and making the authorities public corporations; vesting the management of an authority in a certain board; relating to a certain vote of members and certain vacancies; providing for the compensation and reimbursement of expenses of members; relating to certain board meetings, quorums, officers, employees and bonds; making the records of an authority public records; requiring a certain majority vote; relating to a certain budget; giving certain general powers and duties to an authority; providing for certain contributions to authorities; relating to certain funds, accounts and reports of authorities; providing for a certain audit by the state tax department; providing that the public service commission shall not regulate

any aforesaid emergency ambulance service; giving a certain exemption of taxation; relating to a certain indebtedness of authorities and certain conflicts of interest; providing for certain competitive bids and the publication of certain solicitations; and relating to a certain liberal construction and severability.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

- §7-15-1. Short title.
- §7-15-2. Legislative findings and declaration of policy.
- §7-15-3. Definitions.
- §7-15-4. Duty of county commissions to provide emergency ambulance service; emergency ambulance service authorities authorized; authorities to be public corporations.
- §7-15-5. Management of authority vested in board; eligibility, appointment, number and term of members; vote of members; vacancies.
- §7-15-6. Compensation of members; expenses.
- §7-15-7. Meetings of authority; officers; employees; official bonds; records of authority public records.
- §7-15-8. Quorum; majority vote required.
- §7-15-9. Budget.
- §7-15-10. Powers and duties of authorities generally.
- §7-15-11. Contributions to authorities; funds and accounts of authorities; reports; audit by state tax department.
- §7-15-12. Emergency ambulance service not regulated by public service commission.
- §7-15-13. Exemption from taxation.
- §7-15-14. Indebtedness of authorities.
- §7-15-15. Conflict of interest.
- §7-15-16. Competitive bids; publication of solicitation for sealed bids.
- §7-15-17. Imposition and collection of special emergency ambulance service fee by county commission.
- §7-15-18. Article constitutes complete authority; liberal construction; severability.

§7-15-1. Short title.

- 1 This article shall be known and may be cited as the
- 2 "Emergency Ambulance Service Act of 1975."

§7-15-2. Legislative findings and declaration of policy.

- 1 The Legislature hereby finds and declares:

2 (a) That a significant part of the population of this
3 state does not have adequate emergency ambulance
4 service;

5 (b) That the establishment and maintenance of ade-
6 quate emergency ambulance systems for the entire state
7 is necessary to promote the health and welfare of the
8 citizens and residents of this state;

9 (c) That emergency ambulance service is not likely
10 to become available to all the citizens and residents of
11 this state unless specific requirements therefor are
12 provided by law;

13 (d) That emergency ambulance service is a public
14 purpose and a responsibility of government for which
15 public money may be spent; and

16 (e) This article is enacted in view of these findings
17 and shall be liberally construed in the light thereof.

§7-15-3. Definitions.

1 As used in this article, unless a different meaning ap-
2 pears from the context:

3 (a) "Authority" means any emergency ambulance
4 service authority created pursuant to the provisions of
5 this article;

6 (b) "Board" means the board of any emergency am-
7 bulance service authority;

8 (c) "Contiguous counties" means two or more coun-
9 ties which constitute a compact territorial unit within
10 an unbroken boundary wherein one county touches at
11 least one other county, but does not require that each
12 county touch all of the other counties so combining;

13 (d) "Facilities and equipment" means all real and
14 personal property of every kind and character owned
15 or held by any emergency ambulance service author-
16 ity;

17 (e) "Participating government" means any munici-
18 pality or county establishing or participating in an emer-
19 gency ambulance service authority;

20 (f) "Project" means any undertaking of an authority;

21 (g) "Revenues" means the gross receipts derived
22 directly or indirectly from or in connection with the
23 operation by an authority and shall include, without
24 limitation, all fees, rates, fares, rentals or other income
25 actually received or receivable by or for the account of
26 an authority from the operation of the authority's fa-
27 cilities and equipment, and any other receipts from what-
28 ever source derived;

29 (h) "Service area of the authority" means and in-
30 cludes an area commensurate with the territorial bound-
31 aries of each participating government and beyond to
32 the extent permitted by any agreement with any county
33 or municipality which is not a participating government
34 in the project;

35 (i) "System" means any emergency ambulance ser-
36 vice provided pursuant to the provisions of this article;
37 and

38 (j) The singular shall include the plural and the
39 plural shall include the singular.

**§7-15-4. Duty of county commissions to provide emergency
ambulance service; emergency ambulance service
authorities authorized; authorities to be public cor-
porations.**

1 Except as hereinafter provided and in addition to all
2 other duties imposed upon it by law, the county com-
3 mission shall cause emergency ambulance service to be
4 made available to all the residents of the county where
5 such service is not otherwise available: *Provided, how-*
6 *ever,* That the duty imposed upon county commissions
7 by this article shall not be construed in such manner
8 as to impose a duty to cause such emergency ambulance
9 service to be provided unless the commission shall make
10 an affirmative determination that there are funds avail-
11 able therefor by the inclusion of a projected expendi-
12 ture for such purpose in the current levy estimate, and
13 in the event that such county commission shall make
14 such determination the commission shall not be under

15 a duty to cause such service to be provided beyond a
16 level commensurate with the amount of funds actually
17 available for such purpose.

18 The county commission may provide the service di-
19 rectly through its agents, servants and employees; or
20 through private enterprise; or by its designees; or by
21 contracting with individuals, groups, associations, cor-
22 porations or otherwise; or it may cause such services to be
23 provided by an authority, as provided for in this ar-
24 ticle; and any municipality or county, or both, or
25 any two or more municipalities within any county or
26 contiguous counties, or any two or more contiguous
27 counties, or any combination thereof, may create an au-
28 thority. Such authority shall be created upon the adop-
29 tion, by the governing body of each participating gov-
30 ernment, acting individually, of an appropriate ordinance
31 or order. Each authority shall constitute a public cor-
32 poration, and as such, shall have perpetual existence.
33 The authority shall be known by such name as may be
34 established by the board.

**§7-15-5. Management of authority vested in board; eligibility,
appointment, number and term of members; vote
of members; vacancies.**

1 The management and control of any authority, its
2 operations, business and affairs shall be lodged in a board
3 of not less than five nor more than fifteen individuals
4 who shall be known as members of the board and who
5 shall be appointed for terms of three years each by the
6 governing bodies of the participating governments. Prior
7 to making the initial appointments to the board, the gov-
8 erning bodies of the participating governments shall
9 agree to make such initial appointments so that approxi-
10 mately one third of the total number of the members to
11 be so appointed shall be appointed for a term of one year,
12 approximately one third of such total number of the
13 members shall be appointed for a term of two years and
14 approximately one third of such total number of the
15 members shall be appointed for a term of three years.
16 As the term of each such initial appointee expires, the
17 successor to fill the vacancy created by such expired term

18 shall be appointed for a term of three years. The number
19 of members representing each participating government
20 shall be as agreed upon from time to time by the govern-
21 ing bodies of the participating governments. Each member
22 of the board shall have one vote on all matters coming
23 before it. Any individual who is a resident of, or member
24 of the governing body of any participating government
25 is eligible to serve as a member of the board. The govern-
26 ing body of each participating government shall inform
27 the authority of its appointments or reappointments to
28 the board by delivering to the authority a certified copy
29 of the ordinance or order making the appointment or
30 reappointment. If any member of the board dies, resigns
31 or for any other reason ceases to be a member of the
32 board, the governing body of the participating government
33 which such member represented shall appoint another
34 individual to fill the unexpired portion of the term of
35 such member.

§7-15-6. Compensation of members; expenses.

1 As compensation for his services on the board, each
2 member shall receive from the authority the sum of not
3 more than twenty dollars for each meeting actually at-
4 tended, as may be determined by the board. The total
5 compensation paid to any member by the authority for
6 any fiscal year shall not exceed in the aggregate the sum
7 of six hundred dollars. Each member shall also be reim-
8 bursed by the authority for all reasonable and necessary
9 expenses actually incurred in the discharge of his duties
10 as a member of the board.

**§7-15-7. Meetings of authority; officers; employees; official
bonds; records of authority public records.**

1 At its first meeting, to be held no later than sixty days
2 from the creation of the authority as provided in this
3 article, the board shall elect from among its membership
4 a president to act during the next ensuing fiscal year, or
5 until his successor is elected and qualified. At that time,
6 the board shall also elect a vice president, a secretary and
7 a treasurer and such other officers as may be required,
8 who need not be members of the board, whose duties

9 shall be defined and whose compensation shall be fixed
10 by the board and paid out of the funds of the authority.
11 The treasurer, and such other officers and employees
12 as the board shall direct, shall furnish bond for the use
13 and benefit of the authority in such penal sum as may be
14 fixed by the board and conditioned upon the faithful
15 discharge by such treasurer and such other officers and
16 employees so directed by the board of the duties of their
17 respective offices or employment, and upon accounting
18 for and paying over all moneys which may come into
19 their possession by virtue of such office or employment.
20 At its first meeting the board shall also fix the time and
21 place for holding regular meetings, but it shall meet at
22 least once in the months of January, April, July and
23 October. Special meetings of the board may be called
24 by the president or by two members upon written request
25 to the secretary. The secretary shall send to all the
26 members, at least two days in advance of a special meet-
27 ing, a written notice setting forth the time and place of
28 the special meeting and the matters to be considered at
29 such special meeting. Written notice of a special meeting
30 is not required if the time of the special meeting has been
31 fixed in a regular meeting or if all the members are
32 present at the special meeting. All regular meetings shall
33 be general meetings for the consideration of any and all
34 matters which may properly come before an authority.
35 All proceedings of the authority shall be entered in a
36 permanently bound record book, properly indexed, and
37 shall be carefully preserved by the secretary of the
38 authority. All records of the authority shall be public
39 records.

§7-15-8. Quorum; majority vote required.

1 A majority of the members of the board shall constitute
2 a quorum. The vote of a majority of all members present
3 at any meeting of the board shall be necessary to take any
4 action.

§7-15-9. Budget.

1 The board shall establish the beginning and ending of
2 its fiscal year, which period shall constitute its budget

3 year, and, at least thirty days prior to the beginning of
4 the first full fiscal year after the creation of the author-
5 ity and annually thereafter, the treasurer shall prepare
6 and submit to the board a tentative budget. The tentative
7 budget shall be considered by the board, and, subject
8 to any revisions or amendments that may be determined
9 by the board, shall be adopted as the budget for the
10 ensuing fiscal year. No expenditures in excess of the
11 budget shall be made during such fiscal year unless
12 expressly authorized and directed by the board.

§7-15-10. Powers and duties of authorities generally.

1 Each authority is hereby given the power:

2 (a) To sue and be sued, implead and be impleaded;

3 (b) To have and use a seal and alter the same at
4 pleasure;

5 (c) To make and adopt all rules and regulations and
6 bylaws as may be necessary or desirable to enable it to
7 exercise the powers and perform the duties conferred or
8 imposed upon it by the provisions of this article;

9 (d) To provide emergency ambulance service, maintain
10 and operate such service, and employ, in its discretion,
11 planning consultants, attorneys, accountants, superinten-
12 dents, managers and such other employees and agents as
13 may be necessary in its judgment and fix their compensa-
14 tion;

15 (e) To acquire by grant, purchase, gift, devise or lease
16 and to hold, use, sell, lease or otherwise dispose of real
17 and personal property of every kind and nature what-
18 soever, licenses, franchises, rights and interests necessary
19 for the full exercise of its powers pursuant to the provi-
20 sions of this article or which may be convenient or useful
21 for the carrying out of such powers;

22 (f) To enter into contracts and agreements which are
23 necessary, convenient or useful to carry out the purposes
24 of this article with any person, public corporation, state or
25 any agency or political subdivision thereof and the federal
26 government and any department or agency thereof, in-

27 cluding, without limitation, contracts and agreements for
28 the joint use of any property and rights by the authority
29 and any person or authority operating any system,
30 whether within or without the service area of the author-
31 ity, and contracts and agreements with any person or
32 authority for the maintenance, servicing, storage, opera-
33 tion or use of any system or part thereof, facility or
34 equipment on such basis as shall seem proper to its
35 board;

36 (g) To enter into contracts and agreements for superin-
37 tendence and management services with any person, who
38 has executive personnel with experience and skill appli-
39 cable to the superintendence and management of any
40 system, for the furnishing of its services and the services
41 of experienced and qualified personnel for the superin-
42 tendence and management of any system or any part
43 thereof, including, without limitation, superintendence
44 over personnel, purchases, properties and operations and
45 all matters relating thereto, and any revenue bond trust
46 indenture may require such contract or agreement, but
47 the personnel whose services are to be so furnished under
48 any such contract or agreement shall not include any
49 member of the board, any member of the immediate
50 family of a member of the board or any agents or em-
51 ployees of the authority;

52 (h) To execute security agreements, contracts, leases,
53 equipment trust certificates and any other forms of con-
54 tract or agreement, granting or creating a lien, security
55 interest, encumbrance or other security in, on or to
56 facilities and equipment, containing such terms and pro-
57 visions as the board considers necessary;

58 (i) To apply for, receive and use grants, grants-in-aid,
59 donations and contributions from any source or sources,
60 including, but not limited to, the federal government and
61 any agency or department thereof, and a state govern-
62 ment whose constitution does not prohibit such grants,
63 grants-in-aid, donations and contributions, and any agency
64 or department thereof, and to accept and use bequests,
65 devises, gifts and donations from any person;

66 (j) To encumber or mortgage all or any part of its
67 facilities and equipment; and

68 (k) To do any and all things necessary or convenient
69 to carry out the powers given in this article unless other-
70 wise forbidden by law.

**§7-15-11. Contributions to authorities; funds and accounts of
authorities; reports; audit by state tax department.**

1 Contributions may be made to authorities from time
2 to time by the participating governments and by the state
3 of West Virginia, the United States of America, municipi-
4 palities, counties or persons that shall desire to do so. All
5 such funds and all of the other funds received by any au-
6 thority shall be deposited in a separate account in such
7 banking institution or institutions as its board may direct
8 and shall be withdrawn therefrom only in such manner as
9 its board may direct. Each authority shall keep strict ac-
10 count of all its receipts and expenditures and shall make
11 a quarterly report to the participating governments which
12 have made contributions to it. The report shall contain an
13 itemized account of the authority's receipts and disburse-
14 ments during the preceding quarter and shall be made
15 within sixty days after the termination of the quarter.
16 Within ninety days after the end of each fiscal year, each
17 authority shall make an annual report containing an item-
18 ized statement of its receipts and disbursements for the
19 preceding fiscal year, and any and all other information
20 which the board may consider pertinent, to all of the par-
21 ticipating governments. The books, records and accounts
22 of each authority shall be subject to audit and examination
23 by the state tax department.

**§7-15-12. Emergency ambulance service not regulated by pub-
lic service commission.**

1 Any authority created pursuant to the provisions of
2 this article and any county commission which provides
3 emergency ambulance service hereunder shall not be
4 subject to regulation by the public service commission.

§7-15-13. Exemption from taxation.

1 It is hereby found, determined and declared that the

2 creation of any authority and the carrying out of its
3 purposes is in all respects for the benefit of the people
4 of this state in general and of the participating govern-
5 ments in particular and is a public purpose; and that
6 the authority will be performing an essential govern-
7 mental function in the exercise of the powers conferred
8 upon it by the provisions of this article. Accordingly,
9 each authority and, without limitation, its revenues,
10 properties, operations and activities shall be exempt
11 from the payment of any taxes or fees to the state or
12 any of its political subdivisions or to any officer or em-
13 ployee of the state or any of its political subdivisions.
14 Interest on obligations and all evidences of indebtedness
15 of any such authority shall be exempt from taxation,
16 except inheritance and transfer taxes.

§7-15-14. Indebtedness of authorities.

1 No indebtedness or obligation incurred by any authority
2 shall give any right against any member of the govern-
3 ing body of any participating government or any mem-
4 ber of the board of any authority. Any obligation or
5 indebtedness of any nature of any authority shall never
6 constitute an obligation or indebtedness of any partici-
7 pating government or the governing body of any par-
8 ticipating government, within the meaning of any con-
9 stitutional provision or statutory limitation and shall
10 never constitute or give rise to a pecuniary liability of
11 any participating government or the governing body of
12 any participating government or be a charge against the
13 general credit or taxing power of any participating gov-
14 ernment or the governing body of any participating gov-
15 ernment. The rights of creditors of any authority shall
16 be solely against the authority as a corporate body and
17 shall be satisfied only out of revenues, moneys or prop-
18 erty received or held by it in its corporate capacity.

§7-15-15. Conflict of interest.

1 No member of any authority, nor any of its officers,
2 employees, agents or consultants, shall have any interest
3 in any firm, partnership, corporation, company, associa-
4 tion or joint-stock association engaged in the business

5 of providing ambulance service or in the manufacture,
6 sale or lease of ambulance equipment or facilities. No
7 member of any authority, nor any of its officers, em-
8 ployees, agents or consultants, shall contract with the
9 authority or be interested in, either directly or indirectly,
10 any contract with the authority or in the sale of prop-
11 erty, either real or personal, to such authority.

§7-15-16. Competitive bids; publication of solicitation for sealed bids.

1 A purchase of or contract for all supplies, equipment
2 and materials and a contract for the construction of fa-
3 cilities by any authority, when the expenditure required
4 exceeds the sum of one thousand dollars, shall be based
5 on competitive sealed bids. Such bids shall be obtained
6 by public notice published as a Class II legal advertise-
7 ment in compliance with the provisions of article three,
8 chapter fifty-nine of this code, and the publication area
9 for such publication shall be the service area of the
10 authority. The second publication shall be made at least
11 fourteen days before the final date for submitting bids.
12 In addition to such publication, the notice may also be
13 published by any other advertising medium the authority
14 may consider advisable, and the authority may also solicit
15 sealed bids by sending requests by mail to prospective
16 suppliers and by posting notice on a bulletin board in the
17 office of the authority.

§7-15-17. Imposition and collection of special emergency ambulance service fee by county commission.

1 A county commission may, by ordinance, impose upon
2 and collect from the users of emergency ambulance service
3 within the county a special service fee, which shall be
4 known as the "special emergency ambulance service fee."
5 The proceeds from the imposition and collection of any
6 such special service fee shall be deposited in a special
7 fund and used only to pay reasonable and necessary ex-
8 penses actually incurred and the cost of buildings and
9 equipment used in providing emergency ambulance ser-
10 vice to residents of the county. Such proceeds may be used
11 to pay for, in whole or in part, the establishment, mainte-

12 nance and operation of an authority, as provided for in
13 this article.

14 As used in this section, "users" means any person to
15 whom emergency ambulance service is made available
16 under the provisions of this article.

§7-15-18. Article constitutes complete authority; liberal construction; severability.

1 This article shall constitute full and complete authority
2 for the provision of emergency ambulance service within
3 a county by a county commission and for the creation of
4 any authority and carrying out the powers and duties of
5 any such authority. The provisions of this article shall
6 be liberally construed to accomplish its purpose and no
7 procedure or proceedings, notices, consents or approvals
8 shall be required in connection therewith except as may
9 be prescribed by this article.

CHAPTER 126

(Com. Sub. for H. B. 1406—By Mr. Sommerville and Mr. See)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT to repeal section three-k, article one, chapter seven; section eighteen, article seven, chapter seven; sections thirteen and fourteen, article one, chapter fifty-one; section twelve, article one, chapter fifty-nine; section three, article five, chapter sixty-two; and section five-a, article twelve, chapter sixty-two, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections five and six, article seven, chapter six; section eight, article six-a, chapter twenty-seven; article five, chapter forty-nine; sections one and three, article five-a, chapter forty-nine; section one, article six, chapter forty-nine; sections twelve and thirteen, article two, chapter fifty-one; sections three, five, six and seven, article seven, chapter fifty-one; sections eight and nine, article eight, chapter fifty-one; sections five, ten and fifteen, article nine, chapter fifty-one; sections three, twenty-one, twenty-three and twenty-

four, article one, chapter fifty-two; section thirteen, article two, chapter fifty-two; section one, article eleven, chapter fifty-six; section eleven, article five, chapter fifty-seven; section seventeen, article five, chapter fifty-eight; sections sixteen, twenty-eight, twenty-nine and thirty-one, article one, chapter fifty-nine; section one, article three, chapter sixty-two; section one, article five, chapter sixty-two; and sections one, five, six and twenty-two, article twelve, chapter sixty-two, all of said code; to amend article three, chapter twelve of said code by adding thereto a new section, designated section eight-a; and to amend article eight, chapter fifty-one of said code by adding thereto a new section, designated section ten, all relating to implementation of the "Judicial Reorganization Amendment to the West Virginia Constitution" by effecting the code provisions hereinabove referred to and relating to the particular matters hereinafter described so as to be consistent with a unified court system as the primary fiscal responsibility of the state as opposed to the counties; permitting mileage and certain other expenses and allowances to be paid to judges of the supreme court of appeals and of the various circuit courts; relating to the amount of such expenses and allowances; placing certain limitations on requisitions from the judicial accounts of the state treasury; providing that the state shall bear certain costs attendant with the commitment to mental facilities of certain persons convicted of crimes; providing procedures to be followed in certain juvenile proceedings and the jurisdiction and power of the circuit courts with respect thereto; providing for the recordation of juvenile proceedings and establishing the right to trial by jury and assistance to counsel and the payment of such counsel in such cases; providing for the form of the petition used in delinquency cases and the filing and service thereof and the procedures relating thereto; providing for the various methods of disposition to be used by the court in juvenile cases; prohibiting the placing of certain juveniles in jail; relating to juvenile probation officers, their powers and duties, and their compensation and expenses; relating to juvenile referees, their qualifications, powers, duties and compensation; providing for certain procedures in juvenile neglect cases; providing for the compensation of circuit judges and special judges; relating to compensation and fees for court reporters and the methods of payment; requiring transcript to be furnished indigent person in certain cases and pro-

viding for payment therefor; relating to state and county law libraries and the financial support thereof and the duties of the administrative director of the supreme court of appeals and of the various circuit clerks with respect thereto; relating to the appointment under special acts of law clerks and law assistants and compensation thereof; relating to the retirement system for judges and the payments required for the support of such system; relating to the eligibility of persons to participate in such system; authorizing retired judges participating in such system to serve as special judges; providing for the compensation of jury commissioners; providing for compensation and the payment of expenses of petit and grand jurors; relating to the time during which grand juries may sit; relating to the membership of the judicial council and designating the administrative director of the supreme court of appeals as secretary of such council; providing for the disposition of exhibits used in evidence in the trial of cases and the use of the proceeds of such disposition; providing for the reproduction of records in appellate cases, the distribution of such records and the payment of costs therefor; relating to the use, collection and disposition of certain fees of sheriffs, clerks of the various county commissions, circuit clerks and prosecuting attorneys and the duties of such persons with respect thereto; providing certain procedures with respect to trial in criminal cases and establishing the right to counsel in such cases; providing for the payment of counsel fees in cases involving indigent defendants; providing for the payment of witnesses in the trial of criminal cases; relating to the authority of circuit courts with respect to placing persons convicted of crimes on probation; relating to the appointment by circuit courts of probation officers, assistant probation officers and clerical assistants and compensation thereof; relating to the appointment under special acts of medical and psychiatric assistants and tenure and compensation thereof; relating to the powers and duties of probation officers; relating to the right to counsel in cases of parole violation and the payment of such counsel by the state in cases involving indigent parolees; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That section three-k, article one, chapter seven; section eighteen,

article seven, chapter seven; sections thirteen and fourteen, article one, chapter fifty-one; section twelve, article one, chapter fifty-nine; section three, article five, chapter sixty-two; and section five-a, article twelve, chapter sixty-two, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections five and six, article seven, chapter six; section eight, article six-a, chapter twenty-seven; article five, chapter forty-nine; sections one and three, article five-a, chapter forty-nine; section one, article six, chapter forty-nine; sections twelve and thirteen, article two, chapter fifty-one; sections three, five, six and seven, article seven, chapter fifty-one; sections eight and nine, article eight, chapter fifty-one; sections five, ten and fifteen, article nine, chapter fifty-one; sections three, twenty-one, twenty-three and twenty-four, article one, chapter fifty-two; section thirteen, article two, chapter fifty-two; section one, article eleven, chapter fifty-six; section eleven, article five, chapter fifty-seven; section seventeen, article five, chapter fifty-eight; sections sixteen, twenty-eight, twenty-nine and thirty-one, article one, chapter fifty-nine; section one, article three, chapter sixty-two; section one, article five, chapter sixty-two; and sections one, five, six and twenty-two, article twelve, chapter sixty-two, all of said code, be amended and reenacted; that article three, chapter twelve of said code, be amended by adding thereto a new section, designated section eight-a; and that article eight, chapter fifty-one of said code, be amended by adding thereto a new section, designated section ten, all to read as follows:

Chapter

- 6. General Provisions Respecting Officers.**
- 12. Public Moneys and Securities.**
- 27. Mentally Ill Persons.**
- 49. Child Welfare.**
- 51. Courts and Their Officers.**
- 52. Juries.**
- 56. Pleading and Practice.**
- 57. Evidence and Witnesses.**
- 58. Appeal and Error.**
- 59. Fees, Allowances and Costs; Newspapers; Legal Advertisements.**
- 62. Criminal Procedure.**

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-5. Mileage and expenses of judges.

§6-7-6. Allowance to circuit judges for stationery, postage and stenographic help.

§6-7-5. Mileage and expenses of judges.

1 A judge of the supreme court of appeals and of a circuit
2 court shall be entitled to an allowance for mileage at the rate
3 of fifteen cents for each mile, to be computed according to
4 the distance by the nearest practicable route necessarily travel-
5 ed from his place of residence, to the place of holding any
6 term of court in a county other than that of his residence, and
7 from such place to his residence; and a judge of the circuit
8 court shall be paid the sum of thirty-five dollars per day as
9 expenses while holding court in a county other than that
10 in which he resides: *Provided*, That no judge of a circuit
11 court shall be paid mileage and expenses for holding more
12 than ten terms of court in any county in any one year, includ-
13 ing regular, adjourned and special terms. The mileage and ex-
14 penses provided for in this article shall be paid to any judge
15 out of the state treasury as and when the salary of such
16 judge is payable.

§6-7-6. Allowance to circuit judges for stationery, postage and stenographic help.

1 Each judge of the circuit court shall, in accordance with
2 the rules of the supreme court of appeals, be allowed steno-
3 graphic help necessary in the discharge of the duties of his
4 office, and each judge shall be allowed necessary stationery,
5 payment of postage, and necessary supplies for his office. The
6 judge shall be reimbursed for the actual amounts expended
7 by him for stationery, supplies and postage. Payment for
8 stenographic help shall be made directly to the person per-
9 forming the stenographic work. Such amounts shall be paid
10 monthly out of the state treasury, but not until the judge sub-
11 mi'ts an itemized statement covering the same.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**ARTICLE 3. APPROPRIATIONS AND EXPENDITURES.****§12-3-8a. Limitation on requisitions from judicial accounts.**

- 1 No requisition shall be made upon the auditor for any
- 2 money appropriated for the judicial system of the state, un-
- 3 less prior approval shall have been obtained from the supreme
- 4 court of appeals or its administrative director authorizing such
- 5 requisition.

CHAPTER 27. MENTALLY ILL PERSONS.**ARTICLE 6A. SENTENCING, COMMITMENT AND CONTROL OF SEX OFFENDERS.****§27-6A-8. Credit for time; expenses.**

- 1 (a) If a person is convicted of a crime, any time spent in
- 2 involuntary confinement in a mental health facility as a re-
- 3 sult of being charged with such crimes, shall be credited to
- 4 this sentence.

- 5 (b) All medical and psychological expenses attendant upon
- 6 these proceedings shall be paid by the state.

CHAPTER 49. CHILD WELFARE.**Article 5. Juvenile Proceedings.****Article 5A. Juvenile Referee System.****Article 6. Procedure In Neglect Cases.****ARTICLE 5. JUVENILE PROCEEDINGS.**

- §49-5-1. Circuit courts to have juvenile jurisdiction.
- §49-5-2. "Child" defined; continuing jurisdiction of court.
- §49-5-3. Criminal jurisdiction over persons under eighteen years of age.
- §49-5-4. Wards of the court.
- §49-5-5. Record of findings, etc.
- §49-5-6. Jury trial under article.
- §49-5-7. Petitioning court for disposition of suspected delinquents—Form of petition; filing; service; answer.
- §49-5-8. Temporary disposition.
- §49-5-9. Warrant.
- §49-5-10. Right to counsel; mandatory advice with respect thereto; appointment of counsel; payment by state of fee for appointed attorney.
- §49-5-11. Methods of disposition by court.
- §49-5-12. Prosecuting attorney to represent petitioner.
- §49-5-13. Committing children to jail.
- §49-5-14. Notice to be given by clerk to state department.
- §49-5-15. Juvenile probation officers; duties; expenses; powers.

§49-5-1. Circuit courts to have juvenile jurisdiction.

1 The circuit court of the county shall have original jurisdic-
2 tion in proceedings brought by petition under this article.

§49-5-2. "Child" defined; continuing jurisdiction of court.

1 "Child" means a person under the age of eighteen years.
2 When jurisdiction shall have been obtained by the court in the
3 case of any child, such child shall continue under the jurisdic-
4 tion of the court until he becomes eighteen years of age un-
5 less discharged prior thereto or, in the event such child is
6 committed to a correctional or other institution, until he is
7 released therefrom. A person subject to the jurisdiction of the
8 court pursuant to this article may be brought before it by either
9 of the following means and no other.

10 (a) By petition praying that the person be adjudged
11 neglected or delinquent;

12 (b) Certification from any other court before which such
13 person is brought charged with the commission of a crime.

§49-5-3. Criminal jurisdiction over persons under eighteen years of age.

1 Except as to a violation of law which if committed by an
2 adult would be a capital offense, the court shall hear and de-
3 termine criminal charges in the manner provided in this article,
4 including a charge of violation of a municipal ordinance,
5 against a person who is under eighteen years of age at the
6 time of the alleged offense.

7 If during the pendency of a criminal proceeding against a
8 person in any court other than a circuit court, pursuant to this
9 article, it shall be ascertained, or it shall appear, that the per-
10 son was under the age of eighteen years at the time of the
11 alleged offense, such court, judge, justice of the peace or magis-
12 trate shall immediately transfer the case with all the papers,
13 documents, and testimony connected therewith to the circuit
14 court. The circuit court shall proceed to hear and dispose of the
15 case in the same manner as if it had been instituted in that court
16 in the first instance: *Provided*, That for violations of the traffic
17 laws of West Virginia as contained in chapter seventeen-c of

18 this code, or for the violation of a municipal traffic ordinance,
19 justices of the peace courts, magistrate courts and municipal
20 courts when appropriate shall have concurrent jurisdiction with
21 the circuit court and such persons under the age of eighteen
22 years shall be liable for punishment for violation of such traffic
23 statutes and ordinances in the same manner as adults.

24 Any person who is under the age of eighteen years shall be
25 entitled to be admitted to bail or recognizance in the same
26 manner as a person over the age of eighteen years, and shall
27 have the protection guaranteed by article III, section 5 of the
28 Constitution of West Virginia, and also the right to be ad-
29 mitted to bail or recognizance in the same manner as a person
30 over the age of eighteen years.

§49-5-4. Wards of the court.

1 A person under the age of eighteen years who appears be-
2 fore the circuit court in any capacity shall be deemed to be
3 a ward of the court and protected accordingly. Such court or
4 judge thereof shall request the county health officer in any
5 county employing a full-time health officer, to make a physical
6 and mental examination of the wards of the court as defined in
7 this section. Such health officer shall, as promptly as may be,
8 furnish to the court or judge a written report of such exami-
9 nations on forms to be furnished to said health officer by the
10 court. In those counties not employing a full-time health offi-
11 cer, the court or judge may designate a reputable physician of
12 the county to make such mental and physical examinations and
13 render such written reports. When any such mental and phy-
14 sical examination is made and any such report rendered, the
15 state shall pay to the examining physician a sum not to exceed
16 ten dollars for each such mental and physical examination, up-
17 on certification of the fact of such examination by the court
18 or the judge thereof.

§49-5-5. Record of findings, etc.

1 The findings and orders of the court shall be entered in a
2 book, kept by the clerk of the court for that purpose, known
3 as the "juvenile record."

§49-5-6. Jury trial under article.

1 In a proceeding under this article, an interested person may

2 demand, or the judge of his own motion, may order a jury of
3 twelve persons to try any question of fact.

**§49-5-7. Petitioning court for disposition of suspected delinquents
—Form of petition; filing; service; answer.**

1 (a) If the state department or a reputable person believes
2 that a child is delinquent, the department or person may
3 present a petition setting forth the facts to the circuit court
4 or judge thereof in the county where the child may be.

5 The petition may set forth that it is for the interest of the
6 child and of the state that the child be taken from its parent,
7 guardian, or other custodian and placed under another guard-
8 ianship or custody as determined by the court; and that the
9 parent, guardian or other custodian is unfit properly to care
10 for, protect, train, educate, control or discipline the child, or
11 that the parent, guardian, or other custodian consents that the
12 child may be taken from him.

13 The petition shall be verified by oath, and shall set forth
14 the name and address of the parent, guardian, or other person
15 having custody and control of the child if such name and ad-
16 dress are known to the petitioner.

17 Upon the filing of the petition, the court or judge shall set
18 a time and place for a hearing and proceedings upon the
19 facts.

20 (b) A person named in the petition shall be made a de-
21 fendant and shall be notified of the proceedings by personal
22 service of summons, which shall require the person to appear
23 with the child at the time and place set for the proceedings.
24 If the defendant cannot be found, service may be by publi-
25 cation as a Class II legal advertisement in compliance with
26 the provisions of article three, chapter fifty-nine of this code,
27 and the publication area for such publication shall be the
28 county.

29 (c) A defendant, duly summoned, shall appear and answer,
30 in open court or before the judge in vacation, on the return
31 day of the summons, or if the summons is served less than
32 one day prior to the return day, then on the following day.

33 A defendant notified by publication shall appear and an-

34 swer in open court or before the judge in vacation within
35 twenty days after the date of the first publication.

36 The answer shall have as evidence no greater weight than
37 the petition.

§49-5-8. Temporary disposition.

1 The court or judge may, before the proceedings, make tem-
2 porary disposition of the child in the manner provided in
3 article two of this chapter, or may order the child to be placed
4 in the custody of a probation officer.

§49-5-9. Warrant.

1 The court or judge may, if he deems such action necessary,
2 order the issuance of a warrant against the person having
3 custody and control of the child, to bring the person into
4 court or before the judge; or a warrant against the child to
5 bring the child into court or before the judge.

**§49-5-10. Right to counsel; mandatory advice with respect there-
to; appointment of counsel; payment by state of fee
for appointed attorney.**

1 In any proceeding under the provisions of this article, the
2 child shall have the right to be represented by counsel, and
3 the child and his parents, his guardian, his custodian, or any
4 other person standing in loco parentis to him, or the person
5 named in the petition, must be informed at the outset of the
6 child's right to be represented by counsel, and if neither the
7 child nor any other of the aforementioned persons can pay
8 for the services of counsel, that counsel will be appointed to
9 represent the child. Upon the presentation to the court or
10 judge thereof of a written request for the appointment of coun-
11 sel and an affidavit by the child, or by his parents, the guard-
12 ian of his person, his custodian, or any other person standing in
13 loco parentis to him, or by the person named in the petition,
14 showing that neither the child nor any other of the aforemen-
15 tioned persons can pay for the services of counsel, the court or
16 judge, upon being satisfied as to the truth of the information
17 set forth in the affidavit, shall, by order entered of record, ap-
18 point an attorney at law to represent the child in any pro-
19 ceeding under the provisions of this article, and may, in the

20 exercise of discretion, by order entered of record, allow any
21 attorney so appointed a fee in an amount not to exceed two
22 hundred dollars. Any such fee shall be paid by the state audi-
23 tor in the same manner as fees for appointed counsel are paid
24 in felony cases.

§49-5-11. Methods of disposition by court.

1 With a view to the welfare and interest of the child and of
2 the state, the court or judge may, after the proceedings, make
3 any of the following dispositions:

4 (1) Treat the child as a neglected child, in which
5 case the provisions of article six of this chapter shall
6 apply;

7 (2) Order the child placed under the supervision of a pro-
8 bation officer;

9 (3) If the child be over sixteen years of age at the time of
10 the commission of the offense the court may, if the proceedings
11 originated as a criminal proceeding, enter an order showing
12 its refusal to take jurisdiction as a juvenile proceeding and
13 permit the child to be proceeded against in accordance with
14 the laws of the state governing the commission of crimes or
15 violation of municipal ordinances;

16 (4) Commit the child to an industrial home or correctional
17 institution for minors;

18 (5) Commit the child to any public or private institution
19 or agency permitted by law to care for children;

20 (6) Commit the child to the care and custody of some
21 suitable person who shall be appointed guardian of the person
22 and custodian of the child;

23 (7) Enter any other order which seems to the court to be
24 in the best interest of the child.

§49-5-12. Prosecuting attorney to represent petitioner.

1 The prosecuting attorney, in counties having population in
2 excess of two hundred thousand, shall represent the petitioner
3 in all juvenile proceedings before the court or judge having
4 juvenile jurisdiction in such counties. The prosecuting attorney

5 shall assign one or more full-time assistants for the purpose
6 of representing said petitioners.

7 The county commission shall provide office space for the
8 assistant prosecuting attorney.

§49-5-13. Committing children to jail.

1 A child under sixteen years of age, whether delinquent or
2 otherwise, shall not be committed to a jail or police station,
3 except that any child over fourteen years of age who has been
4 committed to an industrial home or correctional institution
5 may be held in the juvenile department of a jail while awaiting
6 transportation to the institution.

§49-5-14. Notice to be given by clerk to state department.

1 The clerk of the court shall promptly notify the state depart-
2 ment of delinquent children brought before the court or judge
3 and of delinquency proceedings pending.

§49-5-15. Juvenile probation officers; duties; expenses; powers.

1 (a) The commissioner of the state department of welfare
2 shall, with the approval of the court, designate one of the
3 employees of the state department of welfare to act as a
4 juvenile probation officer, and when required one or more em-
5 ployees of the state department of welfare to act as assistant
6 or assistants to such probation officer, and such employee or
7 employees, when so assigned, shall perform their duties under
8 the sole supervision and control of the court and the court shall
9 have the sole power to recommend the transfer or dismissal of
10 employees so assigned. There shall be at least one such
11 juvenile probation officer assigned to each county, but a juve-
12 nile probation officer may be assigned to more than one county.

13 The foregoing provisions of this section shall not be construed
14 as abrogating or affecting in any way the power and authority
15 vested in any court, subject to the approval of and in accordance
16 with the rules of the supreme court of appeals, to select, super-
17 vise and discharge its own probation officers and assistants
18 thereto.

19 (b) The clerk of a court shall notify, if practicable, the chief
20 probation officer of the county when a child is brought before
21 the court or judge. When notified, or if the probation officer

22 otherwise obtains knowledge of such fact, he or one of his
23 assistants shall;

24 (1) Make investigation of the case;

25 (2) Be present in court, or before the judge, to represent
26 the interests of the child when the case is heard;

27 (3) Furnish such information and assistance as the court
28 or judge may require;

29 (4) Take charge of the child before and after the trial, as
30 may be directed by the court or judge.

31 (c) The necessary expenses incurred by a probation officer
32 acting pursuant to an order issued by a court exercising jurisdic-
33 tion pursuant to this article shall be borne by the state depart-
34 ment.

35 (d) A juvenile probation officer is hereby vested with the
36 power and authority of a peace officer to make arrests and
37 perform any other duties ordinarily performed by a peace
38 officer, incident to his office, or necessary or convenient to
39 the performance of his duties.

ARTICLE 5A. JUVENILE REFEREE SYSTEM.

§49-5A-1. Juvenile referee; qualifications; compensation; authority; "child", etc., defined.

§49-5A-3. Orders of juvenile referee or judge following detention hearing; force and effect and finality of such orders.

§49-5A-1. Juvenile referee; qualifications; compensation; authority; "child", etc., defined.

1 In each county, the judge or judges of the circuit court may
2 appoint one person who is qualified by education and exper-
3 ence to serve as juvenile referee on a full-time or part-time
4 basis who shall serve at the will and pleasure of the appointing
5 court. The salary of such referee shall be fixed by the court
6 in accordance with the rules of the supreme court of appeals,
7 and shall be paid out of the state treasury. It shall be the duty
8 of the referee to hold any detention hearing determined neces-
9 sary pursuant to the provisions of section two of this article.
10 Each referee shall also perform such other duties as are
11 assigned to him by the court to carry out the purposes of this

12 article. Referees shall not be permitted to conduct hearings
13 on the merits of any case.

14 As used in this article, the terms "child" or "children" shall
15 have the meaning ascribed to those terms elsewhere in this
16 chapter.

§49-5A-3. Orders of juvenile referee or judge following detention hearing; force and effect and finality of such orders.

1 After a detention hearing conducted by a judge or referee an
2 order shall be forthwith entered setting forth the findings of
3 fact and conclusions of law with respect to further detention
4 pending hearing and disposition of the child proceedings in-
5 volving such juvenile. A copy of such order shall be furnished
6 to the court, if entered by a referee, and to the child and his
7 attorney, if any, and to the parent or parents or guardian of
8 the child. A detention order of a judge or referee shall become
9 effective immediately, subject to the right of review provided
10 for in section four of this article, and shall continue in effect
11 until modified or vacated by the judge. In the event any referee
12 under this article shall order further detention, the judge
13 shall within two days of the entry of the referee's order afford
14 to the child a new hearing upon the issue of further detention,
15 to which hearing the provisions of this and the preceding sec-
16 tions shall apply.

ARTICLE 6. PROCEDURE IN NEGLECT CASES.

§49-6-1. Petition to court when child believed neglected—Form, etc.

1 If the state department, or a reputable person, believes that
2 a child is neglected, the department or the person may
3 present a petition setting forth the facts to the circuit
4 court in the county in which the child resides, or to the
5 judge of such court in vacation. The petition shall be
6 verified by the oath of some credible person having knowledge
7 of the facts. Upon the filing of the petition, the court or
8 judge shall set a time and place for a hearing.

CHAPTER 51. COURTS AND THEIR OFFICERS.

Article 2. Circuit Courts and Circuit Judges.

Article 7. Official Reporters.

Article 8. State and County Law Libraries; Law Clerks.

Article 9. Retirement System for Judges.

ARTICLE 2. CIRCUIT COURTS AND CIRCUIT JUDGES.

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

§51-2-13. Salaries of judges of circuit courts.

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

1 The judge so elected or agreed upon shall receive for his
2 services, while sitting as such judge, one hundred dollars per
3 day, to be certified by the court and paid out of the state
4 treasury.

§51-2-13. Salaries of judges of circuit courts.

1 The salaries of the judges of the various circuit courts shall
2 be paid solely out of the state treasury. No county, county com-
3 mission, 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-eight
6 thousand five hundred dollars per year.

ARTICLE 7. OFFICIAL REPORTERS.

§51-7-3. Compensation for attending court and taking notes.

§51-7-5. Salary in lieu of all other compensation.

§51-7-6. Reporter's fee; how taxed; paid and accounted for.

§51-7-7. Transcripts to be furnished indigent persons under conviction upon timely request; payment therefor.

§51-7-3. Compensation for attending court and taking notes.

1 The official reporter shall receive, for his services and ex-
2 penses in attending the court or judge and in taking the notes
3 provided for in section two of this article, such salary or other
4 compensation as the court or judge, in accordance with the
5 rules of the supreme court of appeals, may allow. If such sal-
6 ary be allowed, it shall be paid monthly, out of the state
7 treasury. If no such salary be allowed, such other compensa-
8 tion and expenses as may be allowed in civil cases shall be
9 certified by the court or judge to the auditor of the state and
10 the same shall be paid out of the state treasury. Such other
11 compensation and expenses in felony and misdemeanor cases
12 shall be certified to the auditor of the state and paid out of the
13 state treasury. The salary or other compensation provided for
14 in this section shall not be deemed to include the making of

15 typewritten transcripts as provided for in section four of this
16 article.

§51-7-5. Salary in lieu of all other compensation.

1 If neither of the methods of compensation provided for in
2 section three of this article be adopted, a salary may be allowed
3 in lieu of all other compensation, which shall be paid month-
4 ly, out of the state treasury, in such proportions as the court
5 or judge may fix in accordance with the rules of the supreme
6 court of appeals. All fees for services rendered by the official
7 reporter in the discharge of his duties as such, when he is
8 allowed a salary under the provisions of this section, may be
9 collected, and shall, when collected by the sheriff or official
10 reporter, be paid into the treasury of the state; and it shall be
11 the duty of such reporter to make out, sign and deliver to the
12 sheriff a fee bill in every case, civil or criminal, giving the
13 style thereof and the amount due, and from whom, which
14 amount may be collected or levied for by the sheriff, and such
15 fee bill shall have the force and effect of an execution when
16 levied. An official reporter compensated under the provisions
17 of this section shall collect the fees mentioned in section four
18 of this article for any transcript of his shorthand notes of the
19 testimony or proceedings furnished by him to any party, and
20 shall pay the same over to the sheriff of the county in which
21 the services were performed, to be by him accounted for and
22 paid into the state treasury.

§51-7-6. Reporter's fee; how taxed; paid and accounted for.

1 The clerk of the court in which such reporter is employed
2 shall tax as a part of the costs a reporter's fee of not less than
3 five dollars, to be fixed by the court or judge, for each case in
4 which such reporter was engaged. Such costs, when received
5 by the clerk, shall be paid by him to the sheriff, who shall
6 account for and pay such costs, in civil and misdemeanor
7 cases, into the state treasury.

§51-7-7. Transcripts to be furnished indigent persons under conviction upon timely request; payment therefor.

1 In any case wherein an indigent person has filed a notice of
2 intent to seek an appeal or writ of error as specified in section

3 four, article four, or section four, article five, chapter fifty-
 4 eight of this code, the court, or judge thereof in vacation, upon
 5 written request of such convicted person or his counsel, pre-
 6 sented within sixty days after the entry of such judgment, shall,
 7 by order entered of record, authorize and direct the court re-
 8 porter to furnish a transcript of the testimony and proceedings
 9 of the trial, or such part or parts thereof as such convicted
 10 person or his counsel shall have indicated in his request to be
 11 necessary, to the convicted person, without charge to him, for
 12 use in seeking his appeal or writ of error, and the cost of such
 13 transcript whether the case be one of misdemeanor or felony,
 14 shall be certified by the judge of the court to the auditor of the
 15 state and shall be paid out of the treasury of the state from the
 16 appropriation for criminal charges.

ARTICLE 8. STATE AND COUNTY LAW LIBRARIES; LAW CLERKS.

§51-8-8. Authority to establish county law libraries; control of circuit judge; rules and regulations.

§51-8-9. Accounts and reports relating to county law libraries.

§51-8-10. Law clerks.

§51-8-8. Authority to establish county law libraries; control of circuit judge; rules and regulations.

1 In addition to all other powers and duties now conferred by
 2 law upon the supreme court of appeals and the circuit courts,
 3 such courts are hereby authorized and empowered to establish
 4 county law libraries which shall be wholly under the control
 5 and management of the circuit judge, with the assistance of the
 6 circuit clerk. The supreme court of appeals may expend funds
 7 for the purchase of books or other expenses necessary to the
 8 operation of the county law library.

9 All county law libraries presently in existence shall be
 10 continued and kept current and the cost thereof, other than
 11 for provision of adequate space, shall be borne by the state and
 12 charged against the judicial accounts thereof. Such libraries
 13 shall be available for use by the public subject to such reason-
 14 able rules as may be adopted by the circuit judge. County
 15 commissions shall provide adequate space for such libraries.

§51-8-9. Accounts and reports relating to county law libraries.

1 The administrative director of the supreme court of appeals,
 2 with the cooperation and assistance of each circuit clerk, shall

3 keep full and complete account of all money transactions in
4 connection with the various county law libraries and of the
5 receipt of all books and other documents lodged in such
6 libraries and shall perform such other duties in connection
7 therewith as may be ordered by the supreme court of appeals.
8 Such administrative director shall make an annual report to
9 the supreme court of appeals within sixty days after the close
10 of each fiscal year, in which he shall state the number of
11 copies of reports, acts of the Legislature and all other books
12 and documents received by each county law library and
13 the disposition made thereof. Such report shall also set forth
14 what money came into his hands during the preceding fiscal
15 year.

§51-8-10. Law clerks.

1 Any circuit court heretofore authorized by special act of the
2 Legislature to appoint a law clerk or law assistant shall con-
3 tinue to have such authority, and all of the provisions of any
4 such special act or any other special acts amendatory thereof
5 shall continue to apply, and any such law clerk or law assistant
6 shall receive the salary most recently authorized in any such
7 special act, until changed by such circuit court, with the ap-
8 proval of the supreme court of appeals, by order entered of
9 record, but such salary shall be paid out of the state treasury.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES.

§51-9-5. Election not to contribute.

§51-9-10. Services of retired judges.

§51-9-15. County commissioners excluded.

§51-9-5. Election not to contribute.

1 Notwithstanding any provisions of this article, any judge
2 may in writing notify the auditor within thirty days after he
3 takes office, or, if he is in office, on the date this article
4 becomes effective, then within thirty days from such latter
5 date, that he elects not to make payments or contributions to
6 the fund, in which event every judge, so electing, shall not
7 thereafter at any time be entitled to receive any retirement
8 pay or benefits under provisions of this article: *Provided*, That
9 any judge who has so elected not to contribute shall thereafter
10 be permitted to become eligible for retirement benefits by

11 paying into the judges' retirement fund all contributions he
12 would have been required to pay into the fund, together
13 with interest thereon at four percent, if he had not previously
14 elected not to contribute. If such notice in writing be given,
15 any deductions theretofore made from the salary of such
16 judge and paid into the fund shall be refunded, without
17 interest, to him by the auditor by warrant drawn on the
18 fund.

§51-9-10. Services of retired judges.

1 Any retired judge receiving retirement benefits under the
2 provisions hereof shall serve as special judge of any circuit
3 court of this state, when such retired judge is selected ac-
4 cording to law to serve as such special judge in any such
5 court without charge or compensation, per diem or other-
6 wise to him, but shall be allowed and paid his traveling
7 expenses and other actual expenses for lodging and meals
8 in the same manner and amounts as such expenses of
9 judges are paid as now or hereafter may be provided for by
10 statute.

§51-9-15. County commissioners excluded.

1 Commissioners of county commissions or of any tribunal
2 established in lieu thereof, are excluded from the retirement
3 pay and retirement benefits herein provided.

CHAPTER 52. JURIES.

Article 1. Petit Juries.

Article 2. Grand Juries.

ARTICLE 1. PETIT JURIES.

§52-1-3. Jury commissioners; appointment and qualifications; term; removal;
vacancies; compensation; oath; powers and duties generally.

§52-1-21. Compensation of jurors; taxation of jury fees as costs; disposition
thereof.

§52-1-23. Record of allowance to jurors; certification to auditor; failure of
clerk to comply with provisions.

§52-1-24. Payment of compensation.

**§52-1-3. Jury commissioners; appointment and qualifications; term;
removal; vacancies; compensation; oath; powers and
duties generally.**

1 There shall be two jury commissioners of the circuit court

2 of each county. They shall be of opposite politics, citizens
3 of good standing, residents in the county for which they are
4 appointed, and well-known members of the principal political
5 parties thereof; but the chairman of any political party shall
6 be ineligible to appointment, and no jury commissioner shall
7 be eligible to reappointment after he shall have served four
8 consecutive years. They shall be appointed by the circuit
9 court, or the judge thereof in vacation, of their respective
10 counties. Their term of office shall be four years, and shall
11 commence on the first day of June next after their appoint-
12 ment. The jury commissioners appointed by the circuit court
13 or the judge thereof, in office when this code takes effect,
14 shall continue in office, unless removed, until the expiration
15 of their respective terms of office, and their successors shall
16 be appointed, as aforesaid, alternately, so that a period of
17 two years shall intervene between the dates when the terms
18 of office of the two commissioners shall begin and expire.
19 They may be removed from office by the court or judge
20 having the power of appointment, for official misconduct,
21 incompetency, habitual drunkenness, neglect of duty or gross
22 immorality. Vacancies caused by death, resignation or other-
23 wise, shall be filled for the unexpired term in the same
24 manner as the original appointments. They shall receive as
25 compensation for their services, while necessarily employed
26 as such jury commissioners, an amount to be fixed by the
27 judge of the circuit court, in accordance with the rules of
28 the supreme court of appeals, which shall be payable out of
29 the state treasury upon the orders of the circuit court. Before
30 entering upon the discharge of his duties, a jury commissioner
31 shall take and subscribe, before the clerk of the circuit court,
32 who is hereby authorized to administer the same, an oath,
33 to be filed and preserved by him in his office, to the following
34 effect:

35 State of West Virginia,

36 County of, to wit:

37 I, A..... B....., do solemnly
38 swear that I will support the Constitution of the United
39 States and the constitution of this state and will faithfully
40 discharge the duties of jury commissioner to the best of my

41 skill and judgment, and that I will not place any person upon
42 the jury list in violation of law, or out of fear, favor or
43 affection.

**§52-1-21. Compensation of jurors; taxation of jury fees as costs;
disposition thereof.**

1 Any person summoned as aforesaid, by virtue of a venire
2 facias or otherwise, to serve as a petit juror, and actually at-
3 tending upon the court, or attending at the courthouse, at the
4 time summoned, whether he be called to serve on a jury or
5 not, shall, for each day he so attends, be entitled to receive
6 the sum of not less than fifteen and not more than twenty-five
7 dollars, to be fixed by order entered of record, and the same
8 mileage and other expenses allowed to witnesses, to be paid out
9 of the state treasury: *Provided*, That for each day he shall not
10 actually attend at the courthouse he shall receive nothing and
11 that he shall be allowed mileage and tolls for necessary travel to
12 and from his place of residence during the term. When a jury in
13 any case shall be placed in the custody of the sheriff, he shall
14 provide for and furnish such jury necessary meals and lodging
15 while they are in such sheriff's custody, at a reasonable cost to
16 be determined by an order of the court, and such meals and
17 lodging shall be paid for out of the state treasury. There shall be
18 taxed in the costs against any person against whom a judgment
19 on the verdict of a jury may be rendered in a case of misde-
20 meanor, and against any person against whom judgment on the
21 verdict of a jury may be rendered in a civil action, and against
22 any person on whose motion the verdict of a jury is set aside
23 and a new trial granted, a total of ten dollars for jury costs,
24 which, when collected by the circuit clerk from the party,
25 shall be paid by the sheriff into the state treasury. All money
26 so received by the clerk shall be forthwith paid by him to the
27 sheriff, and the clerk and his surety shall be liable therefor on
28 his official bond as for other money coming into his hands
29 by virtue of his office.

30 The clerk of the circuit court of each county in this state
31 shall annually certify to the county court a list of all money so
32 paid to him, and by him paid to the sheriff, and, in addition
33 thereto, a correct list of all the cases in which jury fees have
34 been taxed, and are, at the time, properly due and payable

35 in the state treasury, and the sheriff of the county shall be
36 held to account in his annual settlement for all such moneys
37 collected by him.

**§52-1-23. Record of allowance to jurors; certification to auditor;
failure of clerk to comply with provisions.**

1 The clerk of any court upon which juries are in attendance
2 shall, before the final adjournment of each term, and under the
3 direction of the court, make an entry upon its minutes, stating
4 separately the amount which each juror is entitled to receive
5 out of the state treasury for his services or attendance during
6 the term; and such clerk of any court upon which juries are in
7 attendance, if directed by the court, shall at any time during
8 such term, and under the direction of the court, make an entry
9 upon its minutes, stating separately the amount which each
10 juror is entitled to receive out of the state treasury for his
11 services or attendance during the term. It shall be the duty of
12 such clerk, as soon as practicable after adjournment of the
13 court, to transmit to the auditor certified copies of all orders
14 under this section making allowances payable out of the state
15 treasury. Any such clerk who shall fail to pay over, as re-
16 quired by law, any moneys so received by him, or otherwise
17 to comply with the provisions of this article, shall be deemed
18 guilty of a misdemeanor and fined not less than fifty dollars.

§52-1-24. Payment of compensation.

1 It shall be the duty of the clerk, as soon as practicable after
2 the adjournment of the court, or before the adjournment of the
3 court at such time as the court may direct, to deliver to each
4 juror a certified copy of any order under the preceding section
5 making an allowance to him, payable out of the state treasury;
6 and the sheriff of such county shall, upon demand, pay to such
7 juror the amount allowed to him, which shall be repaid to the
8 sheriff out of the state treasury, upon the production of sat-
9 isfactory proof that the same has actually been paid by him.
10 If any sheriff fail to pay any such allowance as required by
11 law, he may be proceeded against as for a contempt of court.

ARTICLE 2. GRAND JURIES.

§52-2-13. Compensation and mileage of grand jurors.

1 Every person who shall serve upon a grand jury shall be en-

2 titled to receive for such services not less than fifteen dollars nor
3 more than twenty-five dollars, to be fixed by the court, for each
4 day he may so serve, and in addition thereto the same mileage
5 and other expenses as allowed to witnesses, to be paid out of the
6 state treasury. But he shall not be paid for more than four days'
7 service at any one term of the court, except in the counties of
8 Harrison, McDowell, Fayette, Cabell, Marshall, Marion, Mer-
9 cer, Wood, Ohio, Mingo, Monongalia, Preston and Summers,
10 where such grand jurors shall not be paid for more than ten
11 days' service for any one term of court and except in Kanawha
12 County where such grand jurors shall not be paid for more than
13 sixty days' services for any one term of court. The judge of the
14 court shall fix the compensation for grand jurors, as provided
15 above, by an order entered of record in such court. The provi-
16 sions of sections twenty-three and twenty-four of article one of
17 this chapter, relating to allowance and payment of compensa-
18 tion and mileage and other expenses to petit jurors where ap-
19 plicable, shall apply in like respect to grand jurors.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 11. JUDICIAL COUNCIL FOR STUDY OF PROCEDURE AND PRACTICE.

§56-11-1. Created; purpose; composition; qualifications, appoint- ment and political affiliation of members; secretary of council.

1 There is hereby created a judicial council for the continuous
2 study of the organization, rules and methods of procedure
3 and practice of the judicial system of the state. It shall be
4 composed of one judge of the supreme court of appeals,
5 four circuit judges, at least one of whom shall be from a
6 multi-judge circuit and who shall not be the chief judge
7 thereof, and four practicing attorneys and one member of
8 the faculty of the college of law of West Virginia University,
9 who shall be appointed by the governor. Not more than three
10 judges and two attorneys shall be members of any one
11 political party.

12 The administrative director of the supreme court of appeals
13 shall, without additional compensation therefor, serve as
14 secretary of the judicial council.

CHAPTER 57. EVIDENCE AND WITNESSES.**ARTICLE 5. MISCELLANEOUS PROVISIONS.****§57-5-11. Disposal of exhibits or articles offered in evidence; disposal of property in hands of law enforcement officials.**

1 Any circuit court in this state, or the judge thereof in vaca-
2 tion, may in its discretion by order entered of record dispose
3 of by return to the owner thereof, or by destruction, sale, or
4 otherwise, any exhibit or article introduced or offered in
5 evidence at the hearing, or upon the trial, of any matter or
6 case before such court or judge, and remaining in the custody
7 or control of such court for a period of thirty days after the
8 expiration of the time within which an appeal may be taken
9 from any final order or judgment in such matter or case,
10 if no appeal is taken therefrom, or thirty days, after any
11 final order or judgment of an appellate court, if such appeal
12 is taken therein: *Provided*, That if the ownership of such
13 exhibit or article be known, the owner shall be notified
14 and such exhibit or article shall be returned to him if he
15 so desires.

16 Any sale directed hereunder shall be made upon such
17 notice and terms and by such officer or other person as the
18 court or judge shall direct. The proceeds of any such sale
19 shall be applied to the reasonable costs and expenses of such
20 sale as the court or judge shall allow, and the remainder
21 thereof shall be paid into the state treasury.

22 The provisions of this section shall not apply or extend
23 to the county commission of any county; nor shall any
24 property or article be disposed of hereunder contrary to any
25 other statute which expressly provides a different disposition.

CHAPTER 58. APPEAL AND ERROR.**ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF APPEALS.****§58-5-17. Court to prescribe method and form of reproducing record; reproduction of record by clerk; distribution; costs.**

1 The supreme court of appeals shall by order prescribe
2 the method and form of reproducing records. Such order

3 shall prescribe the number of copies to be reproduced, the
4 contents thereof, the type size and quality of paper and the
5 maximum rate per page that may be charged for the printing
6 or reproduction of such records.

7 The cost of printing or reproduction, photostating and
8 blueprinting, if any, shall be included at the end of the record
9 with the date the same was printed or otherwise reproduced.

10 The clerk shall have the record printed or reproduced
11 when the party obtaining the appeal, writ of error or super-
12 sedeas shall deposit with him a sufficient sum to pay for
13 same. The clerk shall deliver one copy of such record to
14 the judge and clerk of the trial court, two copies to counsel
15 on each side, and retain the remaining copies in his office.
16 He shall cause all copies of the record remaining in his
17 office to be compared with the typewritten transcript certified
18 to the supreme court of appeals and correct all errors that
19 may appear therein. The cost of such printing or reproduc-
20 tion, unless otherwise ordered by the court, shall be taxed
21 against the unsuccessful party, if the judgment, decree or
22 order appealed from be reversed. And should the appellant
23 or plaintiff in error fail for three months after his case has
24 been docketed in the court of appeals to deposit with the
25 clerk of the said court, the sum estimated by said clerk, to
26 pay for the printing or other reproduction of the record, he
27 shall be deemed to have abandoned his appeal or writ of
28 error and the same shall be dismissed; but it may be renewed
29 at any time within eight months from the date of the judg-
30 ment, order or decree appealed from, unless such period be
31 extended, according to the provisions of section four of this
32 article. In every felony and misdemeanor case, the clerk
33 shall have the usual number of records printed or otherwise
34 reproduced at a cost not exceeding the amount fixed by the
35 court, and dispose of the same as in other cases; and upon
36 the certificate of the chief justice of the supreme court of
37 appeals stating that such record has been printed or other-
38 wise reproduced as required by the court, and the amount
39 said clerk is entitled to, the cost of printing or reproducing
40 the same shall be paid to said clerk out of the treasury of
41 the state, and the auditor shall draw his warrant on the

42 treasury for the payment thereof out of the fund for criminal
43 charges.

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

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

\$59-1-16. Amount of allowance to witnesses for attendance; how and when made.

\$59-1-28. Use and disposition of fees of sheriffs, clerks and prosecuting attorneys.

\$59-1-29. Collection of such fees.

\$59-1-31. Monthly payments; how credited; report required.

§59-1-16. Amount of allowance to witnesses for attendance; how and when made.

1 A person attending any court or other tribunal, under a
2 summons or recognizance as a witness, shall receive not less
3 than ten nor more than twenty dollars, to be fixed by the
4 court or other tribunal, for each day's attendance and fifteen
5 cents per mile for each mile necessarily traveled to the place of
6 attendance, and the same for returning, plus all necessary
7 bridge, ferry and road tolls. On his oath, an entry of the
8 sum he is entitled to, and for what, and by what party it is
9 to be paid, shall be made. When the attendance is before either
10 house or a committee of the Legislature, such entry shall be
11 made by the clerk of such house or the chairman of such com-
12 mittee, and in other cases by the clerk of the court or other tri-
13 bunal before which, or by the person before whom, the witness
14 attended. A witness summoned or recognized to attend in sev-
15 eral cases may have the entry made against any one of the
16 parties by whom he is summoned, or for whom he is sworn

17 as a witness, but no witness shall be allowed for his attendance
18 in more than one case at the same time. But no compensation
19 shall be allowed to a witness before a grand jury. This section
20 shall not apply to witnesses before justices of the peace.

§59-1-28. Use and disposition of fees of sheriffs, clerks and prosecuting attorneys.

1 All fees, costs, percentages, penalties, commissions, allow-
2 ances, compensation, income and all other perquisites of what-
3 ever kind which by law may now or hereafter be collected or
4 received as compensation for services by any clerk of the
5 county commission, sheriff, clerk of the circuit court and prose-
6 cuting attorney, shall be collected and received by such offi-
7 cer for the sole use of the treasury of the county in which he is
8 an officer, and shall be held as public moneys belonging to the
9 county fund, and shall be accounted for and paid over as such
10 in the manner hereinafter provided. Fees are held to be earned
11 at the time the service is renderd and not at the time the matter
12 is finally adjudicated.

§59-1-29. Collection of such fees.

1 Each clerk of the county commission, sheriff, clerk of the cir-
2 cuit court and prosecuting attorney shall have charge of and
3 collect the fees, costs, percentages, penalties, commissions, al-
4 lowances, compensation, income and all other perquisites of
5 whatever kind which are now or may hereafter be allowed by
6 law. Whenever there remain due the county and unpaid, for a
7 period of more than six months, any fees, costs, percentages,
8 penalties, commissions, allowances, compensation, income or
9 any other perquisites of any kind, it shall be the duty of the
10 county commission, or other tribunal in lieu thereof, by the pro-
11 secuting attorney, to proceed to the collection thereof in the cir-
12 cuit court, upon motion whereof the defendant and the sureties
13 on his bond shall have at least twenty days' notice, or in any
14 other manner provided for by law, and the amount so collected
15 shall be paid into the county treasury to the credit of the
16 general county fund.

§59-1-31. Monthly payments; how credited; report required.

1 Each of the officers named in section twenty-nine of this
2 article shall at the end of each month pay into the county trea-

3 sury all fees, costs, percentages, penalties, commissions, com-
4 pensation, income and all other prerequisites of whatever kind
5 collected by his office during such month, which money shall
6 be credited to the general county fund. All such officers shall
7 cause to be made a quarterly report to the administrative di-
8 rector of the supreme court of appeals, which shall indicate
9 the money received by them during such quarter and the
10 source and nature of such money. Such report shall be made
11 within thirty days following the close of each quarter.

CHAPTER 62. CRIMINAL PROCEDURE.

Article 3. Trial of Criminal Cases.

Article 5. Costs in Criminal Cases.

Article 12. Probation and Parole.

ARTICLE 3. TRIAL OF CRIMINAL CASES.

§62-3-1. Time for trial; depositions of witnesses for accused; counsel, copy of indictment, and list of jurors for accused; remuneration of appointed counsel.

1 When an indictment is found in any county, against a per-
2 son for a felony or misdemeanor, the accused, if in custody,
3 or if he appear in discharge of his recognizance, or voluntarily,
4 shall, unless good cause be shown for a continuance, be tried
5 at the same term. If any witness for the accused be a nonresi-
6 dent of the state, or absent therefrom in any service or em-
7 ployment, so that service of a subpoena cannot be had upon
8 him in this state, or is aged or infirm so that he cannot attend
9 upon the court at the trial, the accused may present to the
10 court in which the case is pending, or to the judge thereof in
11 vacation, an affidavit showing such facts, and stating therein
12 what he expects to prove by any such witness, his name, resi-
13 dence, or place of service or employment; and if such court
14 or judge be of the opinion that the evidence of any such wit-
15 ness, as stated in such affidavit, is necessary and material to
16 the defense of the accused on his trial, an order may be made
17 by such court or judge for the taking of the deposition of any
18 such witness upon such notice to the prosecuting attorney, of
19 the time and place of taking the same, as the court or judge
20 may prescribe; and in such order the court or judge may autho-
21 rize the employment of counsel, practicing at or near the

22 place where the deposition is to be taken, to cross-examine the
23 witness on behalf of the state, the reasonable expense whereof
24 shall be paid out of the treasury of the state, upon certificate
25 of the court wherein the case is pending. Every deposition so
26 taken may, on the motion of the defendant, so far as the evi-
27 dence therein contained is competent and proper, be read to
28 the jury on the trial of the case as evidence therein. A court of
29 record may appoint counsel to assist an accused in criminal
30 cases at any time upon request. A copy of the indictment and
31 of the list of the jurors selected or summoned for his trial, as
32 provided in section three of this article, shall be furnished him,
33 upon his request, at any time before the jury is impaneled. In
34 every case where the court appoints counsel for the accused
35 and the accused presents an affidavit showing that he cannot
36 pay therefor, the court shall, by order entered of record allow
37 an attorney so appointed a fee of not to exceed one hundred
38 dollars in any misdemeanor case, and a fee of not to exceed
39 two hundred dollars in any felony case. In misdemeanor and
40 felony cases, the fee so allowed shall be paid by the state
41 auditor as other fees in felony cases are paid. The amount so
42 paid, in the event the accused shall not prevail, shall be and
43 constitute a judgement of said court against the accused to be
44 recovered as any other judgment for costs.

ARTICLE 5. COSTS IN CRIMINAL CASES.

§62-5-1. Payment of witnesses.

1 Sections sixteen and seventeen of article one, and section
2 sixteen of article two, chapter fifty-nine of this code shall
3 apply to a person attending as a witness under a recognizance
4 or summons in a criminal case whether the same be a felony
5 or misdemeanor, as well as to a person attending under a
6 summons in a civil case, except that in a criminal case, a
7 person residing out of this state, who attends a court therein
8 as a witness, shall be allowed by such court a proper
9 compensation for attendance and travel to and from the
10 place of his abode; the amount of the same to be fixed by
11 such court. Such compensation and other allowances shall,
12 in all criminal cases be paid out of the treasury of the state.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-1. Courts having authority to place offenders on probation.

§62-12-5. Probation officers and assistants

§62-12-6. Powers and duties of probation officers.

§62-12-22. Appointment of counsel for parole violators; authority to appoint; payment of counsel.

§62-12-1. Courts having authority to place offenders on probation.

1 Any circuit court of this state shall have authority as pro-
2 vided in this article to place on probation any person con-
3 victed of a crime.

§62-12-5. Probation officers and assistants.

1 Each circuit court, subject to the approval of the supreme
2 court of appeals and in accordance with its rules, is autho-
3 rized to appoint a probation officer and clerical assistants
4 to serve during the pleasure of the appointing court, and in
5 addition in counties having a population of more than
6 forty thousand, such court also subject to the approval
7 of the supreme court of appeals and in accordance with its
8 rules, is authorized to appoint additional probation officers
9 and clerical assistants.

10 The appointment of such probation officers, assistant pro-
11 bation officers and clerical assistants shall be in writing and
12 entered on the order book of the court by the judge making
13 such appointment and a copy of said order of appointment
14 shall be delivered to the administrative director of the supreme
15 court of appeals. The said order of appointment shall state
16 the monthly salary fixed by said judge and approved by the
17 supreme court of appeals, to be paid the probation officer,
18 assistant probation officer, if any, or clerical assistants so
19 appointed.

20 The salary of probation officers, assistant probation officers
21 and clerical assistants shall be paid monthly or semimonthly, as
22 the supreme court of appeals by rule may direct and they shall
23 be reimbursed for all reasonable and necessary expenses actual-
24 ly incurred in the line of duty in the field. Such salary and
25 expenses shall be paid by the state from the judicial accounts
26 thereof. The county commission shall provide adequate office
27 space for the probation officer and his assistants to be ap-
28 proved by the appointing court. Such equipment and supplies

29 as may be needed by the probation officer and his assistants
30 shall be provided by the state and the cost thereof shall be
31 charged against the judicial accounts of the state.

32 No judge shall appoint any probation officer, assistant
33 probation officer or clerical assistant who is related to him
34 either by consanguinity or affinity.

35 A judge of a circuit court whose circuit comprises more
36 than one county may appoint a probation officer and a
37 clerical assistant in each county of such circuit or may
38 appoint the same person as a probation officer and also the
39 same person as a clerical assistant in two or more such
40 counties in such circuit.

41 In lieu of, or in addition to the probation officers, assistant
42 probation officers and clerical assistants provided for in this
43 section, any circuit judge may avail himself of the services
44 of state probation and parole officers; and any such services
45 which may be provided to the court or judge by said state
46 probation and parole officers, shall be rendered at no addi-
47 tional cost to the state, county or judge so using them. The
48 board of probation and parole may assist any probation
49 officer, upon request, with information relative to procedure,
50 printed forms, and technique applicable to probation methods.

51 Nothing contained in this section shall in any manner alter,
52 modify, affect or supersede the appointment or tenure of any
53 probation officer, medical assistant or psychiatric assistant ap-
54 pointed by any court under any special act of the Legislature
55 heretofore enacted, and the salary or compensation of any such
56 person shall remain as specified in the most recent amendment
57 of any such special act until changed by such court, with ap-
58 proval of the supreme court of appeals, by order entered of
59 record, and any such salary or compensation shall be paid
60 out of the state treasury.

§62-12-6. Powers and duties of probation officers.

1 Each probation officer shall investigate all cases referred
2 to him for investigation by the court and shall report in writing
3 thereon. He shall furnish to each person released on probation
4 under his supervision a written statement of the conditions of
5 his probation together with a copy of the rules and regulations

6 prescribed by the court for the supervision of probationers. He
7 shall keep himself informed concerning the conduct and con-
8 dition of those under his supervision and shall report thereon
9 in writing as often as the court may require. He shall use all
10 practicable and suitable methods to aid and encourage them
11 and to bring about improvement in their conduct and con-
12 dition. He shall keep detailed records of his work, shall keep
13 accurate and complete accounts of and give receipts for all
14 money collected from persons under his supervision, and
15 shall pay over the money to such person as the court may
16 designate. He shall give bond with good security, to be ap-
17 proved by the court, in a penalty of not less than one thousand
18 nor more than three thousand dollars, as the court may de-
19 termine. He shall also perform such other duties as the court
20 may require. He shall have authority, with or without an order
21 or warrant, to arrest any probationer.

§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 forth
2 in this article, may be represented by counsel at any hearing
3 held for the purpose of determining whether his parole should
4 be revoked. In the event the person accused of a violation of
5 his parole is unable to pay for counsel and desires to have
6 counsel appointed for him, he shall present his application for
7 the appointment of counsel and an affidavit reflecting his
8 inability to pay for such counsel to the circuit court in the
9 county in which such person is confined or in the county in
10 which the hearing is to be held for the purpose of determining
11 whether his parole should be revoked, or to the judge thereof
12 in vacation. If it appears to the satisfaction of the court or
13 judge that such person is in fact unable to pay for counsel,
14 such court or judge may appoint counsel to represent such
15 person. In every case where counsel is so appointed, the court,
16 by order entered of record, shall allow such appointed counsel
17 a fee not to exceed two hundred dollars, said fee to be paid
18 from the fund allocated by the state for the payment of crim-
19 inal charges in the same manner as is provided for the pay-
20 ment of fees in felony cases as set forth in section one, article
21 three of this chapter.

CHAPTER 127

(H. B. 1350—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one and eleven, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact article nineteen of said chapter, all relating to the office of justice of the peace; increasing fees in civil cases and related matters and in criminal cases and proceedings; abolishing the office of county magistrate; relating to the transfer of matters pending before a county magistrate; specifying that all previous acts and decisions of a county magistrate shall continue in full force and effect; relating to accountings by county magistrates; relating to expenses of a county magistrate; prohibiting justices of the peace from collecting any fees for their own use and benefit; relating to the disposition of fees, costs, fines, forfeitures and penalties collected by justices of the peace; classifying the counties by population for the purpose of establishing maximum salaries for justices of the peace; relating to fixing the salaries of justices of the peace within such maximum limitations; specifying that only certain justices of the peace shall be entitled to receive a salary; providing that vacancies in office of justice of the peace need not be filled; creating a justice of the peace advisory board in each county; relating to the composition, function and duties of each such board; relating to expenses of a justice of the peace; authorizing rules and regulations by circuit court judges concerning the discharge of the duties of justices of the peace; relating to the powers of circuit court judges with respect to justices of the peace; relating to the distribution of judicial business among justices of the peace; relating to accounting and audit procedures concerning justices of the peace; requiring various reports by justices of the peace; relating to exercise of county-wide powers by justices of the peace; relating to the office of constable; relating to conflicting provisions; relating to the removal from office of a justice of the peace; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That sections one and eleven, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article nineteen of said chapter be amended and reenacted, all to read as follows:

Article

17. Fees, Fines and Costs.

19. Justices of the Peace—General Provisions.

ARTICLE 17. FEES, FINES AND COSTS.

§50-17-1. Fees in civil cases.

§50-17-11. Fees in criminal cases.

§50-17-1. Fees in civil cases.

- | | | |
|----|--|---------|
| 1 | A justice of the peace shall charge and shall collect in | |
| 2 | advance from the party or parties requesting such services | |
| 3 | the following fees: | |
| 4 | (1) For entering and trying any civil suit and the | |
| 5 | issuance of all papers including distress | |
| 6 | warrant and attachment orders and the per- | |
| 7 | formance of all other services in connection | |
| 8 | with any such civil suit whether the suit be | |
| 9 | contested or uncontested and whether or | |
| 10 | not the suit be completed or discontinued | |
| 11 | but excepting services in connection with | |
| 12 | executions or garnishments and suggestee | |
| 13 | executions _____ | \$10.00 |
| 14 | (2) For all services in connection with an execu- | |
| 15 | tion on judgment, suggestion on judgment, | |
| 16 | execution and garnishment whether execu- | |
| 17 | tion be without garnishment or there be | |
| 18 | both execution and garnishment or sug- | |
| 19 | gestee execution _____ | \$ 2.50 |
| 20 | (3) For each bond filed in a case, appeal bond, | |
| 21 | stay of execution bond, bail bond, civil order | |
| 22 | of arrest, detinue bond, except bond in | |
| 23 | attachment case and docketing same _____ | \$ 1.00 |
| 24 | (4) For taking depositions of witnesses if done | |
| 25 | in an hour or less _____ | \$ 1.00 |

26	(5) If not completed in an hour, for additional	
27	time at the rate, per hour of _____	\$ 1.00
28	(6) For taking an inquest on a dead body, to be	
29	audited and paid from the treasury of the	
30	county _____	\$ 5.00
31	(7) Order of appraisement, appointing appraisers,	
32	swearing of the same and docketing same,	
33	to be paid by plaintiff _____	\$ 1.00
34	(8) For taking and certifying acknowledgment of	
35	deed or other instrument of writing _____	.50
36	(9) For mailing each suggestee execution by regis-	
37	tered and/or certified mail and return re-	
38	ceipt requested _____	.55

§50-17-11. Fees in criminal cases.

1 (1) A fee of ten dollars shall be assessable in each criminal
 2 case and proceeding before a justice of the peace, whether a
 3 hearing is held or not, which fee shall constitute the only fee
 4 to be charged for all official services performed in connection
 5 with any single case, including affidavit for warrant, search
 6 and seizure warrant, warrant for arrest, trial examination,
 7 issuing subpoenas and copies thereof, warrant summoning and
 8 swearing a jury when required, swearing and certifying at-
 9 tendance of witness, entering judgment and taxing costs,
 10 making and certifying a transcript of his docket in any
 11 particular case and transmitting the same to the clerk of the
 12 circuit court, the department of motor vehicles, or any other
 13 office to which he may be by law required to certify such
 14 transcript, and for executing any bond or recognizance. No
 15 other fees shall be taxed or charged by any justice in such
 16 cases and proceedings. The provisions of this section shall not
 17 apply to proceedings to require security to keep the peace, and
 18 the fees and costs incidental thereto shall be assessed and
 19 collected as in civil cases

20 (2) For issuing sheep warrant, appointing and swearing
 21 appraisers and docketing same _____ \$2.50

ARTICLE 19. JUSTICES OF THE PEACE—GENERAL PROVISIONS.

§50-19-1. County magistrates abolished; transfer of matters pending.

- §50-19-2. Fees and costs; limitations on justices of the peace; disposition.
- §50-19-3. Compensation; advisory board; expenses
- §50-19-4. Administration; rules and regulations; supervision by circuit court; inspection; reports; quarterly reports to joint committee on government and finance.
- §50-19-5. Where justice of the peace may exercise powers.
- §50-19-6. Continuation of office of constable.
- §50-19-7. Conflict of provisions.
- §50-19-8. Violations; penalties.
- §50-19-9. Removal from office.

§50-19-1. County magistrates abolished; transfer of matters pending.

1 The office of county magistrate, heretofore created, is
2 hereby abolished. The judge of the circuit court of each county,
3 or the chief judge thereof if there is more than one judge of the
4 circuit court, shall order the transfer of all matters pending
5 before any county magistrate to a justice of the peace for such
6 county. All previous acts and decisions of a county magistrate
7 shall continue in full force and effect and shall not in any
8 manner be affected by the provisions of this article.

9 Each person heretofore serving as a county magistrate shall
10 complete, within thirty days of the effective date of this article,
11 all acts heretofore required of county magistrates in regard to
12 the disposition of fees, costs, fines, forfeitures and penalties
13 as well as all reports heretofore required. The chief inspector
14 of public offices shall, as soon as practicable, conduct a final
15 audit of the records of county magistrates, both civil and
16 criminal.

17 Reasonable and necessary expenses heretofore incurred by a
18 county magistrate may be reimbursed by the county commission
19 in the matter heretofore provided.

§50-19-2. Fees and costs; limitations on justices of the peace; disposition.

1 Notwithstanding any provision of article seventeen of this
2 chapter or any other provision of law to the contrary, no jus-
3 tice of the peace shall at any time collect or receive any sum
4 of money or other emolument by virtue of his office for his
5 own use and benefit except as is provided in this article.

6 Notwithstanding any provision of article seventeen of this

7 chapter or any other provision of law to the contrary, all fees,
8 costs, fines, forfeitures and penalties collected by justices of the
9 peace, both civil and criminal, together with an accounting
10 of their source and the services for which rendered, shall be
11 paid over to the sheriff of the county by the fifteenth day of the
12 month following the month of their collection. All fees and
13 costs shall be deposited into the general fund of the county.

§50-19-3. Compensation; advisory board; expenses.

1 For the purpose of establishing maximum limitations on the
2 compensation for justices of the peace, the counties shall be
3 classified according to population, as ascertained in the last
4 preceding census taken under the authority of the United States,
5 as follows: Counties with a population of two hundred thou-
6 sand or more shall be designated Class I counties; counties with
7 a population of one hundred thousand or more but less than
8 two hundred thousand shall be designated Class II counties;
9 counties with a population of seventy thousand or more but
10 less than one hundred thousand shall be designated Class III
11 counties; counties with a population of thirty thousand or more
12 but less than seventy thousand shall be designated Class IV
13 counties; counties with a population of twenty thousand or
14 more but less than thirty thousand shall be designated Class V
15 counties; counties with a population of ten thousand or more
16 but less than twenty thousand shall be designated Class VI
17 counties; and counties with a population of less than ten
18 thousand shall be designated Class VII counties.

19 Salaries for justices of the peace shall be fixed by the
20 county commissions within the following maximum limits: In
21 Class I counties, not more than seventeen thousand five hun-
22 dred dollars per year; in Class II counties, not more than fif-
23 teen thousand dollars per year; in Class III counties, not more
24 than twelve thousand five hundred dollars per year; in Class IV
25 counties, not more than ten thousand dollars per year; in Class
26 V counties, not more than seven thousand five hundred dol-
27 lars per year; in Class VI counties, not more than six thousand
28 two hundred fifty dollars per year; and in Class VII counties,
29 not more than five thousand dollars per year.

30 Within the maximum limitations above prescribed, the
31 county commission may fix the same salary for all justices of

32 the peace within such county or it may establish a different
33 salary for one or more of such justices of the peace: *Provided*,
34 That in counties with a population of one hundred thousand
35 or more every justice of the peace within such county who
36 devotes full time to his public duties to the exclusion
37 of any other employment shall be paid the same salary.
38 In fixing the salaries within the maximum limitations
39 above prescribed, the county commission shall consider the
40 advice of the advisory board herein created and shall take into
41 account the amount of time each justice of the peace shall be
42 available to perform the duties of his office: *Provided*, That
43 notwithstanding any other provision of this article or of this
44 code to the contrary, no person shall be entitled to receive a
45 salary as a justice of the peace under the provisions of this
46 article unless (1) such person was elected to that office and
47 thereafter was appointed and served as a county magistrate
48 under the former provisions of this article, except that his
49 successor shall be entitled to such salary in the event of a
50 vacancy in that particular office of justice of the peace; or (2)
51 such person was appointed and served as a county magistrate
52 under the former provisions of this article and is, after the
53 effective date of this act, appointed to fill a vacancy in the
54 office of justice of the peace, except that his successor shall
55 be entitled to such salary in the event of a vacancy in that
56 particular office of justice of the peace: *Provided, however*,
57 That notwithstanding the foregoing or any other provision of
58 this article or this code to the contrary, a county commission
59 shall not be required to fill any vacancy in any office of justice
60 of the peace.

61 For the purpose of advising the county commission in the
62 fixing of salaries of justices of the peace within the maximum
63 limitations above prescribed, there is hereby created in each
64 county the justice of the peace advisory board which shall be
65 composed of the clerk of the county commission, the clerk of
66 the circuit court, the judge of the circuit court, or the chief
67 judge thereof if there is more than one judge of the circuit
68 court, and two members to be appointed by the county com-
69 mission, which two appointed members shall not both be
70 members of the same political party. Justices of the peace or
71 members of their immediate families shall be ineligible to

72 serve as members of the board by appointment of the county
73 commission. The advisory board shall elect from its mem-
74 bership a chairman. The advisory board shall meet at such
75 times and places as shall be directed by the chairman or by
76 the county commission. It shall be the duty of the advisory
77 board to advise the county commission on the fixing of salaries
78 of justices of the peace within the maximum limitations above
79 prescribed. No member of the justice of the peace advisory
80 board shall be entitled to any pay or reimbursement for ex-
81 penses incurred in the performance of his duties.

82 In addition to his salary, as specified by the county commis-
83 sion, each justice of the peace shall be reimbursed for all
84 reasonable and necessary expenses actually incurred by him in
85 providing office space, furnishing necessary clerical help and
86 providing stationery and supplies and for all other incidental
87 operating expenses, but the total of all such reimbursed ex-
88 penses in any fiscal year may not exceed seventy-five percent of
89 the salary of such justice of the peace for such fiscal year:
90 *Provided*, That the county commission may, in its discretion,
91 reimburse for such expenses in an amount not to exceed one
92 hundred percent of the salary of such justice of the peace or
93 seven thousand five hundred dollars, whichever is greater.
94 Requisition for such reimbursement shall be accompanied by a
95 sworn statement, detailed vouchers and documentation per-
96 taining to such expenses.

97 The salary of each justice of the peace and all payments
98 made to reimburse him for all reasonable and necessary ex-
99 penses actually incurred in the performance of his duties as a
100 justice of the peace shall be paid by the county commission
101 from the county general fund. The salary shall be paid in
102 equal monthly installments.

**§50-19-4. Administration; rules and regulations; supervision by
circuit court; inspection; reports; quarterly reports to
joint committee on government and finance.**

1 The judge of the circuit court, or the chief judge thereof
2 if there be more than one judge of the circuit court, shall by
3 order entered of record adopt rules and regulations establishing
4 administrative requirements as to the discharge of the duties of
5 justices of the peace, including, but not limited to, the specifi-

6 cation of a reasonable schedule of hours for each justice of
7 the peace, requirements that the office of a justice of the
8 peace be located in a place readily accessible to the public, and
9 requirements that each justice of the peace maintain regular
10 telephone service if such service is available. Such judge may
11 direct a justice to sit at some place other than at his principal
12 office. Each justice of the peace shall be subject to supervision
13 by the judge of the circuit court, or the chief judge thereof if
14 there is more than one judge of the circuit court, as to the
15 performance of his judicial functions.

16 The judge of the circuit court, or the chief judge thereof if
17 there be more than one judge of the circuit court, may by order
18 entered of record adopt rules and regulations, with the full
19 force and effect of law, concerning the distribution of judicial
20 business among the various justices of the peace of the county.

21 Each justice of the peace shall be subject to audit of his
22 records, both civil and criminal, and all materials relating to
23 such records, by the chief inspector of public offices. For the
24 purpose of uniformity, the chief inspector of public offices
25 shall designate the form of records to be used by justices of
26 the peace.

27 Each justice of the peace shall furnish to the county com-
28 mission of his county monthly reports indicating the volume
29 of judicial business handled by him, both civil and criminal,
30 the total amount of moneys received, whether in the form of
31 fees, costs, fines, forfeitures or penalties, the total amount
32 of moneys remitted by him as required by law, the total amount
33 of expenses incurred by such justice of the peace during such
34 month for which reimbursement is claimed, and all such other
35 detailed information as the county commission shall require.
36 The county commission shall consolidate all such monthly
37 reports and each quarter forward a copy of the consolidated
38 report to the joint committee on government and finance.

§50-19-5. Where justice of the peace may exercise powers.

1 Notwithstanding the provisions of section five, article two,
2 of this chapter or any other provision of law to the contrary, a
3 justice of the peace may exercise the powers conferred upon
4 him at any place in the county wherein he serves.

§50-19-6. Continuation of office of constable.

1 All constables elected in the year one thousand nine hundred
2 seventy-two or thereafter elected or appointed shall continue to
3 hold the office of constable until the first day of January,
4 one thousand nine hundred seventy-seven, and shall be subject
5 to all provisions of law relating to constables.

§50-19-7. Conflict of provisions.

1 In the event the provisions of this article are clearly in
2 conflict with other provisions of this code, the provisions of
3 this article shall control.

§50-19-8. Violations; penalties.

1 Any person who shall violate any provision of this article
2 shall be guilty of a misdemeanor, and, upon conviction thereof,
3 shall be fined not more than one thousand dollars, or im-
4 prisoned in the county jail not more than one year, or both
5 fined and imprisoned.

§50-19-9. Removal from office.

1 A justice of the peace may be removed from office in the
2 manner provided in section seven, article six, chapter six of
3 this code. In addition to the grounds for removal enumerated
4 elsewhere by law, a justice of the peace may be removed
5 from office for conviction of a felony, for conviction of a mis-
6 demeanor involving moral turpitude or a duty of the office or
7 for a violation of this article or any rule, regulation or order
8 provided for in this article. In addition to other methods pro-
9 vided by law, removal proceedings may be initiated upon the
10 motion of the judge of the circuit court, or the chief judge
11 thereof if there be more than one judge of the circuit court.

◇

CHAPTER 128

(Com. Sub. for H. B. 1396—By Mr. Sommerville)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter fifty of the code of West Virginia, one thousand nine hundred thirty one, as amended, by adding there-

to a new article, designated article twenty, creating a system of magistrate courts; providing for designation of location of magistrate courts within the counties; providing for temporary service by magistrates outside of county of residence; providing for election of magistrates; relating to filing fee; specifying the number of magistrate courts in each county, based upon population of county; relating to ascertainment of population; relating to procedures where voting machines are used for election of magistrates; specifying salary of magistrates, based upon population served; relating to payment of certain expenses; specifying qualifications for election as a magistrate; excepting certain persons from such qualifications; requiring oath and bond; requiring magistrate to devote full time to duties; relating to instructional courses for magistrates; providing for clerks of magistrate courts; relating to qualifications of clerks; specifying salary of clerks, based upon population served; and relating to duties of sheriff with respect to service of process and bailiff duties for magistrates.

Be it enacted by the Legislature of West Virginia:

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 twenty, to read as follows:

ARTICLE 20. MAGISTRATE COURTS.

- §50-20-1. Magistrate courts created.
- §50-20-2. Election of magistrates; number.
- §50-20-3. Salary of magistrates; certain expenses.
- §50-20-4. Qualifications of magistrates; bond.
- §50-20-5. Clerks of magistrate courts; salary.
- §50-20-6. Duties of sheriff; service of process; bailiff.

§50-20-1. Magistrate courts created.

1 There is hereby created in this state a system of magistrate
2 courts. Magistrate courts shall have such jurisdiction as may
3 be provided by law. The judge of the circuit court of the
4 county in which a magistrate is elected, or the chief judge
5 thereof if there is more than one judge of the circuit court,
6 subject to the approval of the supreme court of appeals,
7 shall direct where each magistrate court shall be located
8 in the county. A magistrate shall sit at such other locations
9 within the county for such periods and for such purposes

10 as such judge may by order direct. Such judge may by
11 order direct a magistrate to serve temporarily in any other
12 county within such circuit for such purposes as the judge may
13 direct, and such magistrate's authority, to the extent ordered
14 by such judge, shall be equal to the jurisdiction and authority
15 of a magistrate elected in the county in which such magistrate
16 is ordered to serve.

§50-20-2. Election of magistrates; number.

1 There shall be elected by the voters of each county, at the
2 general election to be held in the year one thousand nine
3 hundred seventy-six, and in every fourth year thereafter, one
4 magistrate for each magistrate court in each county. The filing
5 fee for the office of magistrate shall be one percent of the an-
6 nual salary. The term of magistrates shall begin on the first
7 day of January of the year following the year of election.

8 In each county which has less than ten thousand in popula-
9 tion there shall be one magistrate court. In each county which
10 has ten thousand or more in population but less than thirty thou-
11 sand in population there shall be two magistrate courts. In each
12 county which has thirty thousand or more in population but less
13 than sixty thousand in population there shall be three magistrate
14 courts. In each county which has sixty thousand or more in
15 population but less than one hundred thousand in population
16 there shall be four magistrate courts. In each county which has
17 one hundred thousand or more in population but less than two
18 hundred thousand in population there shall be seven magistrate
19 courts. In each county which has two hundred thousand or
20 more in population there shall be ten magistrate courts. For the
21 purpose of this article, the population of each county shall be
22 considered to be the population as determined by the last
23 preceding census taken under the authority of the United
24 States government. No change in the number of magistrate
25 courts caused by the publication of more recent such census
26 figures shall be effective until the next regular election for
27 such office occurring after the year of such publication.

28 In counties where voting machines are used, the procedures
29 of section eleven, article four, chapter three of this code shall
30 apply to the election of magistrates in the same way as they ap-
31 ply to the election of members of the House of Delegates.

§50-20-3. Salary of magistrates; certain expenses.

1 The salary of each magistrate shall be paid by the state.
2 Magistrates who serve ten thousand or less in population shall
3 be paid an annual salary of ten thousand dollars. Magistrates
4 who serve more than ten thousand in population but less than
5 fifteen thousand in population shall be paid an annual salary
6 of fourteen thousand dollars. Magistrates who serve fifteen
7 thousand or more in population shall be paid an annual salary
8 of eighteen thousand dollars. For the purpose of determining
9 the population served by each magistrate, the number of mag-
10 istrates authorized for each county shall be divided into the
11 population of each county. Magistrates shall be paid once a
12 month.

13 In addition to the basic salary provided for herein, a mag-
14 istrate shall be compensated in the amount of twenty-five dol-
15 lars for basic living expenses for each day served outside of
16 the county of his election, as provided for in section one of
17 this article, and shall be reimbursed at the rate of fifteen cents
18 per mile for travel expenses incurred in such service. Such
19 amounts shall be paid by the state.

§50-20-4. Qualifications of magistrates; bond.

1 Each magistrate shall be at least twenty-one years of age,
2 shall have a high school education or its equivalent, shall not
3 have been convicted of any felony and shall reside in the
4 county of his election. Notwithstanding the foregoing pro-
5 visions of this section, each person who held the office of
6 justice of the peace on the fifth day of November, one thousand
7 nine hundred seventy-four, and who served in or performed the
8 functions of such office for one year prior thereto shall be
9 deemed qualified to run for the office of magistrate, in the
10 county of his residence.

11 Each magistrate shall, before assuming the duties of office,
12 take an oath of office to be administered by the circuit judge
13 of the county, or the chief judge thereof if there is more than
14 one judge of the circuit court. Each magistrate shall post a bond
15 in the penalty of five thousand dollars with sufficient surety ap-
16 proved by such circuit judge, which such bond shall be condi-
17 tioned upon the faithful performance of the duties of the office.

10 as such judge may by order direct. Such judge may by
11 order direct a magistrate to serve temporarily in any other
12 county within such circuit for such purposes as the judge may
13 direct, and such magistrate's authority, to the extent ordered
14 by such judge, shall be equal to the jurisdiction and authority
15 of a magistrate elected in the county in which such magistrate
16 is ordered to serve.

§50-20-2. Election of magistrates; number.

1 There shall be elected by the voters of each county, at the
2 general election to be held in the year one thousand nine
3 hundred seventy-six, and in every fourth year thereafter, one
4 magistrate for each magistrate court in each county. The filing
5 fee for the office of magistrate shall be one percent of the an-
6 nual salary. The term of magistrates shall begin on the first
7 day of January of the year following the year of election.

8 In each county which has less than ten thousand in popula-
9 tion there shall be one magistrate court. In each county which
10 has ten thousand or more in population but less than thirty thou-
11 sand in population there shall be two magistrate courts. In each
12 county which has thirty thousand or more in population but less
13 than sixty thousand in population there shall be three magistrate
14 courts. In each county which has sixty thousand or more in
15 population but less than one hundred thousand in population
16 there shall be four magistrate courts. In each county which has
17 one hundred thousand or more in population but less than two
18 hundred thousand in population there shall be seven magistrate
19 courts. In each county which has two hundred thousand or
20 more in population there shall be ten magistrate courts. For the
21 purpose of this article, the population of each county shall be
22 considered to be the population as determined by the last
23 preceding census taken under the authority of the United
24 States government. No change in the number of magistrate
25 courts caused by the publication of more recent such census
26 figures shall be effective until the next regular election for
27 such office occurring after the year of such publication.

28 In counties where voting machines are used, the procedures
29 of section eleven, article four, chapter three of this code shall
30 apply to the election of magistrates in the same way as they ap-
31 ply to the election of members of the House of Delegates.

§50-20-3. Salary of magistrates; certain expenses.

1 The salary of each magistrate shall be paid by the state.
2 Magistrates who serve ten thousand or less in population shall
3 be paid an annual salary of ten thousand dollars. Magistrates
4 who serve more than ten thousand in population but less than
5 fifteen thousand in population shall be paid an annual salary
6 of fourteen thousand dollars. Magistrates who serve fifteen
7 thousand or more in population shall be paid an annual salary
8 of eighteen thousand dollars. For the purpose of determining
9 the population served by each magistrate, the number of mag-
10 istrates authorized for each county shall be divided into the
11 population of each county. Magistrates shall be paid once a
12 month.

13 In addition to the basic salary provided for herein, a mag-
14 istrate shall be compensated in the amount of twenty-five dol-
15 lars for basic living expenses for each day served outside of
16 the county of his election, as provided for in section one of
17 this article, and shall be reimbursed at the rate of fifteen cents
18 per mile for travel expenses incurred in such service. Such
19 amounts shall be paid by the state.

§50-20-4. Qualifications of magistrates; bond.

1 Each magistrate shall be at least twenty-one years of age,
2 shall have a high school education or its equivalent, shall not
3 have been convicted of any felony and shall reside in the
4 county of his election. Notwithstanding the foregoing pro-
5 visions of this section, each person who held the office of
6 justice of the peace on the fifth day of November, one thousand
7 nine hundred seventy-four, and who served in or performed the
8 functions of such office for one year prior thereto shall be
9 deemed qualified to run for the office of magistrate, in the
10 county of his residence.

11 Each magistrate shall, before assuming the duties of office,
12 take an oath of office to be administered by the circuit judge
13 of the county, or the chief judge thereof if there is more than
14 one judge of the circuit court. Each magistrate shall post a bond
15 in the penalty of five thousand dollars with sufficient surety ap-
16 proved by such circuit judge, which such bond shall be condi-
17 tioned upon the faithful performance of the duties of the office.

18 Each magistrate shall maintain the qualifications for office at
19 all times.

20 Each magistrate shall devote full time to his public duties to
21 the exclusion of any other employment.

22 In addition to other qualifications and requirements herein
23 contained, no person shall assume the duties of magistrate un-
24 less he shall have first attended and completed a course of in-
25 struction in rudimentary principles of law and procedure which
26 shall be given between the date of election and the beginning of
27 the magistrates' term in accordance with the supervisory rules of
28 the supreme court of appeals. The provisions of this paragraph
29 shall not apply to persons who held the office of justice of the
30 peace on the fifth day of November, one thousand nine hundred
31 seventy-four, and who served in or performed the functions of
32 such office for one year prior thereto but such course of instruc-
33 tion shall be available to such persons.

34 Each magistrate shall be required to attend such courses of
35 instruction as may be required by supervisory rule of the su-
36 preme court of appeals. Such courses shall be provided at
37 least once every other year.

§50-20-5. Clerks of magistrate courts; salary.

1 Each magistrate court shall have a clerk to be appointed by
2 the magistrate and who shall serve at the will and pleasure of
3 the magistrate. Such clerk shall not be a member of the im-
4 mediate family of the magistrate, shall not have been convicted
5 of a felony and shall reside in the county where appointed.
6 For the purpose of this section, immediate family shall mean
7 the relationships of mother, father, sister, brother, child or
8 spouse. Clerks shall perform such duties and shall exercise
9 such authority as shall be provided by law.

10 Clerks shall be paid a monthly salary by the state. Clerks
11 appointed by magistrates who serve ten thousand or less in
12 population shall be paid three hundred fifty dollars per month.
13 Clerks appointed by magistrates who serve more than ten
14 thousand in population but less than fifteen thousand in popula-
15 tion shall be paid four hundred fifty dollars per month. Clerks
16 appointed by magistrates who serve fifteen thousand or more
17 in population shall be paid five hundred fifty dollars per

18 month. For the purpose of determining the population served
19 by each magistrate, the number of magistrates authorized
20 for each county shall be divided into the population of each
21 county.

§50-20-6. Duties of sheriff; service of process; bailiff.

1 It shall be the duty of each sheriff to execute all process
2 from a magistrate court which may be directed to such
3 sheriff, in the same manner as is provided by law for process
4 from circuit courts.

5 Subject to the supervision of the judge of the circuit court,
6 or the chief judge thereof if there is more than one judge
7 of the circuit court, it shall be the duty of the sheriff, or his
8 designated deputy, to serve as bailiff of a magistrate court
9 upon the request of the magistrate.

†

CHAPTER 129

(H. B. 1212—By Mr. Terry and Mr. See)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to making breakdown, destruction, injury, defacement or removal of certain no trespassing signs a misdemeanor and to the penalty for such offense.

Be it enacted by the Legislature of West Virginia:

That section thirty, 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.

§61-3-30. Removal, injury to or destruction of property, monuments designating land boundaries and of certain no trespassing signs; penalties.

1 If any person unlawfully, but not feloniously, take and

2 carry away, or destroy, injure or deface any property, real
3 or personal, not his own, he shall be guilty of a misdemeanor,
4 and, upon conviction thereof, shall be fined not more
5 than five hundred dollars, or imprisoned in the county
6 jail not more than one year, or both fined and impris-
7 oned.

8 If any person shall break down, destroy, injury, deface
9 or remove any monument erected for the purpose of desig-
10 nating the boundaries of a municipality, tract or lot of land,
11 or any tree marked for that purpose, or any sign or notice
12 upon private property designating no trespassing upon such
13 property, except signs or notices posted in accordance with
14 the provisions and purposes of sections seven, eight and ten,
15 article two, chapter twenty of this code, he shall be guilty of
16 a misdemeanor, and, upon conviction thereof, shall be fined
17 not less than twenty dollars nor more than two hundred dollars,
18 or imprisoned in the county jail not less than one nor more
19 than six months, or both fined and imprisoned. Justices of the
20 peace and magistrates shall have concurrent jurisdiction of all
21 offenses arising under the provisions of this section. The
22 provisions of this paragraph shall not apply to the owner, or
23 his agent, of the lands on which such signs or notices are
24 posted.

CHAPTER 130

(Com. Sub. for S. B. 97—By Mr. Williams and Mr. Hinkle)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections twelve and thirteen, article five of said chapter, all relating to elections; color of sample ballots; and providing place on ballot for election of senators and delegates.

Be it enacted by the Legislature of West Virginia:

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

Article

1. **General Provisions and Definitions.**
5. **Primary Elections and Nominating Procedures.**

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-20. Cards of instructions to voters; sample ballots; posting.

1 The board of ballot commissioners of each county shall
2 cause to be printed in large, clear type, on cards, instruc-
3 tions for the guidance of voters in preparing their ballots.
4 They shall furnish twelve of such cards to the commis-
5 sioners of election at the same time they deliver to him
6 the ballots for the precinct. The commissioners of election
7 shall cause to be posted one of such cards in each place
8 or compartment provided for the preparation of ballots,
9 and the others in and about the polling place, and one
10 or more of the cards outside of the sixty-foot limit pro-
11 vided for in this article, on the day of election. Such
12 cards shall contain full instructions to the voters as to
13 what shall be done:

- 14 (a) To obtain ballots for voting;
- 15 (b) To prepare the ballots for deposit in the ballot
16 boxes;
- 17 (c) To obtain a new ballot in place of one accidentally
18 spoiled.

19 Such cards shall contain a copy of the second paragraph
20 of section two and a copy of all of sections five, six, eight
21 and nine of article nine of this chapter.

22 The ballot commissioners shall also cause to be printed,
23 on a different color paper than the official ballot, ten or
24 more copies of the ballots provided for each voting place,
25 at each election therein, which shall be designated sample

26 ballots, and shall be furnished and posted with the cards
27 of instruction at each voting place.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-12. Official and sample ballots; color.

§3-5-13. Form and contents of ballots.

§3-5-12. Official and sample ballots; color.

1 There shall be a separate ballot printed on different
2 colored paper, for each political party participating in
3 the primary election, and the ballot of no two parties
4 shall be of the same color or tint. The secretary of state
5 shall select and determine the color of the paper of the
6 ballot of each of the parties, and shall notify the clerk of
7 the circuit court of each county thereof, at the time he
8 certifies the names of the candidates of the various parties
9 to said clerk, as herein provided.

10 A different color of paper shall be selected and desig-
11 nated by the secretary of state for each party and the
12 sample ballots of each party shall be of a different color
13 than the official ballot and of a different color from one
14 another and there shall be printed across the face of such
15 sample ballot in large letters the words "sample ballot,"
16 and no sample ballot shall be voted or counted in any
17 election.

§3-5-13. Form and contents of ballots.

1 The official primary ballot shall contain at the left of
2 each column of names of candidates, a perpendicular
3 column, and shall be so printed as to leave a square at the
4 left of each name on the ballot.

5 On such primary ballot, the names of candidates for
6 president of the United States, for United States senator
7 and for representative in Congress, shall be placed in the
8 first column of candidates; the names of candidates for all
9 state offices, including the names of candidates for the
10 state Senate and including the names of candidates for the
11 House of Delegates, which shall immediately follow the
12 names of candidates for the state Senate, and all other
13 offices to be filled by the voters of a political division

14 greater than a county, including the state executive com-
15 mittee, shall be placed in the second column; the names
16 of all candidates for county offices, congressional, sena-
17 torial and delegate district executive committees, shall be
18 placed in the third column; the names of all candidates
19 for office in the magisterial districts shall be placed in
20 the fourth column; and the names of all candidates for
21 delegates to the national convention of the party shall be
22 placed in the fifth column and in counties using voting
23 machines the names of all candidates for delegates to the
24 national convention of the party shall be placed after the
25 names of all other candidates for all of the other above
26 specified offices.

27 The face of every primary election ballot shall conform
28 as nearly as practicable to that used at the general elec-
29 tion.

30 The secretary of state, or the circuit court clerk, as the
31 case may be, shall arrange the names of the candidates
32 to be printed on the ballot in alphabetical order, according
33 to the surname, under the title of the respective offices
34 upon the ballot.

35 A separate ballot, in connection with a primary elec-
36 tion, for election of members of county board of education,
37 shall be printed in bold type, under the caption, "Non-
38 partisan Ballot for Election of Members of the _____
39 County Board of Education." The names of the candi-
40 dates for election to the county board of education, and
41 the number of candidates for which each voter is entitled
42 to vote shall be printed beneath the caption, without
43 reference to political party affiliation, and without desig-
44 nation as to a particular term of office.

45 In printing each set of ballots the position of the names
46 of the candidates shall be changed in each office division
47 as many times as there are candidates in that office
48 division. As nearly as possible an equal number of ballots
49 shall be printed after each change. In making the change
50 of position, the printer shall take the line of type con-
51 taining the first name in the office division concerned
52 and place it at the bottom of the list of names in that
53 division and move up the column so that the name that

54 before was second shall be first after the change. After
55 the ballots are printed they shall be kept in separate piles,
56 one pile for each change in position, and shall then be
57 gathered by taking one from each pile. Sample ballots
58 shall be in the same form as the official ballots, but the
59 order of the names thereon need not be alternated.

60 All ballots used in primary elections shall be printed
61 on paper conforming as nearly as practicable in weight
62 and texture, to the samples furnished by the secretary of
63 state, but shall not be printed on the same color paper,
64 and the paper shall be sufficiently thick so that the print-
65 ing cannot be discernible from the back. On the back of
66 the ballot shall be printed in black ink, and in plain
67 legible, black face pica type, the name of the political
68 party as contained in the heading or "Nonpartisan Board
69 of Education," as the case may be, followed by the word
70 "ballot." Under this designation shall be printed two
71 blank lines followed by the words "poll clerks."

†

CHAPTER 131

(S. B. 83—By Mr. Benson)

[Passed March 8, 1975; in effect ninety days from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b, relating to establishment of a special absentee voting list for persons who are permanently physically disabled.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2b. Special absentee voting list.

1 Notwithstanding the provisions contained in section
 2 twenty-five, article two of this chapter, any person who is
 3 registered and otherwise qualified to vote and who is
 4 permanently and totally physically disabled and who is
 5 unable to vote in person at the polls in an election, may
 6 apply to the office of the circuit clerk to have such per-
 7 son's name placed upon a special absentee voting list.
 8 The special absentee voting list shall be kept by the
 9 circuit clerk in a bound book maintained for such pur-
 10 pose.

11 An application shall be prescribed by the secretary of
 12 state and shall be in substantially the following form:

13 APPLICATION TO BE PLACED UPON SPECIAL
 14 ABSENTEE VOTING LIST.

15 Date_____

16 I, _____, hereby declare that I am a permanent
 17 resident of the State of West Virginia and of the County
 18 of _____, with permanent address as follows:

19
 20 Street City State
 21 in the magisterial district of _____,
 22 in said County; that I am registered in the precinct of
 23 my residence as provided by law.

24 I declare further that I am permanently and totally
 25 disabled physically and am unable to vote in person at the
 26 polls in an election, and do hereby request that my name
 27 be placed upon the special absentee voting list.

28
 29 Signature of Applicant
 30 (or in case the applicant is illiterate
 31 he shall make his mark and have it
 32 witnessed on the following lines):

33
 34 Mark of Applicant
 35 _____
 36 Signature of Witness

37 STATEMENT OF PHYSICIAN

38 I, _____, hereby declare that I am
 39 a physician, duly licensed to practice in the State
 40 of _____; that I examined _____ the
 41 applicant, whose signature appears upon the above appli-
 42 cation on the _____ day of _____, 19____; and
 43 that in my opinion such person is permanently and totally
 44 disabled physically and would be unable to vote in person
 45 at the polls in an election.

46

47

Signature of Physician

48 Upon receipt of such application, properly completed,
 49 the circuit clerk shall enter the name of such person
 50 upon the special absentee voting list and the appli-
 51 cation shall be filed. The person's name shall remain
 52 on such list (1) until such person requests in writing
 53 that his name be removed, or (2) for a period cov-
 54 ering two statewide and county general elections, or
 55 (3) until the death of such person, if such death
 56 sooner occurs.

57 Each person whose name is contained on the special
 58 absentee voting list may make application for voting an
 59 absent voter's ballot by mail as provided in section five of
 60 this article, but such person shall not be required to
 61 produce a statement of a physician at the time of such
 62 application so long as such person's name remains on
 63 the special absentee voting list.

:

CHAPTER 132

(Com. Sub. for H. B. 683—By Mr. Goodwin)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to imposing of mandatory time limits for filling of vacancies in state Legislature.

Be it enacted by the Legislature of West Virginia:

That section five, article ten, 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 10. FILLING VACANCIES.

§3-10-5. Vacancies in state Legislature.

1 Any vacancy in the office of state senator or member of
2 the House of Delegates shall be filled by appointment by the
3 governor, in each instance from a list of three legally qualified
4 persons submitted by the party executive committee of the dele-
5 gate district in the case of a member of the House of Delegates,
6 and by the party executive committee of the state senatorial
7 district in the case of a state senator, of the party with which
8 the person holding the office immediately preceding the vacancy
9 was affiliated, and of the county or state senatorial district,
10 respectively, in which he resided at the time of his election or
11 appointment. If the vacating member of the House of Delegates
12 resided in a county only a portion of which is included in his
13 delegate district, all three of the qualified persons submitted
14 shall be residents of that portion of the county in which the
15 vacating delegate resided at the time of his election or appoint-
16 ment to the House of Delegates. The appointment to fill a
17 vacancy in the House of Delegates shall be for the unexpired
18 term. Such list of legally qualified persons to fill the vacancy
19 shall be submitted to the governor within fifteen days after such
20 vacancy occurs and the governor shall duly make his appoint-
21 ment to fill such vacancy from such list of legally qualified per-
22 sons within five days after same is received. If such list is not
23 submitted to the governor within the fifteen day period, the
24 governor shall appoint within five days thereafter a legally
25 qualified person of the political party of the person vacating the
26 office. If the unexpired term in the office of the state senator be
27 for less than two years and two months, the appointment shall
28 be for the unexpired term. If the unexpired term be for a period
29 longer than two years and two months, the appointment shall be
30 until the next general election and until the election and qualifi-
31 cation of a successor to the person appointed, at which general
32 election the vacancy shall be filled by election for the unex-
33 pired term. Notice of an election to fill a vacancy in the

34 office of Senate senator shall be given by the governor by proc-
 35 lamation and shall be published prior to such election as
 36 a Class II-0 legal advertisement in compliance with the
 37 provisions of article three, chapter fifty-nine of this code,
 38 and the publication area for such publication shall be each
 39 county in the senatorial district. Nominations for candidates to
 40 fill such vacancy shall be made in the manner prescribed for
 41 nominating a candidate to fill a vacancy in the office of
 42 governor to be voted for at a general election. The state
 43 senatorial district executive committee of the political party
 44 shall discharge the duties incident to state senator nominations
 45 devolving upon the party state executive committee in nomi-
 46 nating a candidate for a state office.

CHAPTER 133

(S. B. 213—By Mr. Benson)

[Passed March 8, 1975; in effect from passage. Disapproved by the Governor,
 and repassed notwithstanding his objections.]

AN ACT to amend and reenact section fourteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eminent domain generally; and eliminating the right of the state or a political subdivision in an eminent domain proceeding to continue such proceeding until after a reasonable time has elapsed for completion of work upon the property in question; and changing the rate of interest.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. PROCEDURE.

§54-2-14. Entry by state or its political subdivisions.

- 1 If the applicant be the state of West Virginia, or any
- 2 political subdivision thereof, on filing its petition as au-

3 thORIZED in this article, and if the court or judge is sat-
4 isfied that the purpose for which the land or property
5 is sought to be condemned is a public use for which pri-
6 vate property may be appropriated on compensating the
7 owner, the court or judge shall, at the request of the
8 applicant, make an order permitting the applicant at once
9 to enter upon, take possession, appropriate and use the
10 land sought to be condemned for the purposes stated in
11 the petition. The revenues applicable to the payment
12 of any damages or compensation to which the owner is
13 entitled, and which shall be awarded or assessed in his
14 favor, shall be deemed sufficient security and to have
15 been pledged for such payment, and no bond or further
16 security shall be required of the applicant.

17 If the applicant shall enter upon or take possession of
18 property under the authority of this section, and shall
19 do any work thereon and injure such land or property,
20 it shall not be entitled, without the consent of the de-
21 fendant, to abandon the proceedings for the condemna-
22 tion thereof, but such proceedings shall proceed to final
23 award or judgment, and the applicant shall pay to the
24 owner of the land the amount of compensation and dam-
25 ages as finally determined in such proceedings, with in-
26 terest at eight percent from the date of the actual entry
27 upon the land so taken.

CHAPTER 134

(H. B. 1298—By Mr. Seibert)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal sections eight, nine and ten, article seventeen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof new sections eight and nine; and to amend and reenact sections two and three of said article seventeen, continuing the West Virginia commission on energy, economy and environment; relating to the composition of such commission and the qualifi-

cations of the members thereof; relating to appointment of citizen members and their terms; relating to vacancies; requiring the commission to make reports to the joint committee on government and finance; and providing a rule of construction and severability clause.

Be it enacted by the Legislature of West Virginia:

That sections eight, nine and ten, article seventeen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and new sections eight and nine be enacted in lieu thereof; and that sections two and three of said article seventeen be amended and reenacted, to read as follows:

ARTICLE 17. WEST VIRGINIA COMMISSION ON ENERGY, ECONOMY AND ENVIRONMENT.

- §5-17-2. Composition of commission.
- §5-17-3. Terms of citizen advisory representatives; vacancies.
- §5-17-8. Reports to joint committee on government and finance.
- §5-17-9. Construction; severability.

§5-17-2. Composition of commission.

1 The "West Virginia Commission on Energy, Economy and
 2 Environment," heretofore created and hereinafter referred to as
 3 the "commission," is hereby continued. The commission shall
 4 consist of nineteen members, as follows: Eleven members, here-
 5 in referred to as government representatives, who shall be the
 6 tax commissioner, the commissioner of commerce, the finance
 7 and administration commissioner, the oil and gas conservation
 8 commissioner, the director of the department of mines, the
 9 director of the department of natural resources, the director
 10 of the geological and economic survey commission, the director
 11 of the air pollution control commission, the chairman of the
 12 public service commission, a representative from the board
 13 of regents, and a representative of the governor; and eight
 14 additional citizens of the state, herein referred to as citizen
 15 advisory representatives, no more than four of whom shall be-
 16 long to the same political party. The president of the Senate
 17 and the speaker of the House of Delegates shall appoint the
 18 eight citizen advisory representative members of the commis-
 19 sion.

§5-17-3. Terms of citizen advisory representatives; vacancies.

1 The citizen advisory representatives shall be appointed for
2 terms of one year each, and shall serve until their successors
3 have been appointed and have qualified. Any vacancy as to a
4 citizen advisory representative shall be filled by appointment by
5 the President of the Senate and the Speaker of the House of
6 Delegates for the unexpired term of such citizen advisory
7 representative.

§5-17-8. Reports to joint committee on government and finance.

1 The commission shall, each six months, submit to the joint
2 committee on government and finance a report of its activities,
3 projects and accomplishments to the date of such report and
4 of its planned future activities and projects.

§5-17-9. Construction; severability.

1 The provisions of this article shall be liberally construed to
2 accomplish its objectives and purposes. If any section, sub-
3 section, subdivision, subparagraph, sentence, or clause of this
4 article is adjudged to be unconstitutional or invalid such in-
5 validity or unconstitutionality shall not affect the validity of the
6 remaining portions of this article and, to this end, the provisions
7 of this article are hereby declared to be severable.

⋄

CHAPTER 135

(H. B. 1127—By Mr. Seibert and Mr. Sommerville)

[Passed March 7, 1975; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to investments by fiduciaries; providing in what securities fiduciaries may invest trust funds; permitting fiduciaries to invest in bonds or negotiable notes secured by a first mortgage or first deed of trust if the interest rate on such bonds or negotiable notes does not exceed the maximum rate of interest which such bonds

or notes may bear under applicable law; authorizing fiduciaries to retain certain investments; and permitting fiduciaries who are authorized to retain bank stock to retain stock of a bank holding company received in exchange therefor.

Be it enacted by the Legislature of West Virginia:

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

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
5 any of the following securities, and without liability for
6 any loss resulting from investments therein: *Provided*, That
7 such fiduciary shall exercise the judgment and care under
8 the circumstances then prevailing which men of prudence,
9 discretion and intelligence exercise in the management of
10 their own affairs, not in regard to speculation, but in regard
11 to the permanent disposition of their funds, considering the
12 probable income as well as the probable safety of their capital:

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

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

29 (c) In bonds of any state of the United States which has not
30 within ten years previous to the making of such investment de-
31 faulted in the payment of any part of either principal or inter-
32 est on any of its bonds issued by authority of the legislature of
33 such state;

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

40 (e) In bonds and negotiable notes secured by first
41 mortgage or first trust deed upon improved real estate where
42 the amount secured by such mortgage or trust deed shall not
43 at the time of making the same exceed eighty percent of the
44 assessed value, or sixty-six and two-thirds percent of the ap-
45 praised value as determined by wholly disinterested and inde-
46 pendent appraisers, whichever value shall be the higher, of
47 the real estate covered by such mortgage or trust deed, and
48 when such mortgage or trust deed is accompanied by a satis-
49 factory abstract of title, certificate of title or title insurance
50 policy, showing good title in the mortgagor when making such
51 mortgage or trust deed, and by a fire insurance policy in an
52 old line company with loss, if any, payable to the mortgagee
53 or trustee as his interest may appear: *Provided*, That the rate
54 of interest upon the above enumerated securities in this sub-
55 division (e), in which such investments may be made, shall
56 not be less than three and one-half percent per annum nor
57 greater than the maximum rate of interest which such bonds or
58 negotiable notes may bear under applicable law: *Provided*
59 *further*, That the provisions herein establishing a minimum rate
60 of interest shall not apply to investments in force as of the
61 effective date of this section;

62 (f) In savings accounts and time deposits of bank or trust
63 companies to the extent that such deposits are insured by the
64 federal deposit insurance corporation, or by any other similar
65 federal instrumentality that may be hereafter created, provided

66 there shall be such an instrumentality in existence and avail-
67 able for the purpose, or by bonds of solvent surety companies:
68 *Provided*, That the rate of interest upon such savings accounts
69 or time deposits shall not be less than the rate paid other de-
70 positors in such bank or trust company;

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

80 (h) In other securities of corporations organized and exist-
81 ing under the laws of the United States, or of the District of
82 Columbia or any state of the United States, including, but not
83 by way of limitation, bonds, debentures, notes, equipment trust
84 obligations or other evidences of indebtedness, and shares of
85 common and preferred stocks of such corporations and securi-
86 ties of any open end or closed end management type investment
87 company or investment trust registered under the "Federal In-
88 vestment Company Act" of one thousand nine hundred forty,
89 as from time to time amended, which men of prudence, discre-
90 tion 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 provisions
93 of this subdivision (h) which, at the time such investment shall
94 be made, will cause the aggregate market value thereof to ex-
95 ceed fifty percent of the aggregate market value at that time of
96 all of the property of the fund held by such fiduciary. Notwith-
97 standing the aforesaid percentage limitation the cash proceeds
98 of the sale of securities received or purchased by a fiduciary and
99 made eligible by this subdivision (h) may be reinvested in any
100 securities of the type described in this subdivision (h).

101 (2) No bonds, debentures, notes, equipment trust obliga-
102 tions or other evidence of indebtedness of such corporations
103 shall be purchased under authority of this subdivision (h)
104 unless such obligations, if other than issues of a common

105 carrier subject to the provisions of section twenty-a of the
106 "Interstate Commerce Act," as amended, shall be obligations
107 issued, guaranteed or assumed by corporations which have
108 any securities currently registered with the securities and
109 exchange commission.

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

127 Trust funds received by executors, administrators, guardians,
128 curators, committees, trustees and other fiduciaries may be
129 kept invested in the securities originally received by them, or
130 if the trust funds originally received were stock or securities
131 of a bank, in shares of stock or other securities (and securities
132 received as distributions in respect thereof) of a holding
133 company subject to the Federal Bank Holding Company Act
134 of 1956, as amended, received upon conversion of, or in
135 exchange for, shares of stock or other securities of such
136 bank; unless otherwise ordered by a court having jurisdiction
137 of the matter, as hereinafter provided, or unless the instrument
138 under which the trust was created shall direct that a change
139 of investment be made, and any such fiduciary shall not be
140 liable for any loss that may occur by depreciation of such
141 securities.

142 This section shall not apply where the instrument creating
143 the trust, or the last will and testament of any testator, or

144 any court having jurisdiction of the matter, specially directs
 145 in what securities the trust funds shall be invested, and every
 146 such court is hereby given power specially to direct by order
 147 or orders, from time to time, additional securities in which
 148 trust funds may be invested, and any investment thereof made
 149 in accordance with any such special direction shall be legal,
 150 and no executor, administrator, guardian, curator, committee,
 151 trustee or other fiduciary shall be held for any loss resulting
 152 in any such case.

CHAPTER 136

(H. B. 723—By Mr. Speaker, Mr. McManus, and Mr. Farley)

[Passed March 7, 1975; in effect July 1, 1975. Disapproved by the Governor,
 and repassed notwithstanding his objections.]

AN ACT to amend and reenact section three, article one, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the department of finance and administration; the council on finance and administration; and providing that such council hold at least four open public meetings each year to be called by the chairman.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. DEPARTMENT OF FINANCE AND ADMINISTRATION.

§5A-1-3. Council of finance and administration.

1 The council of finance and administration is hereby created
 2 and shall be composed of ten members, four of whom shall
 3 serve ex officio and six of whom shall be appointed as
 4 herein provided. The ex officio members shall be the gover-
 5 nor, attorney general, the state treasurer and the state auditor.
 6 From the membership of the Legislature, the president of the
 7 Senate shall appoint three senators as members of the council,
 8 not more than two of whom shall be members of the same
 9 political party, and the speaker of the House shall appoint

10 three delegates as members of the council, not more than two
11 of whom shall be members of the same political party. Mem-
12 bers of the council appointed by the president of the Senate
13 and the speaker of the House shall serve at the will and plea-
14 sure of the officer making their appointment. The commis-
15 sioner of finance and administration shall serve as chairman
16 of the council. Meetings of the council shall be upon call of
17 the chairman or a majority of the members thereof. It shall be
18 the duty of the chairman to call at least four meetings each
19 year and all meetings shall be open to the public.

20 The council shall serve the department of finance and ad-
21 ministration in an advisory capacity for purposes of reviewing
22 the performance of the administrative and fiscal procedures of
23 the state, and shall have the following duties:

24 (1) To review and advise with the commissioner as to all
25 budget proposals to be submitted to the governor;

26 (2) At the time of the submission of the proposed budget
27 to the governor, to report to the governor its conclusions con-
28 cerning the proposed budget and any additions, modifications
29 or adjustments that it may care to suggest;

30 (3) To advise with the commissioner concerning such stud-
31 ies of government and administration as it may consider ap-
32 propriate;

33 (4) To advise with the commissioner in the preparation of
34 studies designed to provide long-term capital planning and fi-
35 nance for state institutions and agencies. Members of the
36 council shall be paid all necessary expenses incurred in the
37 discharge of their duties.

CHAPTER 137

(S. B. 463—By Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section twenty-three, article three, chapter
five-a of the code of West Virginia, one thousand nine hun-

dred thirty-one, as amended; to amend article eight of said chapter five-a, by adding thereto a new section, designated section three-a; and to amend and reenact section four of said article eight, all relating to the disposition of obsolete state commodities; application of proceeds from sale; power of the director to delegate authority; and bonding employees.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article eight of said chapter five-a be amended by adding thereto a new section, designated section three-a; and that section four of said article eight, be amended and reenacted, all to read as follows:

ARTICLE 8. STATE AGENCY FOR SURPLUS PROPERTY.

§5A-8-3a. Disposition by director of obsolete, etc., state commodities; application of proceeds from sale.

§5A-8-4. Power of director to delegate authority; bonding employees.

§5A-8-3a. Disposition by director of obsolete, etc., state commodities; application of proceeds from sale.

1 The director shall have the exclusive power and
 2 authority to make disposition of commodities or expend-
 3 able commodities now owned or in the future acquired by
 4 the state, when, in the opinion of the director, any such
 5 commodities are or shall become obsolete, unusable or
 6 are not being used, or should be replaced.

7 It shall be the duty of the director to determine what
 8 commodities or expendable commodities should be dis-
 9 posed of and he shall make such disposition in the man-
 10 ner which in his opinion will be most advantageous to
 11 the state, either by transferring the particular commodi-
 12 ties or expendable commodities between departments, by
 13 trading in such commodities as a part payment on the
 14 purchase of new commodities, or by sale thereof to the
 15 highest bidder by means of public auctions or sealed
 16 bids after having first advertised the time, terms and
 17 place of such sale as a Class II legal advertisement in
 18 compliance with the provisions of article three, chapter
 19 fifty-nine of this code, and the publication area for such
 20 publication shall be the county wherein the sale is to be

21 conducted. The sale may also be advertised in such other
22 advertising media as the director may deem advisable.
23 The director shall have the authority to sell to the highest
24 bidder or to any one or more of the highest bidders, if
25 there be more than one, or, if in his opinion the best
26 interest of the state will be served, to reject all bids.
27 Upon the transfer of commodities or expendable commod-
28 ities between departments, the director shall set the
29 price to be paid by the receiving department with due
30 consideration given to current market prices. The pro-
31 ceeds of such sales or transfers shall be deposited in the
32 state treasury to the credit on a pro rata basis of the
33 fund or funds out of which the purchase of the particular
34 commodities or expendable commodities was made: *Pro-*
35 *vided*, That the director may charge and assess fees rea-
36 sonably related to the costs of care and handling with
37 respect to the transfer, warehousing, sale and distribu-
38 tion of state property disposed of or sold pursuant to the
39 provisions of this section.

**§5A-8-4. Power of director to delegate authority; bonding em-
employees.**

1 The commissioner of finance and administration, as
2 director of the state agency for surplus property, may
3 delegate to any employee of the agency such power and
4 authority as he deems reasonable and proper for the
5 effective administration of this article. The director of
6 the agency may, in his discretion, bond any person in the
7 employ of the state agency for surplus property, handling
8 moneys, signing checks or receiving or distributing
9 property from the United States of America or from this
10 state under authority of this article.

CHAPTER 138

(Com. Sub. for S. B. 178—By Mr. Hatfield and Mr. Susman)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section twenty, article one,
chapter five of the code of West Virginia, one thousand

nine hundred thirty-one, as amended; and to amend and reenact section twenty-eight, article three, chapter five-a of said code, relating to officers, boards and commissions; annual reports to the governor; providing uniform maximum standards for the printing of such reports; requiring all reports to the governor to be printed and bound in the printing shop maintained by the department of finance and administration.

Be it enacted by the Legislature of West Virginia:

That section twenty, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-eight, article three, chapter five-a 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.**

5A. Department of Finance and Administration.

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 1. THE GOVERNOR.**§5-1-20. Reports to the governor; form and contents; transmission to the Legislature; special reports.**

1 The subordinate officers of the executive department
2 and the officers of all public institutions of the state shall
3 make an annual report to the governor as soon as possible
4 after the close of each fiscal year, notwithstanding
5 any other provision of law to the contrary. All state
6 officers, boards, commissions, departments and institutions
7 required by law to make reports to the governor,
8 the Legislature, or any administrative board or state
9 official, shall cover fiscal year periods, and such reports
10 shall be submitted in typewritten form or any legible
11 form produced by mechanical means.

12 The governor shall by executive order prescribe the
13 general contents of the reports to be submitted to him.
14 The form and format of such reports shall be as prescribed
15 in section twenty-eight, article three, chapter five-a of
16 this code.

17 The governor shall transmit copies of the report to
18 the Legislature and lodge a copy of all such reports with
19 the department of archives and history where the same
20 shall be kept as permanent records.

21 The governor may at any time require information in
22 writing under oath, from any officer, board, department
23 or commission of the executive department or the principal
24 officer or manager of any state institution, upon
25 any subject relating to the condition, management and
26 expense of their respective offices or institutions.

**CHAPTER 5A. DEPARTMENT OF FINANCE
AND ADMINISTRATION.****ARTICLE 3. PURCHASING DIVISION.****§5A-3-28. Publication of departmental reports; uniform standards; limiting number of publications; requiring department to perform printing and binding.**

1 The director shall have charge and supervision of the
2 printing and binding of all reports transmitted to the

3 governor as required by section twenty, article one, chap-
4 ter five of this code. Said reports shall be printed an-
5 nually as soon as possible after the close of the fiscal
6 year.

7 The following uniform maximum standards as to form
8 and format shall be used in the preparation and pub-
9 lication of annual reports by the various departments,
10 agencies, boards, commissions and institutions:

11 Size—8½ by 11 inches.

12 Binding—Spiral plastic, staples, or wrap-around.

13 Cover—Embossed, ninety pound leatherette or an-
14 tique or plate finish not to exceed eighty pound weight.

15 Flyleaf and Inside—Twenty pound bond or comparable
16 offset book paper.

17 Ink—Blue or black, but two or more colors not per-
18 mitted.

19 Printing—Offset, duplicator or mimeograph.

20 No photographs or drawings shall be included in de-
21 partmental reports and no funds shall be expended for
22 any art work. Maps, charts, or other graphic illustrations
23 are permitted.

24 The number of copies of such reports shall be limited
25 to the minimum quantity necessary for office use of the
26 reporting department and for legally required distribu-
27 tion and exchange, the exact number of copies of such
28 reports to be expressly subject to the approval of the
29 governor.

30 The director shall furnish to each department sufficient
31 copies of its report to satisfy the above purposes within
32 the limits set by the governor.

33 The printing and binding of all such reports shall be
34 done by the department of finance and administration
35 in the printing shop maintained by the department.

36 Subject to the approval of the commissioner and the
37 governor, the director shall have authority to limit the
38 number of any other report, bulletin and other publica-
39 tion ordered to be printed by each department.

40 Nothing herein shall be construed as preventing the
41 director from utilizing less expensive methods of print-
42 ing and binding than those prescribed above.

CHAPTER 139

(H. B. 623—By Mr. Shiflet)

[Passed February 4, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the state board of health; authority to make rules and regulations; rural sewage and water systems.

Be in enacted by the Legislature of West Virginia:

That section three, article one, 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 1. STATE DEPARTMENT OF HEALTH.

§16-1-3. Board of health—Powers and duties; rules and regulations.

1 The state board of health shall assume, carry on, and suc-
2 ceed to, all the duties, rights, powers, obligations and liabilities
3 heretofore belonging to, exercised by, or assumed by the state
4 department of health, the public health council, and the com-
5 missioner of health pursuant to statutory authority heretofore
6 existing and as changed or modified by the provisions of this
7 article: *Provided*, That the said board shall not succeed to, or
8 exercise any of the powers heretofore exercised by the public
9 health council with regard to the licensure of physicians, sur-
10 geons, chiropradists and chiropractors.

11 The state board of health shall have the power to acquire
12 by condemnation or otherwise land or buildings and to hold
13 title thereto, for the use and benefit of any state institution sub-
14 ject to its control and management, and, by and with the con-

15 sent of the governor, to sell, exchange or otherwise convey any
16 property title to which is acquired or held by it. Any con-
17 demnation proceeding instituted by the said board shall be
18 conducted pursuant to the provisions of chapter fifty-four of
19 this code.

20 The state board shall have supervision and control of the
21 business, fiscal, administrative and medical affairs of the de-
22 partment of health and shall have advisory medical supervision
23 of all of the state institutions set forth in section ten of this
24 article. It shall have authority to employ, fix the compensation
25 of, and discharge all persons necessary for the proper execu-
26 tion and enforcement of the laws of this state pertaining to
27 public health, and the efficient and proper discharge of the
28 duties imposed upon, and execution of the powers vested in,
29 the said board by law. It may place any or all of its em-
30 ployees under the merit system, provided that the same may be
31 done in conformity with the applicable laws of this state and
32 of the federal government.

33 The state board shall have the authority to enforce all of
34 the laws of this state concerning the public health, and shall
35 take care to protect the life and health of all of the inhabitants
36 of the state, and to that end shall make or cause to be
37 made sanitary investigations and inquiries respecting the cause
38 of disease, especially of epidemics and endemic conditions,
39 and the means of prevention, suppression or control of such
40 conditions; the source of mortality, and the effects of localities,
41 employment, habits and circumstances of life on the public
42 health. It shall gather information in respect to the said and
43 kindred subjects for diffusion among the people of the state.
44 It shall inspect and examine food, drink and drugs offered
45 for sale, or for public consumption, in such manner as it
46 shall deem necessary to protect the public health, and shall
47 report all violations of the laws of this state and the regulations
48 adopted thereunder relating to pure food, drink and drugs to
49 the prosecuting attorney of the county in which such violations
50 occur, and lay before such prosecuting attorney the evidence
51 in its knowledge of such violations. The board or its duly
52 designated employees may make complaint or cause proceed-
53 ings to be instituted against any person or persons, or corpo-

54 ration, for the violation of any of the health laws of this state.
55 Such action may be taken by the board without the sanction
56 of the prosecuting attorney of the county in which proceedings
57 are instituted, if said officer fail or refuse to discharge his
58 duty. In no such case shall the board or any person acting
59 under its direction be required to give security for costs.

60 The state board of health shall provide for the efficient
61 and accurate registration of births and deaths, and the recorda-
62 tion of cases of such diseases as may be required to be
63 recorded by statute or regulation. It shall have the power
64 to inspect, and to make and enforce, for the protection of
65 the public health, reasonable rules and regulations to control
66 the sanitary condition of all institutions and schools, whether
67 public or private, public conveyances, dairies, creameries,
68 slaughterhouses, workshops, factories, labor camps, places of
69 entertainment, hotels, tourist camps, all other places open
70 to the general public and inviting public patronage or public
71 assembly, or tendering to the public any item for human con-
72 sumption, and places where offensive trades or industries are
73 conducted. It shall have the power to make and enforce
74 reasonable rules and regulations to control occupational and
75 industrial health hazards, and to make inspections and conduct
76 hearings respecting the cause and control of such hazards. It
77 shall have the power to inspect and to make reasonable rules
78 and regulations to control the sanitary condition of streams,
79 sources of water supply, and sewerage facilities.

80 The state board is empowered and directed to encourage
81 and foster the cooperation of all physicians, volunteer health
82 organizations and other interested persons and organizations
83 in the improvement of public health, and to disseminate
84 information to the general public in all matters pertaining
85 to public health.

86 The state board shall promulgate and enforce regulations
87 governing the design of all public water systems, plumbing
88 systems, sewerage systems and sewage treatment plants,
89 swimming pools and excreta disposal methods in this state,
90 whether publicly or privately owned; the operation of all
91 public chlorination and filtration plants, and the qualifications
92 of operators, chemists, bacteriologists and superintendents of

93 filtration, or others, who are in actual charge of the plant
94 operation of all public water systems, sewage treatment plants
95 and swimming pools.

96 The state board shall have the power and authority to make
97 and promulgate, and from time to time amend such rules
98 and regulations as it may deem necessary and advisable to
99 properly put into effect the public health laws of this state,
100 and for the administration of the powers granted to it by
101 this article: *Provided*, That no rules or regulations shall be
102 promulgated or enforced restricting the subdivision or develop-
103 ment of any parcel of land within which the individual tracts,
104 lots, or parcels exceed five acres each in total surface area
105 and which individual tracts, lots or parcels have an average
106 frontage of not less than three hundred feet, even though the
107 total surface area of said tract, lot or parcel equals or ex-
108 ceeds five acres in total surface area, and which tracts are
109 sold, leased or utilized only as single family dwelling units.
110 The provisions next above notwithstanding, nothing in this
111 section shall be construed to abate the authority of the state
112 health department to restrict the subdivision or development
113 of such tract for any more intense or higher density occupancy
114 than such single family dwelling unit or to restrict any sub-
115 division or development which might endanger the public
116 health, the sanitary condition of streams, or sources of water
117 supply.

118 Every general regulation adopted by the state board of
119 health shall state the day on which it takes effect. A copy
120 of any such regulation, duly signed by the director of health,
121 shall be filed in the office of the secretary of state, and a copy
122 thereof shall be sent by the director of health to each health
123 officer within the state and shall be published in such manner
124 as the board may determine: *Provided*, That nothing herein
125 contained shall be construed to give the state department
126 of health or the state board of health power to regulate or
127 interfere with the drainage from any mine or manufacturing
128 plant unless the drainage from said mine or manufacturing
129 plant shall contain disease-producing bacteria in sufficient
130 numbers to endanger health, or organic or inorganic wastes of
131 such nature as to cause the water intended for public or private
132 water supplies to be unfit for use.

CHAPTER 140

(H. B. 1029—By Mr. Speaker, Mr. McManus, and Mr. Colombo)

[Passed February 26, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting a territory to be included within the boundaries of one or more public service districts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER AND SEWERAGE SERVICES.

§16-13A-2. Creation of districts by county commission; enlarging or reducing district; consolidation; agreements, etc., infringing upon powers of county commission.

1 The county commission of any county may on its own
2 motion by order duly adopted propose the creation of such
3 public service district within such county, setting forth in
4 such order a description sufficient to identify the territory
5 to be embraced therein and the name of such proposed
6 district, or any one hundred legal voters resident within and
7 owning real property within the limits of such proposed public
8 service district within one or more counties may petition
9 for the creation thereof, which petition shall contain a
10 description sufficient to identify the territory to be em-
11 braced therein and the name of such proposed district. Any
12 territory may be included regardless of whether or not
13 such territory includes one or more cities, incorporated towns
14 or other municipal corporations which own and operate
15 any public service properties and regardless of whether
16 or not it includes one or more cities, incorporated towns or
17 other municipal corporations being served by privately owned
18 public service properties: *Provided*, That the boundaries of

19 any public service district organized under this article shall
20 conform to or follow magisterial district lines except where
21 less than a whole of any magisterial district is to be included,
22 in which latter case that part of any such boundary shall con-
23 form to other natural boundary lines, or the lines of a fixed
24 survey: *Provided, however,* That the same territory shall not
25 be included within the boundaries of more than one public
26 service district except where such territory or part thereof
27 is included within the boundaries of a separate public service
28 district organized to supply water or sewerage services not
29 being furnished within such territory or part thereof: *Provided*
30 *further,* That no city, incorporated town or other municipal
31 corporation shall be included within the boundaries of such
32 proposed district except upon the adoption of a resolution
33 of the governing body of such city, incorporated town or other
34 municipal corporation consenting thereto.

35 Such petition shall be filed in the office of the clerk of
36 the county commission of the county in which the territory
37 to constitute the proposed district is situated, and if such
38 territory is situated in more than one county then such
39 petition shall be filed in the office of the clerk of the county
40 commission of the county in which the major portion of such
41 territory extends, and a copy thereof (omitting signatures) shall
42 be filed with each of the clerks of the county commission
43 of the other county or counties into which the territory extends.
44 It shall be the duty of the clerk of the county commission
45 receiving such petition to present same to the county com-
46 mission of such county at the first regular meeting after such
47 filing or at a special meeting called for the consideration
48 thereof.

49 When the county clerk of any county enters an order on
50 its own motion proposing the creation of a public service
51 district, as aforesaid, or when a petition for such creation
52 is presented, as aforesaid, the county commission shall at
53 the same session fix a date of hearing in such county on the
54 creation of the proposed public service district, which date
55 so fixed shall be not more than forty days nor less than
56 twenty days from the date of such action. If the territory
57 proposed to be included is situated in more than one county,
58 the county commission, when fixing a date of hearing, shall

59 provide for notifying the county commission and clerk thereof
60 of each of the other counties into which the territory extends
61 of the date so fixed. The clerk of the county commission of
62 each county in which any territory in the proposed public
63 service district is located shall cause notice of such hearing
64 and the time and place thereof, and setting forth a description
65 of all of the territory proposed to be included therein to be
66 given by publication as a Class I legal advertisement in com-
67 pliance with the provisions of article three, chapter fifty-nine
68 of this code, and the publication area for such publication shall
69 be each county in which any territory in the proposed public
70 service district is located. The publication shall be at least
71 ten days prior to such hearing. In all cases where proceedings
72 for the creation of such public service districts are initiated by
73 petition as aforesaid the person filing the petition shall
74 advance or satisfactorily indemnify the payment of the cost
75 and expenses of publishing the hearing notice, and otherwise
76 the costs and expenses of such notice shall be paid in the
77 first instance by the county commission out of contingent
78 funds or any other funds available or made available for
79 that purpose. In addition to the notice required herein to
80 be published, there shall also be posted in at least five
81 conspicuous places in the proposed public service district,
82 a notice containing the same information as is contained in
83 the published notice. The posted notices shall be posted
84 not less than ten days before said hearing.

85 All persons residing in or owning or having any interest
86 in property in such proposed public service district shall
87 have an opportunity to be heard for and against its creation.
88 At such hearing the county commission before which the
89 hearing is conducted shall consider and determine the feasibility
90 of the creation of the proposed district. When it shall have
91 been thus determined that the construction or acquisition by
92 purchase or otherwise, and maintenance, operation, improve-
93 ment, and extension of public service properties by such public
94 service district will be conducive to the preservation of
95 public health, comfort and convenience of such area, then
96 such county commission shall by order create such public
97 service district, and such order shall be conclusive and final in
98 that regard. If the court shall, after due consideration, deter-

99 mine that the proposed district will not be conducive to the pre-
100 servation of public health, comfort or convenience of such area,
101 or that the creation of the proposed district as set forth and
102 described in the petition or order is not feasible, it may refuse
103 to enter an order creating the same, or it may enter an order
104 amending the description of the proposed district, and create
105 said district as amended. The clerk of the county commission
106 of each county into which any part of such district extends
107 shall retain in his office an authentic copy of the order creating
108 the same: *Provided*, That if at such hearing written protest is
109 filed by thirty percent or more of the qualified voters registered
110 and residing within said district, then the county commission
111 shall not take any further action in creating such district un-
112 less the creation of such district shall be approved by a major-
113 ity vote of the qualified registered voters voting at a referendum
114 to be called by the county commission for such purpose. Such
115 referendum shall be called and held in the manner provided
116 in the general election laws of the state of West Virginia ap-
117 plicable thereto and the funds therefor shall be supplied from
118 any county funds available for such purpose, or from funds
119 supplied from the persons who petitioned for the creation of
120 such district. If a majority of the qualified registered electors
121 participating in said election shall vote against the creation of
122 said district, then such district shall not be created. If, how-
123 ever, a majority of the qualified registered voters participating
124 in such referendum vote in favor of the creation of such dis-
125 trict, then the county commission shall duly enter its order
126 creating such district.

127 After the creation of such district the county commission
128 may, if in its discretion it deems it necessary, feasible and
129 proper, enlarge the said district to include additional areas, re-
130 duce the area of said district, where facilities, equipment, ser-
131 vice or materials have not been extended, or establish or con-
132 solidate two or more such districts: *Provided*, That where the
133 county commission determines on its own motion by order
134 entered of record, or there is a petition, to enlarge the district
135 or reduce the area of the district, all of the applicable provi-
136 sions of this article providing for hearing, notice of hearing and
137 protest shall apply with like effect as if a district were being
138 created. The districts may not enter into any agreement, con-
139 tract or covenant that infringes upon, impairs, abridges or

140 usurps the duties, rights or powers of the county commission,
141 as set forth in this article, or conflicts with any provision of
142 this article.

CHAPTER 141

(H. B. 1356—Originating in the House Committee on Health and Welfare)

[Passed March 9, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the definition of death.

Be it enacted by the Legislature of West Virginia:

That section one, 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.

§16-19-1. Definitions.

1 (a) "Bank or storage facility" means a facility licensed,
2 accredited, or approved under the laws of any state for stor-
3 age or distribution of human bodies or parts thereof.

4 (b) "Death" means that a person will be considered dead if
5 in the announced opinion of the attending physician, based on
6 ordinary standards of medical practice, the patient has ex-
7 perience an irreversible cessation of spontaneous respiratory
8 and circulatory functions; or, in the event that artificial means
9 of support preclude a determination that these functions have
10 ceased, a person will be considered dead if in the announced
11 opinion of a physician, based on ordinary standards of medi-
12 cal practice, the patient has experienced an irreversible cessa-
13 tion of spontaneous brain functions.

14 Death will have occurred at the time when the relevant
15 functions ceased.

- 16 (c) "Decedent" means a deceased individual and includes
17 a stillborn infant or fetus.
- 18 (d) "Donor" means an individual who makes a gift of all or
19 part of his body.
- 20 (e) "Hospital" means a hospital licensed, accredited, or
21 approved under the laws of any state; includes a hospital op-
22 erated by the United States government, a state, or a subdi-
23 vision thereof, although not required to be licensed under state
24 laws.
- 25 (f) "Part" means organs, tissues, eyes, bones, arteries, blood,
26 other fluids and any other portions of a human body.
- 27 (g) "Person" means an individual, corporation, government
28 or governmental subdivision or agency, business trust, estate
29 trust, partnership or association, or any other legal entity.
- 30 (h) "Physician" or "surgeon" means a physician or surgeon
31 licensed or authorized to practice under the laws of any
32 state.
- 33 (i) "State" includes any state, district, commonwealth, terri-
34 tory, insular possession, and any other area subject to the leg-
35 islative authority of the United States of America.

CHAPTER 142

(H. B. 1392—By Mr. Moats and Mr. Dinsmore)

[Passed March 8, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four, five, six, seven, eight, nine, twelve, thirteen, fifteen and twenty, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the industrial development and commercial development bond act; conferring powers on counties and municipalities with respect to industrial projects and commercial projects and the issuance of revenue bonds therefor; relating to the location of industrial projects and commercial projects; relating to the joint establishment of

industrial projects or commercial projects or additions thereto; relating to revenue bonds issued to finance industrial projects or commercial projects; specifying that a debt of a county or municipality may not be created in connection with an industrial project or commercial project; providing details with respect to the provisions, issuance and execution of such revenue bonds; relating to the issuance of additional revenue bonds; providing a statutory mortgage lien and the pledging of revenues from such industrial project or commercial project as security for such revenue bonds; also authorizing a trust indenture, mortgage or deed of trust as security for such revenue bonds; relating to resolutions authorizing the issuance of such revenue bonds; relating to the provisions to be contained in any such trust indenture, mortgage or deed of trust; authorizing the appointment of a receiver; relating to foreclosure proceedings; establishing certain requirements respecting the agreement for the lease, sale or financing of an industrial project or commercial project and the contents of any such agreement; relating to the use of proceeds from the sale of all revenue bonds issued under said article two-c; prohibiting contributions by counties and municipalities from their general funds or otherwise in the establishment of an industrial project or commercial project; specifying that all such revenue bonds shall be paid solely from the revenue derived from the industrial project or commercial project; providing exemptions from taxation; and prohibiting any financial interest of public officials in any such industrial project or commercial project.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, seven, eight, nine, twelve, thirteen, fifteen and twenty, 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 AND COMMERCIAL DEVELOPMENT BOND ACT.

- §13-2C-4. Powers conferred on counties and municipalities.
- §13-2C-5. Location of industrial projects or commercial projects.
- §13-2C-6. Joint establishment by two or more governmental bodies.
- §13-2C-7. Bonds issued to finance industrial project or commercial project.
- §13-2C-8. Security for bonds.
- §13-2C-9. Requirements respecting lease, sale or financing of an industrial project or commercial project.

§13-2C-12. Use of proceeds from sale of bonds.

§13-2C-13. No contribution by county or municipality.

§13-2C-15. Exemption from taxation.

§13-2C-20. Prohibition of financial interest of public officials.

§13-2C-4. Powers conferred on counties and municipalities.

1 In addition to any other powers which a county or munici-
2 pality may now have, each county, by and through its
3 county commission, and each municipality, by and through
4 its council or other governing body in lieu thereof, shall have
5 the following powers: (1) To acquire, whether by purchase,
6 construction, gift, lease or otherwise, one or more industrial
7 projects or commercial projects, or additions thereto, which
8 shall be located within this state; (2) to lease, lease with an
9 option to purchase, sell, by installment sale or otherwise, or
10 otherwise dispose of, to others any or all of its industrial proj-
11 ects or commercial projects for such rentals or amounts and
12 upon such terms and conditions as the governing body may
13 deem advisable; (3) to finance one or more industrial projects
14 or commercial projects by making secured or unsecured loans
15 to others to provide funds for the acquisition, by purchase, con-
16 struction, lease or otherwise, of any such project or proj-
17 ects; (4) to issue revenue bonds for the purpose of defraying
18 the cost of acquisition, by construction, purchase, lease or
19 otherwise, by the county, municipality or others, of an industrial
20 project or commercial project or an addition, extension, or
21 improvement thereto, and to secure the payment of such bonds,
22 all as hereinafter provided; and (5) to issue and deliver revenue
23 bonds in exchange for an industrial project or commercial
24 project.

§13-2C-5. Location of industrial projects or commercial projects.

1 Any industrial project or commercial project acquired by
2 construction and purchase, or by either, or financed by a
3 county, shall be located within the county issuing such revenue
4 bonds and any industrial project or commercial project acquired
5 by construction and purchase, or by either, or financed by a
6 municipality, may be situated without or within the corporate
7 bounds of such municipality, but it shall be located within the
8 county in which said municipality is situated, except where a
9 part of such municipality is situated within two or more coun-

10 ties, then said industrial project or commercial project may be
11 located within either county of which said municipality forms a
12 part and when an industrial project or commercial project is so
13 acquired or financed by a municipality the same shall not be
14 located within the corporate bounds of another municipality
15 without the consent of the governing body of such municipality.

§13-2C-6. Joint establishment by two or more governmental bodies.

1 Any two or more governmental bodies may jointly acquire
2 by construction and purchase, or by either, or finance one or
3 more industrial projects or commercial projects or additions
4 thereto by the issuance and delivery of revenue bonds in which
5 case such governmental bodies shall jointly exercise all the
6 rights, authority, power and duties herein conferred upon a
7 county commission or a municipality when acting singly and
8 they shall also be subject to the same limitations, restrictions
9 and conditions as are herein imposed on a single governmental
10 body in connection with the acquisition or financing of an in-
11 dustrial project or commercial project. The respective govern-
12 ing bodies, acting jointly, may provide by agreement among
13 themselves, the terms and conditions of such joint participation.

§13-2C-7. Bonds issued to finance industrial project or commercial project.

1 All bonds issued by a county commission or by a munici-
2 pality under the authority of this article shall be limited obliga-
3 tions of the county, or of the municipality. The principal and
4 interest on such bonds shall be payable out of the revenues
5 derived from the lease, sale, financing or other disposition of
6 the industrial project or commercial project for which the bonds
7 are issued, or any other revenue derived from such industrial
8 project or commercial project. The bonds and interest coupons
9 issued under the authority of this article shall never constitute
10 an indebtedness of the county, or of the municipality issuing the
11 same, within the meaning of any constitutional provision or
12 statutory limitation and shall never constitute or give rise to a
13 pecuniary liability of the county, or of the municipality issuing
14 the same. Neither shall such bond nor interest thereon be a
15 charge against the general credit or taxing powers of the county,
16 or the municipality and such fact shall be plainly stated on the
17 face of each such bond. Such bonds may be executed, issued

18 and delivered at any time and from time to time; may be in such
19 form and denomination; may be of such tenor, must be negoti-
20 able but may be registered as to the principal thereof or
21 as to the principal and interest thereof; may be payable
22 in such amounts and at such time or times; may be pay-
23 able at such place or places; may bear interest at such
24 rate or rates payable at such place or places and evidenced in
25 such manner; and may contain such provisions therein not in-
26 consistent herewith, all as shall be provided in the proceedings
27 of the governing body whereunder the bonds shall be autho-
28 rized to be issued. Said bonds may be sold by the governing
29 body at public or private sale at, above or below par, as the
30 governing body shall authorize. The said bonds may also be
31 issued and delivered to the owner of an industrial project or
32 commercial project in exchange therefor and in partial or com-
33 plete payment of the purchase price thereof.

34 The bonds issued pursuant to this article by a county com-
35 mission shall be signed by the president and attested by the
36 clerk of the county commission under the seal of the commis-
37 sion and the bonds issued by a municipality shall be signed by
38 the mayor or other chief officer thereof and attested by the
39 clerk, recorder or other official custodian of the records of said
40 municipality and under the seal of the municipality. The
41 coupons attached thereto shall bear the facsimile signature of
42 the president of the county commission or the mayor or other
43 chief officer of the municipality. In case any of the officials
44 whose signatures appear on the bonds or coupons shall cease to
45 be such officers before the delivery of such bonds, such signa-
46 tures shall, nevertheless, be valid and sufficient for all purposes
47 to the same extent as if they had remained in office until such
48 delivery.

49 If the proceeds of such bonds, by error of calculation or
50 otherwise, shall be less than the cost of the industrial project
51 or commercial project, or if additional real or personal property
52 is to be added to the industrial project or commercial project,
53 additional bonds may in like manner be issued to provide the
54 amount of the deficiency, or to defray the cost of acquiring
55 or financing such additional real or personal property, and
56 unless otherwise provided for in the trust agreement, mortgage
57 or deed of trust, shall be deemed to be of the same issue, and

58 shall be entitled to payment from the same fund, without pref-
59 erence or priority, and shall be of equal priority as to any
60 security.

§13-2C-8. Security for bonds.

1 There is hereby created a statutory mortgage lien upon all
2 real estate, buildings, structures, improvements and personal
3 property included as a part of an industrial project or commer-
4 cial project which was acquired, purchased, constructed, or
5 built or improved, or financed with the proceeds of the bonds
6 authorized to be issued under this article, for the purpose of
7 securing the principal of said bonds and the interest thereon.
8 The principal of and interest on any bonds issued under the
9 authority of this article shall be secured by a pledge of the in-
10 come and revenues derived from the lease, sale, financing or
11 other disposition of the industrial project or commercial project,
12 and also be secured by a pledge of the proceeds of any sale
13 thereof. In the discretion and at the option of the county com-
14 mission or municipality, such revenue bonds may also be
15 secured by a trust indenture by and between the county com-
16 mission or the municipality and a corporate trustee, which may
17 be a trust company or bank having trust powers, within or with-
18 out the state of West Virginia. The governing body may
19 authorize the issuance of such revenue bonds by resolution.
20 The resolution authorizing the revenue bonds and fixing the
21 details thereof may provide that such trust indenture may con-
22 tain such provisions for the protection and enforcing the rights
23 and remedies of the bondholders as may be reasonable and
24 proper, not in violation of law, including covenants setting forth
25 the duties of the county commission or the municipality in rela-
26 tion to the construction, acquisition or financing of an in-
27 dustrial project or commercial project, or part thereof, or an
28 addition thereto, and the improvement, repair, maintenance and
29 insurance thereof, and for the custody, safeguarding and appli-
30 cation of all moneys, and may provide that the industrial project
31 or commercial project shall be constructed and paid for under
32 the supervision and approval of the consulting engineers or
33 architects employed and designated by the governing body and
34 satisfactory to the purchasers of the bonds, their successors,
35 assigns or nominees, and the entity which leases, purchases or
36 will own the project or either thereof, who may require the

37 security given by any contractor or any depository of the pro-
38 ceeds of the bonds or the revenues received from the lease, sale,
39 financing or other disposition of the industrial project or com-
40 mercial project be satisfactory to such purchasers, their succes-
41 sors, assigns or nominees, or be satisfactory to the entity which
42 leases, purchases or will own the industrial project or commer-
43 cial project. Such indenture may set forth the rights and
44 remedies of the bondholders, the county or municipality or such
45 trustee, and said indenture may provide for accelerating the
46 maturity of the revenue bonds, at the option of the bond-
47 holders or the governmental body issuing the same, upon de-
48 fault in the payment of rentals, or amounts due from the
49 entity which leases, purchases, or will own the project or for
50 other cause. The governing body may also provide by resolu-
51 tion and in such trust indenture for the payment of the proceeds
52 of the sale of the bonds and the revenues from the industrial
53 project or commercial project to such depository as it may
54 determine, for the custody and investment thereof and for the
55 method of distribution thereof, with such safeguards and restric-
56 tions as it may determine to be necessary or advisable for the
57 protection thereof and upon the filing of a certified copy of such
58 resolution or of the indenture for record in the office of the
59 clerk of the county commission of the county in which an in-
60 dustrial project or commercial project is located, the same shall
61 have the same effect, as to notice, as the recordation of a deed
62 of trust or other recordable instrument.

63 In lieu of the indenture provided for hereinabove the principal
64 of and interest on said bonds may be secured by a mortgage
65 or deed of trust covering all or any part of the industrial project
66 or commercial project from which the revenues so pledged
67 may be derived, and the same may be secured by an assign-
68 ment of the lease on or sale or financing agreement with
69 respect to said industrial project or commercial project and by
70 assignment or pledge of the income received by virtue of said
71 lease, sale or financing agreement. The proceedings under
72 which such bonds are authorized to be issued, when secured
73 by a mortgage or deed of trust, may contain the same terms,
74 conditions and provisions provided for herein when an in-
75 denture is entered into between the governing body and a
76 trustee and any such mortgage or deed of trust may contain

77 any agreements and provisions customarily contained in in-
78 struments securing bonds, including, without limiting the gen-
79 erality of the foregoing, provisions respecting the fixing and
80 collection of rental, purchase or other payments for any in-
81 dustrial project or commercial project covered by such pro-
82 ceedings or mortgage, the terms to be incorporated in the lease,
83 sale or financing agreement with respect to such industrial
84 project or commercial project, the improvement, repair, main-
85 tenance and insurance of such industrial project or commer-
86 cial project, the creation and maintenance of special funds from
87 the revenues received from the lease, sale or financing of such
88 industrial project or commercial project and the rights and
89 remedies available in event of default to the bondholders, the
90 governmental body, or to the trustee under an agreement, in-
91 denture, mortgage, or deed of trust, all as the governing body
92 shall deem advisable and as shall not be in conflict with the
93 provisions of this article or any existing law: *Provided*, That
94 in making any such agreements or provisions a county or
95 municipality shall not have the power to obligate itself by
96 indenture, ordinance, resolution, mortgage or deed of trust,
97 except with respect to the industrial project or commercial
98 project and the application of the revenues therefrom, and
99 shall not have the power to incur a pecuniary liability or a
100 charge upon its general credit or against its taxing powers.
101 The proceedings authorizing any bonds hereunder and any
102 indenture, mortgage or deed of trust securing such bonds may
103 provide that, in the event of default in payment of the principal
104 of or the interest on such bonds or in the performance of any
105 agreement contained in such proceedings, indenture, mortgage
106 or deed of trust, such payment and performance may be
107 enforced by the appointment of a receiver in equity with power
108 to charge and collect rents or other amounts and to apply the
109 revenues from the industrial project or commercial project in
110 accordance with such proceedings or the provisions of such
111 agreement, indenture, mortgage or deed of trust. Any such
112 agreement, indenture, mortgage or deed of trust may provide
113 also that, in the event of default in such payment or the viola-
114 tion of any agreement contained in the mortgage or deed of
115 trust, the agreement, indenture, mortgage or deed of trust may
116 be foreclosed either by sale at public outcry or by proceedings
117 in equity and may provide that the holder or holders of any

118 of the bonds secured thereby may become the purchaser at any
119 foreclosure sale, if the highest bidder therefor. No breach of
120 any such agreement, indenture, mortgage or deed of trust shall
121 impose any pecuniary liability upon a county or municipality
122 or any charge upon its general credit or against its taxing
123 powers.

§13-2C-9. Requirements respecting lease, sale or financing of an industrial project or commercial project.

1 Prior to the issuance of any bonds, the county commission
2 or the municipality shall enter into an agreement to lease, sell
3 or finance the industrial project or commercial project to a
4 lessee, purchaser or owner, which agreement provides for pay-
5 ment to the county commission or municipality or designated
6 depository of such rentals or amounts as will be sufficient (a)
7 to pay the principal of and interest on the bonds issued to
8 finance the project as such principal and interest respectively
9 mature, (b) to build up and maintain any reserves deemed by
10 the governing body to be advisable in connection therewith, and
11 (c) unless the agreement obligates the lessee, purchaser or own-
12 er to pay for the cost of maintaining, repairing and insuring of
13 the project, to pay the costs of maintaining the project in good
14 repair and keeping it properly insured. The said agreement shall
15 contain a provision for the revision thereof from time to time, so
16 as to produce sufficient revenue to pay the interest and create a
17 sinking fund sufficient to pay the principal of said bonds when
18 due and to provide for the maintenance, repair and insurance of
19 the industrial project or commercial project unless the latter be
20 assumed by the lessee, purchaser or owner. The said agreement
21 shall also contain such other provisions relating to the industrial
22 project or commercial project and the operation, maintenance
23 and improvement thereof and as to the rights of the parties to
24 said agreement as shall be deemed necessary and advisable
25 by the governmental body.

§13-2C-12. Use of proceeds from sale of bonds.

1 The proceeds from the sale of any bonds issued under
2 authority of this article shall be applied only for the purpose
3 for which the bonds were issued: *Provided*, That any accrued
4 interest and premium received in any such sale shall be
5 applied to the payment of the principal of or the interest on

6 the bonds sold: *Provided, however,* That if for any reason
7 any portion of such proceeds shall not be needed for the
8 purpose for which the bonds were issued, then such unneeded
9 portion of said proceeds shall be applied to the purchase
10 of bonds for cancellation or payment of the principal of or
11 the interest on said bonds, or held in reserve for the payment
12 thereof. The cost of acquiring any industrial project or com-
13 mercial project shall be deemed to include the following: The
14 cost of acquiring any real estate deemed necessary, the actual
15 cost of the construction of any part of an industrial project or
16 commercial project which may be constructed, including archi-
17 tects', engineers', financial or other consultants' and legal fees,
18 the purchase price or rental of any part of a project that may be
19 acquired by purchase or lease, all expense incurred in connec-
20 tion with the authorization, sale and issuance of the bonds to
21 finance such acquisition, and the interest on such bonds for a
22 reasonable time prior to construction, during construction, and
23 for not exceeding twelve months after completion of con-
24 struction and any other costs and expenses reasonable necessary
25 in the establishment and acquisition of such industrial project
26 or commercial project and the financing thereof.

§13-2C-13. No contribution by county or municipality.

1 No county commission or municipality shall have the
2 power to pay out of its general funds, or otherwise con-
3 tribute, any of the costs of acquiring, constructing or financing
4 an industrial project or commercial project, to be acquired, con-
5 structed or financed out of the proceeds from the sale of
6 revenue bonds issued under the authority of this article: *Pro-*
7 *vided,* That this provision shall not be construed to prevent a
8 county or municipality from accepting donations of property to
9 be used as a part of an industrial project or commercial project
10 or to be used for defraying any part of the cost of any such
11 project. The bonds issued pursuant to this article shall be pay-
12 able solely from the revenue derived from the industrial project
13 or commercial project or the financing thereof and shall not
14 constitute an indebtedness of the county or of the municipality
15 within the meaning of any constitutional provision and it shall
16 be plainly stated on the face of each bond that it has been issued
17 under the provisions of this article and that it does not consti-

18 tute an indebtedness of the county or municipality within the
19 meaning of the constitution of West Virginia.

20 No county commission or municipality shall have the
21 authority under this article to levy any taxes for the purpose
22 of paying any part of the cost of acquiring, constructing
23 or financing an industrial project or commercial project. How-
24 ever, all necessary preliminary expenses actually incurred by
25 a county commission or a municipality in the making of
26 surveys, taking options, preliminary planning, and all other
27 expenses necessary to be paid prior to the issuance, sale and
28 delivery of the revenue bonds, may be paid by such govern-
29 mental body out of any surplus contained in any item of
30 budgetary appropriation or any revenues collected in excess
31 of anticipated revenues, which shall be reimbursed and repaid
32 out of the proceeds of the sale of the revenue bonds.

§13-2C-15. Exemption from taxation.

1 The revenue bonds issued pursuant to this article and the
2 income therefrom shall be exempt from taxation except in-
3 heritance, estate and transfer taxes; and the real and personal
4 property which a county commission or a municipality may
5 acquire to be leased, sold or otherwise disposed of, according
6 to the provisions of this article, shall be exempt from taxa-
7 tion by the state, or any county, municipality, or other levying
8 body, as public property, so long as the same is owned by
9 such county or municipality.

§13-2C-20. Prohibition of financial interest of public officials.

1 No member of a county commission or the governing body
2 of a municipality issuing revenue bonds under the provisions
3 of this article shall have any financial interest, directly or
4 indirectly, in the leasing, sale or other disposition of an in-
5 dustrial project or commercial project acquired, constructed or
6 financed pursuant to this article.

CHAPTER 143

(S. B. 39—By Mr. Oates and Mr. Steptoe)

[Passed March 3, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article twelve, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liability insurance acquired by state and local governments; and providing for acquisition of general liability insurance against risk engendered in proprietary functions.

Be it enacted by the Legislature of West Virginia:

That section one, article twelve, 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 12. GENERAL LIABILITY, BODILY INJURY AND PROPERTY DAMAGE INSURANCE BY STATE AND LOCAL GOVERNMENTS.

§6-12-1. General liability insurance for proprietary functions; bodily injury and property damage motor vehicle insurance at public expense; contractors to provide like insurance.

1 Officers, boards, commissions or agencies of the state
2 or of any county, municipality or any other unit of local
3 or state government, authorized to spend public funds, or
4 to direct the expenditure of public funds, may provide at
5 public expense for liability insurance against risks
6 engendered in their proprietary functions, bodily injury
7 liability and property damage liability insurance against
8 the negligence of the drivers of motor vehicles operated
9 by or for such officers, boards, commissions and agencies
10 in such amount as such officers, boards, commissions and
11 agencies may specify, and any such officer, board,
12 commission or agency having the authority to contract
13 for the use in the service of such officer, board, commis-
14 sion or agency, of any motor vehicle, may require the
15 contractor to provide like insurance at his own expense

16 in such amount as such officer, board, commission or
17 agency may specify.

CHAPTER 144

(H. B. 1339—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact sections twelve and thirteen, article four, chapter thirty-three; sections four and seventeen, article twelve, chapter thirty-three; section twelve, article twenty-one, chapter thirty-three; section three, article twenty-seven, chapter thirty-three; sections seven, eight and nine, article one-a, chapter thirty-eight; section one hundred thirty-seven, article two, chapter forty-six-a; sections eleven and sixteen, article three, chapter fifty; and section thirteen, article three, chapter fifty-six, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, transferring certain functions from the auditor of this state to the secretary of state of this state insofar as such functions relate to the designation, appointment or constituting of an attorney-in-fact, true and lawful attorney or agent for the service and acceptance of notice, orders or process for and upon behalf of certain persons, firms and corporations; and providing details with respect to the service of notice, orders and process upon such secretary of state as such attorney-in-fact, true and lawful attorney or agent for the service and acceptance of notice, orders or process and the acceptance of the same by such secretary of state.

Be it enacted by the Legislature of West Virginia:

That sections twelve and thirteen, article four, chapter thirty-three; sections four and seventeen, article twelve, chapter thirty-three; section twelve, article twenty-one, chapter thirty-three; section three, article twenty-seven, chapter thirty-three; sections seven, eight and nine, article one-a, chapter thirty-eight; section one hundred thirty-seven, article two, chapter forty-six-a; sections eleven and sixteen, article three, chapter fifty; and section thirteen, article three, chapter

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

Chapter

33. Insurance.

38. Liens.

46A. West Virginia Consumer Credit and Protection Act.

50. Justices and Constables.

56. Pleading and Practice.

CHAPTER 33. INSURANCE.

Article

4. General Provisions.

12. Agents, Brokers, Solicitors and Excess Line.

21. Reciprocal Insurers.

27. Insurance Holding Company Systems.

ARTICLE 4. GENERAL PROVISIONS.

§33-4-12. Service of process on licensed insurers.

§33-4-13. Service of process on unlicensed insurers.

§33-4-12. Service of process on licensed insurers.

1 The secretary of state shall be, and is hereby constituted,
 2 the attorney-in-fact of every licensed insurer, domestic, foreign,
 3 or alien, transacting insurance in this state, upon whom all
 4 legal process in any action, suit or proceeding against it shall
 5 be served, and he may accept service of such process. Such
 6 process shall be served upon the secretary of state, or ac-
 7 cepted by him, in the same manner as provided for service of
 8 process upon unlicensed insurers under subdivisions (2) and
 9 (3) of subsection (b) of section thirteen of this article. Each
 10 licensed insurer shall pay to the secretary of state an annual
 11 fee of ten dollars for services as authorized agent for service
 12 of process.

§33-4-13. Service of process on unlicensed insurers.

1 (a) The purpose of this section is to subject certain insurers
 2 to the jurisdiction of the courts of this state in suits by or on
 3 behalf of insureds or beneficiaries under certain insurance
 4 contracts and to subject said insurers to the jurisdiction of the
 5 courts of this state in suits by or on behalf of the insurance
 6 commissioner of West Virginia. The Legislature declares that it

7 is a subject of concern that certain insurers, while not licensed
8 to transact insurance in this state, are soliciting the sale of
9 insurance and selling insurance to residents of this state, thus
10 presenting the insurance commissioner with the problem of
11 resorting to courts of foreign jurisdictions for the purpose of
12 enforcing the insurance laws of this state for the protection of
13 our citizens. The Legislature declares that it is also a subject
14 of concern that many residents of this state hold policies of
15 insurance issued or delivered in this state by insurers while not
16 licensed to transact insurance in this state, thus presenting to
17 such residents the often insuperable obstacle of resorting to
18 distant forums for the purpose of asserting legal rights under
19 such policies. In furtherance of such state interest, the Legis-
20 lature herein provides a method of substituted service of pro-
21 cess upon such insurers and declares that in so doing it exer-
22 cises its powers to protect its residents and to define, for the
23 purpose of this section, what constitutes transacting insurance
24 in this state, and also exercises powers and privileges avail-
25 able to the state by virtue of public law number fifteen, seven-
26 ty-ninth Congress of the United States, chapter twenty, first
27 session, senate number three hundred forty, as amended, which
28 declares that the business of insurance and every person en-
29 gaged therein shall be subject to the laws of the several states.

30 (b) (1) Any of the following acts in this state, effected by
31 mail or otherwise, by an unlicensed foreign or alien insurer:
32 (1) The issuance or delivery of contracts of insurance to resi-
33 dents of this state or to corporations authorized to do business
34 therein, (2) the solicitation of applications for such contracts,
35 (3) the collection of premiums, membership fees, assessments
36 or other considerations for such contracts, or (4) any other
37 transaction of business, is equivalent to and shall constitute an
38 appointment by such insurer of the secretary of state and his
39 successor in office, to be its true and lawful attorney, upon
40 whom may be served all lawful process in any action, suit, or
41 proceeding instituted by or on behalf of an insured or benefi-
42 ciary arising out of any such contract of insurance, and in any
43 action, suit, or proceeding which may be instituted by the in-
44 surance commissioner in the name of any such insured or bene-
45 ficiary or in the name of the state of West Virginia, and any
46 such act shall be signification of its agreement that such ser-

47 vice of process is of the same legal force and validity as per-
48 sonal service of process in this state upon such insurer.

49 (2) Such service of process upon any such insurer in any
50 such action or proceeding in any court of competent juris-
51 diction of this state, may be made by serving the secretary of
52 state or his chief clerk with two copies thereof and the pay-
53 ment to him of a fee of two dollars. The secretary of state
54 shall forward a copy of such process by registered mail to the
55 defendant at its last known principal place of business, and
56 shall keep a record of all process so served upon him. Such
57 service of process is sufficient, provided notice of such ser-
58 vice and a copy of the process are sent within ten days there-
59 after by or on behalf of the plaintiff to the defendant at its
60 last known principal place of business by registered mail with
61 return receipt requested. The plaintiff shall file with the clerk
62 of the court in which the action is pending, or with the judge
63 or justice of such court, in case there be no clerk, an affidavit
64 of compliance herewith, a copy of the process, and either a re-
65 turn receipt purporting to be signed by the defendant or a per-
66 son qualified to receive its registered mail in accordance with
67 the rules and customs of the post office department; or, if
68 acceptance was refused by the defendant or its agent, the orig-
69 inal envelope bearing a notation by the postal authorities that
70 receipt was refused. Service of process so made shall be
71 deemed to have been made within the territorial jurisdiction
72 of any court in this state.

73 (3) Service of process in any such action, suit or proceed-
74 ing shall in addition to the manner provided in subdivision
75 (2) of this subsection (b) be valid if served upon any person
76 within this state who, in this state on behalf of such insurer,
77 is

78 A. Soliciting insurance, or

79 B. Making, issuing or delivering any contract of insurance,
80 or

81 C. Collecting or receiving any premium, membership fee,
82 assessment or other consideration for insurance; provided
83 notice of such service and a copy of such process are sent
84 within ten days thereafter, by or on behalf of the plaintiff

85 to the defendant at the last known principal place of business
86 of the defendant, by registered mail with return receipt re-
87 quested. The plaintiff shall file with the clerk of the court
88 in which the action is pending, or with the judge or justice
89 of such court in case there be no clerk, an affidavit of
90 compliance herewith, a copy of the process, and either a
91 return receipt purporting to be signed by the defendant or
92 a person qualified to receive its registered mail in accordance
93 with the rules and customs of the post office department; or,
94 if acceptance was refused by the defendant or its agent the
95 original envelope bearing a notation by the postal authorities
96 that receipt was refused.

97 (4) The papers referred to in subdivisions (2) and (3) of
98 this subsection (b) shall be filed within thirty days after the
99 return receipt or other official proof of delivery or the
100 original envelope bearing a notation of refusal, as the case
101 may be, is received by the plaintiff. Service of process shall
102 be complete ten days after such process and the accom-
103 panying papers are filed in accordance with this section.

104 (5) Nothing in this section contained shall limit or abridge
105 the right to serve any process, notice or demand upon any
106 insurer in any other manner now or hereafter permitted by
107 law.

108 (c) (1) Before any unlicensed foreign or alien insurer shall
109 file or cause to be filed any pleading in any action, suit
110 or proceeding instituted against it, such unlicensed insurer
111 shall either (1) deposit with the clerk of the court in which
112 such action, suit or proceeding is pending, cash or securities
113 or file with such clerk a bond with good and sufficient
114 sureties, to be approved by the court, in an amount to be
115 fixed by the court sufficient to secure the payment of any
116 final judgment which may be rendered in such action:
117 *Provided, however,* That the court may in its discretion make
118 an order dispensing with such deposit or bond where the
119 auditor of the state shall have certified to such court that such
120 insurer maintains within this state funds or securities in trust
121 or otherwise sufficient and available to satisfy any final
122 judgment which may be entered in such action, suit or pro-

123 ceeding; or (2) procure a license to transact insurance in this
124 state.

125 (2) The court in any action, suit or proceeding, in which
126 service is made in the manner provided in subdivision (2)
127 or (3) of subsection (b) of this section may, in its discretion,
128 order such postponement as may be necessary to afford the
129 defendant reasonable opportunity to comply with the pro-
130 visions of subdivision (1) of this subsection (c) and to defend
131 such action.

132 (3) Nothing in subdivision (1) of this subsection (c) is to
133 be construed to prevent an unlicensed foreign or alien insurer
134 from filing a motion to set aside service thereof made in the
135 manner provided in subdivision (2) or (3) of subsection (b)
136 of this section on the grounds either (1) that such unlicensed
137 insurer has not done any of the acts enumerated in sub-
138 division (1) of subsection (b) of this section, or (2) that the
139 person on whom service was made pursuant to subdivision
140 (3) of subsection (b) of this section was not doing any of the
141 acts therein enumerated.

142 (d) In any action against an unlicensed foreign or alien
143 insurer upon a contract of insurance issued or delivered in
144 this state to a resident thereof or to a corporation authorized
145 to do business therein, if the insurer has failed for thirty days
146 after demand prior to the commencement of the action to
147 make payment in accordance with the terms of the contract,
148 and it appears to the court that such refusal was vexatious
149 and without reasonable cause, the court may allow to the
150 plaintiff a reasonable attorney's fee and include such fee in
151 any judgment that may be rendered in such action. Such fee
152 shall not exceed twelve and one-half percent of the amount
153 which the court finds the plaintiff is entitled to recover against
154 the insurer, but in no event shall such fee be less than twenty-
155 five dollars. Failure of an insurer to defend any such action
156 shall be deemed prima facie evidence that its failure to make
157 payment was vexatious and without reasonable cause.

158 (e) The provisions of this section shall not apply to any
159 suit, action or proceeding against any unlicensed foreign or
160 alien insurer arising out of any contract of excess line insur-
161 ance effected in accordance with article twelve of this chapter

162 where any such contract contains a provision designating the
163 auditor or secretary of state its true and lawful attorney upon
164 whom may be served all lawful process in any action, suit or
165 proceeding instituted by or on behalf of an insured or
166 beneficiary arising out of such contract of insurance.

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-4. Requirements and restrictions as to brokers.

§33-12-17. Service of process on excess line insurers and brokers.

§33-12-4. Requirements and restrictions as to brokers.

1 (a) Broker's licenses shall be issued only to nonresidents as
2 provided in section two of this article and only to such appli-
3 cants as are licensed agents or brokers in a state other than
4 West Virginia and furnish to the commissioner satisfactory
5 proof thereof.

6 (b) No license shall be issued to any such broker unless he
7 shall file with the commissioner a power of attorney appoint-
8 ing the secretary of state and his successors in office the agent
9 of such broker for the service of process in any suit or pro-
10 ceeding arising in this state out of or in connection with the
11 exercise of such license, and such service of process shall be
12 of the same legal force and validity as personal service of pro-
13 cess in this state upon such broker.

14 (c) No such license shall be issued to any person who is an
15 employer, employee or partner of a licensed agent of this
16 state, nor shall such license be issued to any person who is a
17 salaried employee of any insurer.

18 (d) No such broker shall solicit, negotiate, make or pro-
19 cure within this state, or aid in any manner in soliciting, nego-
20 tiating, making or procuring within this state, any insurance
21 contracts covering subjects of insurance resident, located, or
22 to be performed in this state, either on account of any person
23 desiring to procure insurance or on account of any insurer.

24 (e) A licensed broker lawfully soliciting, negotiating, making
25 or procuring outside this state, or aiding in soliciting, nego-
26 tiating, making or procuring outside this state, insurance con-
27 tracts covering subjects of insurance resident, located, or to be
28 performed in this state, shall place all such contracts only with

29 licensed resident agents of this state for insurers licensed in
30 this state.

§33-12-17. Service of process on excess line insurers and brokers.

1 As to every unlicensed insurer issuing or delivering an excess
2 line policy through an excess line broker in this state, the
3 secretary of state shall be, and is hereby constituted the
4 attorney-in-fact of each such insurer and broker for service of
5 process in the same manner as for licensed insurers as pro-
6 vided in section twelve, article four of this chapter.

ARTICLE 21. RECIPROCAL INSURERS.

§33-21-12. Process and venue; annual fee.

1 (a) Concurrently with the filing of the application provided
2 for by the terms of section six of this article, the attorney shall
3 file with the commissioner an instrument in writing, executed
4 by him for said subscribers, conditioned that upon the issuance
5 of the license provided for in section seven of this article any
6 action, suit or other proceeding arising out of any insurance
7 contract or policy issued under such license, may be brought in
8 the county of this state wherein the property insured was
9 situated either at the date of the policy or at the time when the
10 right of action accrued, or in the county of this state wherein
11 the person insured had a legal residence at the date of his
12 death or at the time the right of action accrued, and that ser-
13 vice of any process or notice may be had upon the secretary of
14 state in all actions, suits or other proceedings in this state
15 arising out of such policies, contracts, agreements or other bus-
16 iness of insurance transacted under such license, and that said
17 secretary of state may accept service of any such process or
18 notice.

19 (b) Such service or acceptance of service shall be valid and
20 binding upon such attorney and upon all subscribers exchang-
21 ing at any time reciprocal or interinsurance contracts through
22 such attorney. Two copies of such process or notice, in addi-
23 tion to the original, shall be furnished the secretary of state,
24 and he shall file one copy, forward one copy to said attorney
25 and return the original with his acceptance of service or for
26 return of service. But no process or notice shall be served on

27 the secretary of state or accepted by him less than ten days be-
28 fore the return day thereof. Where the principal office of the
29 attorney is located in this state, service of process may be had
30 upon all subscribers by serving same upon the attorney at
31 said office. Service of process shall not be had upon said sub-
32 scribers or any of them in any suit or other proceeding in this
33 state except in the manner provided in this section, and any
34 action, suit, or other proceeding may be begun and prosecuted
35 against or defended by them under the name or designation
36 adopted by them.

37 (c) The attorney shall pay to the secretary of state an an-
38 nual fee of ten dollars.

ARTICLE 27. INSURANCE HOLDING COMPANY SYSTEMS.

§33-27-3. Acquisition of control of or merger with domestic in- surer.

1 (a) *Filing requirements.*—No person other than the issuer
2 shall make a tender offer for or a request or invitation for ten-
3 ders of, or enter into any agreement to exchange securities for,
4 seek to acquire or acquire, in the open market or otherwise, any
5 voting security of a domestic insurer if, after the consummation
6 thereof, such person would, directly or indirectly (or by conver-
7 sion or by exercise of any right to acquire) be in control of such
8 insurer, and no person shall enter into an agreement to merge
9 with or otherwise to acquire control of a domestic insurer
10 unless, at the time any such offer, request or invitation is
11 made or any such agreement is entered into, or prior to the
12 acquisition of such securities if no offer or agreement is in-
13 volved, such person has filed with the commissioner and has
14 sent to such insurer, and, to the extent permitted by applicable
15 federal laws, rules and regulations, such insurer has sent to
16 its shareholders a statement containing the information re-
17 quired by this section and such offer, request, invitation, agree-
18 ment or acquisition has been approved by the commissioner in
19 the manner hereinafter prescribed.

20 For purposes of this section: A domestic insurer shall in-
21 clude any other person controlling a domestic insurer unless
22 such other person is either directly or through its affiliates
23 primarily engaged in business other than the business of in-
24 surance.

25 (b) *Content of statement.*—The statement to be filed with
26 the commissioner hereunder shall be made under oath or
27 affirmation and shall contain the following information:

28 (1) The name and address of each person by whom or on
29 whose behalf the merger or other acquisition of control referred
30 to in subsection (a) is to be effected (hereinafter called
31 “acquiring party”), and

32 (i) If such person is an individual, his principal occupation
33 and all offices and positions held during the past five years, and
34 any conviction of crimes other than minor traffic violations
35 during the past ten years;

36 (ii) If such person is not an individual, a report of the
37 nature of its business operations during the past five years
38 or for such lesser period as such person and any predecessors
39 thereof shall have been in existence; an informative description
40 of the business intended to be done by such person and such
41 person’s subsidiaries; and a list of all individuals who are or
42 who have been selected to become directors or executive
43 officers of such person, or who perform or will perform
44 functions appropriate to such positions. Such list shall include
45 for each such individual the information required by paragraph,
46 (i) of this subsection.

47 (2) The source, nature and amount of the consideration
48 used or to be used in effecting the merger or other acquisition
49 of control, a description of any transaction wherein funds were
50 or are to be obtained for any such purpose, and the identity
51 of persons furnishing such consideration: *Provided*, That
52 where a source of such consideration is a loan made in the
53 lender’s ordinary course of business, the identity of the lender
54 shall remain confidential, if the person filing such statement so
55 requests.

56 (3) Fully audited financial information as to the earnings
57 and financial condition of each acquiring party for the pre-
58 ceding five fiscal years of each such acquiring party (or for such
59 lesser period as such acquiring party and any predecessors
60 thereof shall have been in existence), and similar unaudited
61 information as of a date not earlier than ninety days prior to the
62 filing of the statement.

63 (4) Any plans or proposals which each acquiring party may
64 have to liquidate such insurer, to sell its assets or merge or
65 consolidate it with any person, or to make any other material
66 change in its business or corporate structure or management.

67 (5) The number of shares of any security referred to in
68 subsection (a) which each acquiring party proposes to acquire,
69 and the terms of the offer, request, invitation, agreement or
70 acquisition referred to in subsection (a), and a statement as
71 to the method by which the fairness of the proposal was ar-
72 rived at.

73 (6) The amount of each class of any security referred to in
74 subsection (a) which is beneficially owned or concerning which
75 there is a right to acquire beneficial ownership by each
76 acquiring party.

77 (7) A full description of any contracts, arrangements or
78 understanding with respect to any security referred to in
79 subsection (a) in which any acquiring party is involved, in-
80 cluding but not limited to transfer of any of the securities,
81 joint ventures, loan or option arrangements, puts or calls,
82 guarantees of loans, guarantees against loss or guarantees of
83 profits, division of losses or profits, or the giving or withholding
84 of proxies. Such description shall identify the persons with
85 whom such contracts, arrangements or understandings have
86 been entered into.

87 (8) A description of the purchase of any security referred
88 to in subsection (a) during the twelve calendar months
89 preceding the filing of the statement, by any acquiring party,
90 including the dates of purchase, names of the purchasers,
91 and consideration paid or agreed to be paid therefor.

92 (9) A description of any recommendations to purchase any
93 security referred to in subsection (a) made during the
94 twelve calendar months preceding the filing of the statement,
95 by an acquiring party, or by anyone based upon interviews or
96 at the suggestion of such acquiring party.

97 (10) Copies of all tender offers for, requests or invitations
98 for tenders of, exchange offers for, and agreements to acquire
99 or exchange any securities referred to in subsection (a), and
100 (if distributed) of additional soliciting material relating thereto.

101 (11) The terms of any agreement, contract or under-
102 standing made with any broker-dealer as to solicitation of
103 securities referred to in subsection (a) for tender, and the
104 amount of any fees, commissions or other compensation to be
105 paid to broker-dealers with regard thereto.

106 (12) Such additional information as the commissioner may
107 by rule or regulation prescribe as necessary or appropriate
108 for the protection of policyholders and security holders of the
109 insurer or in the public interest.

110 If the person required to file the statement referred to in
111 subsection (a) is a partnership, limited partnership, syndicate
112 or other group, the commissioner may require that the in-
113 formation called for by subdivisions (1) through (12) of
114 this subsection shall be given with respect to each partner
115 of such partnership or limited partnership, each member of
116 such syndicate or group, and each person who controls such
117 partner or member. If any partner, member or person is a
118 corporation or the person required to file the statement re-
119 ferred to in subsection (a) is a corporation, the commissioner
120 may require that the information called for by subdivisions
121 (1) through (12) shall be given with respect to such corpora-
122 tion, and each person who is directly or indirectly the beneficial
123 owner of more than ten percent of the outstanding voting
124 securities of such corporation.

125 If any material change occurs in the facts set forth in the
126 statement filed with the commissioner and sent to such insurer
127 pursuant to this section, an amendment setting forth such
128 change, together with copies of all documents and other
129 material relevant to such change, shall be filed with the
130 commissioner and sent to such insurer within two business
131 days after the person learns of such change. Such insurer shall
132 send such amendment to its shareholders.

133 (c) *Alternative filing materials.*—If any offer, request, in-
134 vitation, agreement or acquisition referred to in subsection (a)
135 is proposed to be made by means of a registration statement
136 under the Securities Act of 1933 or in circumstances requiring
137 the disclosure of similar information under the Securities
138 Exchange Act of 1934, or under a state law requiring similar
139 registration or disclosure, the person required to file the state-

140 ment referred to in subsection (a) may utilize such documents
141 in furnishing the information called for by that statement.

142 (d) *Approval by commissioner; hearings.*—(1) The com-
143 missioner shall approve any merger or other acquisition of
144 control referred to in subsection (a) unless, after a public
145 hearing thereon, he finds that any of the following conditions
146 exist:

147 (i) After the change of control the domestic insurer re-
148 ferred to in subsection (a) would not be able to satisfy the
149 requirements for the issuance of a license to write the line or
150 lines of insurance for which it is presently authorized;

151 (ii) The effect of the merger or other acquisition of control
152 would be substantially to lessen competition in insurance in this
153 state or tend to create a monopoly therein;

154 (iii) The financial condition of any acquiring party is such
155 as might jeopardize the financial stability of the insurer, or
156 prejudice the interest of its policyholders or the interests of any
157 remaining security holders who are unaffiliated with such
158 acquiring party;

159 (iv) The terms of the offer, request, invitation, agreement
160 or acquisition referred to in subsection (a) are unfair and un-
161 reasonable to the security holders of the insurer;

162 (v) The plans or proposals which the acquiring party has to
163 liquidate the insurer, sell its assets or consolidate or merge it
164 with any person, or to make any other material change in its
165 business or corporate structure or management, are unfair and
166 unreasonable to policyholders of the insurer and not in the
167 public interest; or

168 (vi) The competence, experience and integrity of those
169 persons who would control the operation of the insurer are
170 such that it would not be in the interest of policyholders of the
171 insurer and of the public to permit the merger or other acquisi-
172 tion of control.

173 (2) The public hearing referred to in subdivision (1), sub-
174 section (d) of this section shall be held within sixty days after
175 the statement required by subsection (a) is filed, and at least
176 fifteen days' notice thereof shall be given by the commissioner

177 to the person filing the statement. Not less than seven days'
178 notice of such public hearing shall be given by the person
179 filing the statement to the insurer and to such other persons as
180 may be designated by the commissioner. The insurer shall
181 give such notice to its security holders. The commissioner
182 shall make a determination within forty-five days after the
183 conclusion of such hearing.

184 (e) *Mailings to shareholders; payment of expenses.*—To
185 the extent permitted by applicable federal laws, rules and
186 regulations, all statements, amendments, or other material
187 filed pursuant to subsection (a) or (b) of this section, and all
188 notices of public hearings held pursuant to subsection (d) of
189 this section, shall be mailed by the insurer to its shareholders
190 within five business days after the insurer has received such
191 statements, amendments, other material, or notices. The ex-
192 penses of mailing shall be borne by the person making the
193 filing. As security for the payment of such expenses, such
194 person shall file with the commissioner an acceptable bond or
195 other deposit in an amount to be determined by the com-
196 missioner.

197 (f) *Exemptions.*—The provisions of this section shall not
198 apply to:

199 (i) Any offers, requests, invitations, agreements or acquisi-
200 tions by the person referred to in subsection (a) of this section
201 of any voting security referred to in said subsection (a) which,
202 immediately prior to the consummation of such offer, request,
203 invitation, agreement or acquisition, was not issued and out-
204 standing;

205 (ii) Any offer, request, invitation, agreement or acquisition
206 which the commissioner by order shall exempt therefrom as
207 (1) not having been made or entered into for the purpose and
208 not having the effect of changing or influencing the control
209 of a domestic insurer, or (2) as otherwise not comprehended
210 within the purposes of this section.

211 (g) *Violations.*—The following shall be violations of this
212 section:

213 (i) The failure to file any statement, amendment or other
214 material required to be filed pursuant to subsection (a) or
215 (b) of this section; or

216 (ii) The effectuation or any attempt to effectuate an
217 acquisition of control of, or merger with, a domestic insurer
218 unless the commissioner has given his approval thereto.

219 (h) *Jurisdiction; consent to service of process.*—The courts
220 of this state are hereby vested with jurisdiction over every
221 person not resident, domiciled or authorized to do business
222 in this state who files a statement with the commissioner under
223 this section, and over all actions involving such person arising
224 out of violations of this section, and each such person shall
225 be deemed to have performed acts equivalent to and con-
226 stituting an appointment by such a person of the secretary of
227 state to be his true and lawful attorney upon whom may be
228 served all lawful process in any action, suit or proceeding
229 arising out of violations of this section. Copies of all such
230 lawful process shall be served on the secretary of state and
231 transmitted by registered or certified mail by the secretary of
232 state to such person at his last known address.

CHAPTER 38. LIENS.

ARTICLE IA. TRUSTEES OF SECURITY TRUSTS.

§38-1A-7. Secretary of state attorney-in-fact for service on nonresident trustees.

§38-1A-8. How service of process or notice made.

§38-1A-9. Action by secretary of state following service.

§38-1A-7. Secretary of state attorney-in-fact for service on non-resident trustees.

1 The naming in a security trust of a person not a resident of
2 this state as a trustee, or as one of several trustees thereof,
3 shall be deemed equivalent to an appointment by such non-
4 resident of the secretary of state as attorney-in-fact of such
5 nonresident trustee upon whom may be served all process and
6 notices in any suit, action, motion or proceeding in any court
7 of record in this state, and such service shall have the same
8 effect as process or notice duly served in person upon such
9 person in this state.

§38-1A-8. How service of process or notice made.

1 Service of such process or notice shall be made by mailing or
2 delivering to the office of said secretary of state three copies

3 of such process or notice, with a notation thereon of the resi-
4 dence address of the trustee upon whom service is being had,
5 as stated in the security trust; if the address of the trustee be
6 not stated in the security trust, the notation shall state the
7 address of the beneficiary of such trust as given in the security
8 trust; and service thereof shall be complete upon the receipt
9 in said office of such notice or process bearing such notation
10 and accompanied by a fee of two dollars, which shall be taxed
11 as costs in the suit, action or proceeding. The secretary of state
12 shall pay into the state treasury all funds so coming into his
13 hands, and shall keep one copy of all such process and notices,
14 with a record of the day and hour of service thereof.

§38-1A-9. Action by secretary of state following service.

1 Forthwith upon such service, said secretary of state shall
2 send to such trustee the second copy of such process or notice,
3 by registered mail, return receipt requested, to the address
4 stated in such notation. The third copy of such process or
5 notice, bearing the acknowledgment of the secretary of state
6 of the fact of service on him, with his notation of the mailing
7 of the second copy as above provided, shall be transmitted by
8 the secretary of state to the clerk of the court issuing the
9 process or to the person giving the notice, as the case may be.

**CHAPTER 46A. WEST VIRGINIA CONSUMER
CREDIT AND PROTECTION ACT.**

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-137. Service of process on certain nonresidents.

1 Any nonresident person, except a nonresident corporation
2 authorized to do business in this state pursuant to the provisions
3 of chapter thirty-one of this code, who takes or holds any
4 negotiable instrument, nonnegotiable instrument, or contract or
5 other writing, arising from a consumer credit sale or consumer
6 lease which is subject to the provisions of this article, other
7 than a sale or lease primarily for an agricultural purpose, or
8 who is a lender subject to the provisions of section one
9 hundred three of this article, shall be conclusively presumed
10 to have appointed the secretary of state as his attorney-in-
11 fact with authority to accept service of notice and process in

12 any action or proceeding brought against him arising out of
13 such consumer credit sale, consumer lease or consumer loan.
14 A person shall be considered a nonresident hereunder if he is
15 a nonresident at the time such service of notice and process
16 is sought. No act of such person appointing the secretary of
17 state shall be necessary. Immediately after being served with
18 or accepting any such process or notice, of which process or
19 notice two copies for each defendant shall be furnished the
20 secretary of state with the original notice or process, together
21 with a fee of two dollars, the secretary of state shall file in his
22 office a copy of such process or notice, with a note thereon
23 endorsed of the time of service or acceptance, as the case may
24 be, and transmit one copy of such process or notice by
25 registered mail, return receipt requested, to such person at
26 his address, which address shall be stated in such process or
27 notice: *Provided*, That such return receipt shall be signed by
28 such person or an agent or employee of such person if a
29 corporation, or the registered mail so sent by said secretary
30 of state is refused by the addressee and the registered mail is
31 returned to said secretary of state, or to his office, showing
32 thereon the stamp of the U. S. postal service that delivery
33 thereof has been refused, and such return receipt or registered
34 mail is appended to the original process or notice and filed
35 therewith in the clerk's office of the court from which such
36 process or notice was issued. But no process or notice shall
37 be served on the secretary of state or accepted by him less than
38 ten days before the return date thereof. The court may order
39 such continuances as may be reasonable to afford each de-
40 fendant opportunity to defend the action or proceeding.
41 The provisions for service of process or notice herein are
42 cumulative and nothing herein contained shall be construed
43 as a bar to the plaintiff in any action from having process or
44 notice in such action served in any other mode and manner
45 provided by law.

CHAPTER 50. JUSTICES AND CONSTABLES.

ARTICLE 3. COMMENCEMENT OF ACTIONS AND PROCESS.

§50-3-11. Service on domestic corporation.

§50-3-16. Acceptance of service by secretary of state as statutory attorney-in-fact.

§50-3-11. Service on domestic corporation.

1 Unless otherwise specially provided, process against, or

2 notice to, a corporation created by virtue of the laws of this
3 state may be served as follows:

4 (a) If a city, town or village, on its mayor, city manager,
5 recorder, clerk, treasurer or any member of its council or
6 board of commissioners;

7 (b) If a county commission of any county, on any com-
8 missioner or the clerk thereof, or if they be absent, on the
9 prosecuting attorney of the county;

10 (c) If a board of education of any district or independent
11 school district, on the president or any commissioner thereof,
12 or if they be absent, on the prosecuting attorney of the county;

13 (d) If any other corporation, on the secretary of state as
14 statutory attorney-in-fact of such corporation, as provided in
15 section fifteen, article one, chapter thirty-one of this code, or
16 on any person appointed by it to accept service of process in
17 its behalf, or on its president or other chief officer, or its vice
18 president, cashier, assistant cashier, treasurer, assistant trea-
19 surer, secretary, or any member of its board of directors, or,
20 if no such officer or director be found, on any agent of such
21 corporation (including in the case of a railroad company a
22 depot or station agent in the actual employment of the com-
23 pany), if any such attorney, officer or agent, be found in the
24 county in which the action, suit or proceeding is instituted.

**§50-3-16. Acceptance of service by secretary of state as statutory
attorney-in-fact.**

1 The secretary of state of the state of West Virginia shall
2 accept service of any process against, or any order or notice to,
3 any corporation for which he is statutory attorney-in-fact, as
4 provided in section fifteen, article one, chapter thirty-one of
5 this code, when such process, order or notice is issued by any
6 justice in this state, or in any proceeding pending in any jus-
7 tice's court of this state.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

§56-3-13. Service of process or notice on domestic corporations.

1 Unless otherwise specially provided, process against, or

2 notice to, a corporation created by virtue of the laws of this
3 state may be served as follows:

4 (a) If a city, town or village, on its mayor, city manager,
5 recorder, clerk, treasurer, or any member of its council or
6 board of commissioners;

7 (b) If a county commission of any county, on any commis-
8 sioner or the clerk thereof, or if they be absent, on the prose-
9 cuting attorney of the county;

10 (c) If a board of education of any district or independent
11 school district, on the president or any commissioner thereof,
12 or if they be absent, on the prosecuting attorney of the county;

13 (d) If any other corporation, on the secretary of state as
14 statutory attorney-in-fact of such corporation, as provided in
15 section fifteen, article one, chapter thirty-one of this code, or
16 on any person appointed by it to accept service of process in
17 its behalf, or on its president or other chief officer, or its vice
18 president, cashier, assistant cashier, treasurer, assistant trea-
19 surer, secretary, or any member of its board of directors, or, if
20 no such officer or director be found, on any agent of such
21 corporation, including in the case of a railroad company a
22 depot or station agent in the actual employment of the com-
23 pany.

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CHAPTER 145

(H. B. 625—By Mrs. Withrow and Mrs. Neal)

[Passed February 7, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-two, relating to the coverage of newly born children in all individual and group health insurance policies.

Be it enacted by the Legislature of West Virginia:

That article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by

adding thereto a new section, designated section thirty-two, to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-32. Newly born children to be covered by all health insurance policies.

1 All individual and group health insurance policies providing
2 coverage on an expense incurred basis and individual and
3 group service or indemnity type contracts issued by a nonprofit
4 corporation which provide coverage for a family member of
5 the insured or subscriber shall, as to such family members'
6 coverage, also provide that the health insurance benefits ap-
7 plicable for children shall be payable with respect to a newly
8 born child of the insured or subscriber from the moment of
9 birth.

10 The coverage for newly born children shall consist of cov-
11 erage of injury or sickness including the necessary care and
12 treatment of medically diagnosed congenital defects and birth
13 abnormalities.

14 If payment of a specific premium or subscription fee is re-
15 quired to provide coverage for a child, the policy or contract
16 may require that notification of birth of a newly born child
17 and payment of the required premium or fees must be fur-
18 nished to the insurer or nonprofit service or indemnity cor-
19 poration within thirty-one days after the date of birth in order
20 to have the coverage continue beyond such thirty-one day
21 period.

22 The requirements of this section shall apply to all insurance
23 policies and subscriber contracts now existing or hereafter
24 delivered or issued for delivery in this state.

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CHAPTER 146

(S. B. 138—By Mr. Susman)

[Passed February 11, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section six, article fourteen, chapter thirty-three of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to limitations on amounts of group life insurance policies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. GROUP LIFE INSURANCE.

§1. Repeal of section relating to limitations on amounts of group life insurance policies.

- 1 Section six, article fourteen, chapter thirty-three of
- 2 the code of West Virginia, one thousand nine hundred
- 3 thirty-one, as amended, is hereby repealed.

CHAPTER 147

(Com. Sub. for S. B. 482—By Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, four and seven, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto six new sections, designated sections eight-a, nine, ten, eleven, twelve and thirteen, all relating to wages and their payment, definitions, separation of employees, payment of wages conceded to be due, contractor's responsibility for wage payments, deceased employees, withholding of wages, notification, posting and record keeping, no-waiver provisions, enforcement, and employees civil remedies for nonpayment of wages.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four and seven, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and to further amend said article by adding thereto six new sections, designated sections eight-a, nine, ten, eleven, twelve and thirteen, all to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

- §21-5-1. Definitions.
- §21-5-2. Semimonthly payment of wages by railroads.
- §21-5-4. Cash orders; employees separated from payroll before paydays.
- §21-5-7. Prime contractor's responsibility for wage payments.
- §21-5-8a. Deceased employees.
- §21-5-9. Notification, posting and records.
- §21-5-10. Provisions of law may not be waived by agreement.
- §21-5-11. Administrative enforcement.
- §21-5-12. Employees' remedies.
- §21-5-13. Rules and regulations.

§21-5-1. Definitions.

1 As used in this article:

2 (a) The term "firm" includes any partnership, as-
3 sociation, joint stock company, trust, division of a cor-
4 poration, the administrator or executor of the estate
5 of a deceased individual, or the receiver, trustee, or suc-
6 cessor of any of the same, or officer thereof, employing
7 any person.

8 (b) The term "employee" or "employees" includes
9 any person suffered or permitted to work by a person,
10 firm, or corporation.

11 (c) The term "wages" means compensation for labor
12 or services rendered by an employee, whether the amount
13 is determined on a time, task, piece, commission, or other
14 basis of calculation.

15 (d) The term "commissioner" means commissioner
16 of labor.

17 (e) The term "railroad company" includes any firm
18 or corporation engaged primarily in the business of
19 transportation by rail.

20 (f) The term "special agreement" means an arrange-
21 ment filed with and approved by the commissioner where-
22 by a person, firm or corporation is permitted upon a
23 compelling showing of good cause to establish regular
24 paydays less frequently than semimonthly, provided
25 that in no event shall the employee be paid in full less
26 frequently than once each calendar month on a regularly
27 established schedule.

28 (g) The term "deductions" includes amounts required
29 by law to be withheld, and amounts authorized for union
30 or club dues, pension plans, payroll savings plans,
31 credit unions, charities and hospitalization and medi-
32 cal insurance.

33 (h) The term "officer" shall include officers or agents
34 in the management of a corporation or firm, who know-
35 ingly permits the corporation or firm to violate the pro-
36 visions of this article.

37 (i) The term "amount due" shall include at least
38 all wages earned up to and including the fifth day im-
39 mediately preceding the regular payday.

§21-5-2. Semimonthly payment of wages by railroads.

1 Every railroad company, authorized to do business by
2 the laws of this state shall, on or before the first day of
3 each month, pay the employees thereof the wages earned
4 by them during the first half of the preceding month,
5 ending with the fifteenth day thereof; and on or before
6 the fifteenth day of each month, pay the employees
7 thereof the wages earned by them during the last half
8 of the preceding calendar month: *Provided*, That if, at
9 any time of payment, any employee shall be absent from
10 his regular place of labor, and shall not receive his
11 wages through a duly authorized representative, he shall
12 be entitled to such payment at any time thereafter upon
13 demand upon the proper paymaster at the place where
14 such wages are usually paid and where the next pay
15 is due, and the proper mailing in the United States post
16 office of such payment in time to reach the usual post
17 office of the employee by the time aforesaid, in the usual
18 course of the mails, shall be a compliance with this sec-
19 tion.

20 It shall not be lawful for any railroad company to
21 enter into or make any agreement with any employee
22 for the payment of wages of any such employee other-
23 wise than as provided in this section, except to pay such
24 wages at shorter intervals than herein provided. Every
25 agreement made in violation of this section shall be
26 deemed to be null and void.

§21-5-4. Cash orders; employees separated from payroll before paydays.

1 (a) In lieu of lawful money of the United States,
2 any person, firm or corporation may compensate em-
3 ployees for services by cash order which may include
4 checks or money orders on banks convenient to the
5 place of employment where suitable arrangements have
6 been made for the cashing of such checks by employees
7 for the full amount of wages.

8 (b) Whenever a person, firm or corporation dis-
9 charges an employee, such person, firm or corpora-
10 tion shall pay the employee's wages in full within seventy-
11 two hours.

12 (c) Whenever an employee quits or resigns, the per-
13 son, firm or corporation shall pay the employee's wages
14 no later than the next regular payday, either through
15 the regular pay channels or by mail if requested by
16 the employee, except that if the employee gives at least
17 one pay period's notice of intention to quit the person,
18 firm or corporation shall pay all wages earned by the
19 employee at the time of quitting.

20 (d) When work of any employee is suspended as a
21 result of a labor dispute, or when an employee for any
22 reason whatsoever is laid off, the person, firm or cor-
23 poration shall pay in full to such employee not later
24 than the next regular payday, either through the reg-
25 ular pay channels or by mail if requested by the em-
26 ployee, wages earned at the time of suspension or lay-
27 off.

28 (e) If a person, firm or corporation fails to pay an
29 employee wages as required under this section, such
30 person, firm or corporation shall, in addition to the amount
31 due, be liable to the employee for liquidated damages in
32 the amount of wages at his regular rate for each day
33 the employer is in default, until he is paid in full, with-
34 out rendering any service therefor: *Provided, however,*
35 *That he shall cease to draw such wages thirty days after*
36 *such default. Every employee shall have such lien and*
37 *all other rights and remedies for the protection and*

38 enforcement of such salary or wages, as he would have
39 been entitled to had he rendered service therefor in the
40 manner as last employed; except that, for the purpose
41 of such liquidated damages, such failure shall not be
42 deemed to continue after the date of the filing of a peti-
43 tion in bankruptcy with respect to the employer if he
44 is adjudicated bankrupt upon such petition.

§21-5-7. Prime contractor's responsibility for wage payments.

1 Whenever any person shall contract with another for
2 the performance of any work which the prime con-
3 tracting person has undertaken to perform for another,
4 the prime contractor shall become civilly liable to em-
5 ployees engaged in the performance of work under such
6 contract for the payment of wages, exclusive of liquidated
7 damages as provided in section four (e) of this article,
8 to the extent that the employer of such employees fails
9 to pay such wages: *Provided*, That such employees have
10 exhausted all feasible remedies contained in this article
11 against such employer: *Provided, however*, That such
12 employer shall become civilly liable to such prime con-
13 tractor for any sum of money paid by him under this
14 section.

§21-5-8a. Deceased employees.

1 In the event of the death of any employee, wages due
2 him by a person, firm or corporation not in excess of
3 eight hundred dollars may upon proper demand be paid,
4 in the absence of actual notice of the pendency of pro-
5 bate proceedings, without requiring letters testamentary
6 or of administration in the following order of preference
7 to decedent's: (1) Surviving spouse, (2) children eigh-
8 teen years of age and over in equal shares, (3) father
9 and mother, or survivor, (4) sisters and brothers, or to
10 the person who pays the funeral expenses. Payments
11 under this section shall release and discharge the person,
12 firm or corporation to the amount of such payment.

§21-5-9. Notification, posting and records.

1 Every person, firm and corporation shall:
2 (1) Notify his employees in writing, at the time of

3 hiring of the rate of pay, and of the day, hour, and place
4 of payment.

5 (2) Notify his employees in writing, or through a
6 posted notice maintained in a place accessible to his
7 employees of any changes in the arrangements specified
8 above prior to the time of such changes.

9 (3) Make available to his employees in writing or
10 through a posted notice maintained in a place accessible
11 to his employees, employment practices and policies with
12 regard to vacation pay, sick leave, and comparable mat-
13 ters.

14 (4) Furnish each employee with an itemized state-
15 ment of deductions made from his wages for each pay
16 period such deductions are made.

17 (5) Keep posted in a place accessible to his em-
18 ployees an abstract of this article furnished by the com-
19 missioner, and

20 (6) Make such records of the persons employed by
21 him, including wage and hour records, preserve such
22 records for such periods of time, and make such reports
23 therefrom to the commissioner, as the commissioner shall
24 prescribe by regulation as necessary or appropriate for
25 the enforcement of the provisions of this article.

§21-5-10. Provisions of law may not be waived by agreement.

1 Except as provided in section thirteen, no provision
2 of this article may in any way be contravened or set
3 aside by private agreement, and the acceptance by an
4 employee of a partial payment of wages shall not con-
5 stitute a release as to the balance of his claim and any
6 release required as a condition of such payment shall
7 be null and void.

§21-5-11. Administrative enforcement.

1 (a) The commissioner shall enforce and administer
2 the provisions of this article in accordance with chapter
3 twenty-nine-a of this code. The commissioner or his
4 authorized representatives are empowered to enter and
5 inspect such places, question such employees, and in-

6 vestigate such facts, conditions, or matters as they may
7 deem appropriate, to determine whether any person,
8 firm or corporation has violated any provision of this
9 article, or any rule or regulation issued hereunder or
10 which may aid in the enforcement of the provisions of
11 this article.

12 (b) The commissioner or his authorized representa-
13 tives shall have power to administer oaths and examine
14 witnesses under oath, issue subpoenas, compel the at-
15 tendance of witnesses, and the production of papers,
16 books, accounts, records, payrolls, documents and testi-
17 mony, and to take depositions and affidavits in any pro-
18 ceeding before said commissioner.

19 (c) In case of failure of any person to comply with
20 any subpoena lawfully issued, or on the refusal of any
21 witness to testify to any matter regarding which he
22 may be lawfully interrogated, it shall be the duty of
23 the circuit court, on application by the commissioner,
24 to compel obedience by attachment proceedings for con-
25 tempt, as in the case of disobedience of the requirements
26 of a subpoena issued from such court or a refusal to
27 testify therein.

§21-5-12. Employees' remedies.

1 (a) Any person whose wages have not been paid in
2 accord with this article, or the commissioner or his
3 designated representative, upon the request of such per-
4 son, may bring any legal action necessary to collect a
5 claim under this article. With the consent of the em-
6 ployee, the commissioner shall have the power to settle
7 and adjust any claim to the same extent as might the
8 employee.

9 (b) The court in any action brought under this ar-
10 ticle may, in the event that any judgment is awarded
11 to the plaintiff or plaintiffs, assess costs of the action,
12 including reasonable attorney fees against the defendant.
13 Such attorney fees in the case of actions brought under
14 this section by the commissioner shall be remitted by
15 the commissioner to the treasurer of the state. The com-
16 missioner shall not be required to pay the filing fee or

17 other costs or fees of any nature or to file bond or other
18 security of any nature in connection with such action
19 or with proceedings supplementary thereto, or as a con-
20 dition precedent to the availability to the commissioner
21 of any process in aid of such action or proceedings. The
22 commissioner shall have power to join various claim-
23 ants in one claim or lien, and in case of suit to join them
24 in one cause of action.

§21-5-13. Rules and regulations.

1 The commissioner shall make rules and regulations
2 to the extent necessary to effectuate the purposes of this
3 article, in accordance with the provisions of chapter
4 twenty-nine-a of the code of West Virginia, as amended.

CHAPTER 148

(Com. Sub. for S. B. 541—By Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections six and eight, article five-c, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to duties and powers of commissioner of labor and civil remedy of employee; limitation of actions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5C. MINIMUM WAGE AND MAXIMUM HOURS STANDARDS FOR EMPLOYEES.

§21-5C-6. Duties and powers of commissioner of labor.

§21-5C-8. Civil remedy of employee; limitation of actions.

§21-5C-6. Duties and powers of commissioner of labor.

1 (a) It shall be the duty of the commissioner to enforce
2 and administer the provisions of this article, and to

3 promulgate such rules and regulations, in accordance
4 with chapter twenty-nine-a of the code of West Virginia,
5 one thousand nine hundred thirty-one, as amended, as
6 shall be needful to give effect to the provisions of this
7 article.

8 (b) The commissioner is authorized at reasonable
9 times to enter the place of business of an employer sub-
10 ject to the provisions of this article, for purposes of:
11 (1) Inspecting and examining, and copying, photograph-
12 ing or otherwise reproducing all payroll records of the
13 employer directly relating to wages and hours of em-
14 ployment of persons employed by him; (2) questioning
15 or otherwise examining persons employed by the em-
16 ployer on the subject of wages and hours of their em-
17 ployment, and gratuities received or earned in such em-
18 ployment.

19 (c) The commissioner is authorized and empowered
20 to make investigations to determine whether there is
21 reasonable cause to believe that any person is an em-
22 ployer as defined in section one of this article, or whether
23 there is reasonable cause to believe that any provision
24 of this article is being or has been violated.

25 (d) The commissioner is authorized and empowered
26 to file criminal complaints against persons whom the
27 commissioner has reasonable cause to believe have com-
28 mitted any offense created or defined by the provisions
29 of this article.

30 (e) The commissioner is authorized and empowered
31 to institute civil actions seeking appropriate injunctive
32 relief to compel an employer subject to this article to
33 comply with the provisions of this article.

34 (f) The commissioner shall enforce and administer
35 the provisions of this article in accordance with chapter
36 twenty-nine-a of this code. The commissioner or his
37 authorized representatives are empowered to enter and
38 inspect such places, question such employees and in-
39 vestigate such facts, conditions, or matters as they may
40 deem appropriate, to determine whether any person, firm
41 or corporation has violated any provision of this article,

42 or any rule or regulation issued hereunder or which may
43 aid in the enforcement of the provisions of this article.

§21-5C-8. Civil remedy of employee; limitation of actions.

1 (a) Any employer who pays an employee less than
2 the applicable wage rate to which such employee is
3 entitled under or by virtue of this article shall be liable
4 to such employee for the unpaid wages; an agreement by
5 an employee to work for less than the applicable wage
6 rate is hereby declared by the Legislature of West Vir-
7 ginia to be against public policy and unenforceable.

8 (b) Any person whose wages have not been paid in
9 accord with this article, or the commissioner or his
10 designated representative, upon the request of such per-
11 son, may bring any legal action necessary to collect a
12 claim under this article. With the consent of the em-
13 ployee, the commissioner shall have the power to settle
14 and adjust any claim to the same extent as might the
15 employee.

16 (c) The court in any action brought under this article
17 may, in the event that any judgment is awarded to the
18 plaintiff or plaintiffs, assess costs of the action, includ-
19 ing reasonable attorney fees against the defendant. Such
20 attorney fees in the case of action brought under this
21 section by the commissioner shall be remitted by the
22 commissioner to the treasurer of the state. The com-
23 missioner shall not be required to pay the filing fee or
24 other costs or fees of any nature or to file a bond or
25 other security of any nature in connection with such
26 action or with proceedings supplementary thereto, or
27 as a condition precedent to the availability to the com-
28 missioner of any process in aid of such action or pro-
29 ceedings. The commissioner shall have power to join
30 various claimants in one claim or lien, and in case of
31 suit to join them in one cause of action.

32 (d) In any such action the amount recoverable shall
33 be limited to such unpaid wages as should have been
34 paid by the employer within two years next preceding
35 the commencement of such action. Nothing in this article
36 shall be construed to limit the right of an employee to
37 recover upon a contract of employment.

CHAPTER 149

(S. B. 487—By Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, four and seven, article six, chapter twenty-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 eight-a and eleven, all relating to child labor, employment of minors in certain occupations, work permits, contents of permits, hours and days of labor by minors, blanket work permits, and rules and regulations.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four and seven, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections eight-a and eleven, all to read as follows:

ARTICLE 6. CHILD LABOR.

- §21-6-2. Employment of children under eighteen in certain occupations; determination as to other occupations; appeal to supreme court.
- §21-6-3. Issuance of work permit.
- §21-6-4. Contents of work permit; forms; filing; records; revocation.
- §21-6-7. Hours and days of labor by minors.
- §21-6-8a. Blanket work permits.
- §21-6-11. Rules and regulations.

§21-6-2. Employment of children under eighteen in certain occupations; determination as to other occupations; appeal to supreme court.

1 No child under eighteen years of age shall be employed,
 2 permitted or suffered to work in any mine, quarry or
 3 tunnel; or in, about, or in connection with any of the
 4 following:

- 5 (1) Stone cutting or polishing;
- 6 (2) The manufacture or transportation of explosives
- 7 or highly inflammable substances;

8 (3) Ore reduction works, smelters, hot rolling mills,
9 furnaces, foundries, forging shops, or in any other place
10 in which the heating, melting or heat treatment of metals
11 is carried on;

12 (4) Machinery used in the cold rolling of heavy metal
13 stock, metal plate bending machines, or power-driven
14 metal planing machines.

15 No child under eighteen years of age shall be employed
16 or permitted to work in a public poolroom or billiard
17 room, or be permitted, employed or suffered to sell, dis-
18 pense or serve beer, in any place or establishment where
19 beer is served, sold or dispensed, if dancing is permitted
20 or allowed in the same room in which such beer is served,
21 sold or dispensed, or in any indecent, obscene or immoral
22 exhibition or practice.

23 The state commissioner of labor, the state director of
24 health, and the state superintendent of free schools may,
25 from time to time, after hearing duly had, determine
26 whether or not any particular trade, process of manufac-
27 turing, or occupation in which the employment of children
28 under eighteen years of age is not already forbidden by
29 law, or any particular method of carrying on such trade,
30 process of manufacture, or occupation, is sufficiently
31 dangerous to the lives or limbs, or injurious to the health
32 or morals of children under eighteen years of age to justify
33 their exclusion therefrom. No child under eighteen years
34 of age shall be employed or permitted to work in any
35 occupation thus determined to be dangerous or injurious
36 to such children. There shall be a right of appeal to the
37 supreme court of appeals from any such determination.

§21-6-3. Issuance of work permit.

1 No child under sixteen years of age shall be employed or
2 permitted to work in any gainful occupation, except agri-
3 culture, horticulture, or domestic service, unless the per-
4 son, firm or corporation by whom such child is employed
5 or permitted to work, obtains and keeps on file and acces-
6 sible to officers charged with the enforcement of this arti-
7 cle, a work permit issued by the superintendent of schools
8 of the county in which such child resides, or by some per-
9 son authorized by him in writing. Before any such work

10 permit has been issued, it shall be necessary to obtain in
11 writing the consent of the parent or parents, guardian or
12 custodian of such child. Whenever such work permit has
13 been issued, or wherever an age certificate has been issued
14 under the provisions of section five of this article, it shall
15 be conclusive as to the age of the child on whose behalf
16 such work permit or age certificate was issued.

17 The superintendent of schools, or person authorized by
18 him in writing, shall issue such work permit only upon
19 receipt of the following documents:

20 (1) A written statement, signed by the person for
21 whom the child expects to work, that he intends legally
22 to employ such child.

23 (2) (a) A birth certificate, or attested transcript
24 thereof, issued by the registrar of vital statistics or other
25 officer charged with the duty of recording births; or

26 (b) A record of baptism, or a certificate or attested
27 transcript thereof, showing the date of birth and place of
28 baptism of the child; or

29 (c) A bona fide contemporary record of the date and
30 place of the child's birth kept in the Bible in which the
31 records of the births of the family of the child are pre-
32 served, or other documentary evidence approved by the
33 state commissioner of labor, such as a passport showing
34 the age of the child, a certificate of arrival in the United
35 States issued by the United States immigration officers and
36 showing the age of the child, or a life insurance policy:
37 *Provided*, That such other satisfactory documentary evi-
38 dence shall have been in existence at least one year prior
39 to the time it is offered in evidence: *Provided further*,
40 That a school record or parent's, guardian's or custodian's
41 affidavit, certificate or other written statement of age shall
42 not be accepted.

43 The issuing officer shall require first the proof of age
44 specified in subdivision (a) and shall not accept the proof
45 of age designated in a subsequent subdivision until he
46 shall be convinced that the proof specified in the pre-
47 ceding subdivision cannot be obtained.

48 (3) A certificate signed by the principal or a teacher
49 of the school last attended showing that the child is

50 attending school. In case such certificate cannot be ob-
51 tained, then the officer issuing the work permit shall ex-
52 amine such child to determine whether he can read and
53 write correctly simple sentences in the English language.

§21-6-4. Contents of work permit; forms; filing; records; revocation.

1 A work permit issued under this article shall set forth
2 the full name and the date and place of birth of the child,
3 with the name and address of his parents or parent,
4 guardian or custodian. It shall certify that the child has
5 appeared before the officer issuing the permit and sub-
6 mitted the proofs of age, school and prospective employ-
7 ment required in section three.

8 Printed forms for such permits and certificates shall
9 be prepared and furnished by the state commissioner of
10 labor to the superintendents of schools in the counties of
11 the state. A copy of each permit issued shall be forwarded
12 to the state commissioner of labor within four days after
13 its issuance, and there shall be kept in the office of the
14 issuing officer a record of all permits granted and of all
15 applications denied as well as all certificates of age,
16 schooling, and prospective employment submitted by the
17 applicants for permits.

18 The state commissioner of labor may at any time revoke
19 a permit if in his judgment it was improperly issued, and
20 for this purpose he is authorized to investigate the true
21 age of any child employed, to hear evidence, and to re-
22 quire the production of relevant books and documents.
23 If a permit is revoked, the issuing officer shall be notified
24 of such action, and the child shall not thereafter be em-
25 ployed or permitted to labor until a new permit has
26 been legally obtained or until he is of such age as to be
27 outside the operation of this article.

§21-6-7. Hours and days of labor by minors.

1 No child under the age of sixteen shall be employed or
2 permitted to work in, about, or in connection with any
3 gainful occupation, except agriculture, horticulture or
4 domestic service in a private home, for more than six
5 days in any one week, nor more than forty hours in any

6 one week, nor more than eight hours in any one day; nor
7 between the hours of eight o'clock in the evening and
8 five o'clock in the morning of any day: *Provided*, That a
9 child under sixteen years of age may be employed in a
10 concert or in a theatrical performance up to the hour of
11 eleven o'clock p.m.

12 No child under the age of sixteen years shall be em-
13 ployed or permitted to work for more than five hours
14 continuously without an interval of at least thirty minutes
15 for a lunch period, and no period of less than thirty
16 minutes shall, for the purposes of this section, be deemed
17 to interrupt a continuous period of work.

§21-6-8a. Blanket work permits.

1 Blanket work permits are required when a large num-
2 ber (twenty-five or more) of minors are employed for
3 a short period of time (ninety days or less) by an em-
4 ployer.

5 The employer, or person authorized by him in writing,
6 shall forward to the commissioner of labor the following
7 information:

8 (1) A letter from the employer stating that he is
9 familiar with the child labor law of West Virginia and
10 will abide by the law.

11 (2) A list containing the names, birth dates, ages, and
12 job classification of each minor.

13 The minors to be covered by the blanket work permit
14 shall not be employed until the permit is received from
15 the commissioner of labor.

16 The commissioner of labor shall acknowledge the re-
17 ceipt of the information with a letter which shall be re-
18 tained on file for the duration of the minors' employment.

§21-6-11. Rules and regulations.

1 The commissioner shall make rules and regulations to
2 the extent necessary to effectuate the purposes of this
3 article in accordance with the provisions of chapter
4 twenty-nine-a of the code of West Virginia, one thou-
5 sand nine hundred thirty-one, as amended, and the pro-
6 visions thereof.

CHAPTER 150

(S. B. 232—By Mr. Brotherton, Mr. President, and Mr. Rogerson)

[Passed February 3, 1975; in effect from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend and reenact sections two, three, four, five, six, seven, eight, nine and ten, article two-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article ten, chapter five of said code, by adding thereto a new section, designated section fifty-two; and to amend article sixteen of said chapter five, by adding thereto a new section, designated section seventeen-a, all to implement the one thousand nine hundred seventy-four recommendations of the citizens legislative compensation commission created by section thirty-three, article six of the West Virginia constitution, and relating to compensation for and expenses of members of the Legislature, the West Virginia public employees' retirement system as it applies to certain members of the Legislature and certain service by members of the Legislature and the West Virginia public employees' insurance act as it applies to members of the Legislature.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven, eight, nine and ten, article two-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article ten, chapter five of said code be amended by adding thereto a new section, designated section fifty-two; and that article sixteen of said chapter five be amended by adding thereto a new section, designated section seventeen-a, all to read as follows:

Chapter

4. The Legislature.

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 Em-

ployees 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.

CHAPTER 4. THE LEGISLATURE.

ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE LEGISLATURE.

PART II. COMPENSATION.

- §4-2A-2. Basic compensation for services; proration.
- §4-2A-3. Compensation for members of the Legislature during any extraordinary session.
- §4-2A-4. Additional compensation for president of Senate, speaker of House of Delegates and minority leaders of both houses.
- §4-2A-5. Interim compensation for members of joint committee on government and finance and commission on interstate cooperation.

PART III. EXPENSES.

- §4-2A-6. Travel expenses.
- §4-2A-7. Reimbursement for expenses incurred during any session.
- §4-2A-8. Interim expenses.
- §4-2A-9. Out-of-state expenses.
- §4-2A-10. Affidavits required; approval by legislative auditor of vouchers; travel expenses within Charleston not reimbursable; rules authorized.

PART II. COMPENSATION.

§4-2A-2. Basic compensation for services; proration.

1 (a) Each member of the Legislature shall receive as
 2 compensation for his services the sum of four thousand
 3 eight hundred dollars per calendar year. For the year
 4 one thousand nine hundred seventy-five, said sum shall
 5 be payable to each member as soon as possible after the
 6 effective date of this section.

7 (b) Beginning in the year one thousand nine hundred
 8 seventy-six and each year thereafter, said sum shall be
 9 payable twice a month during each regular session of the
 10 Legislature, without regard to any extension of such
 11 regular session. In the event of the death, resignation or
 12 removal of a member of the Legislature during a regular
 13 session of the Legislature and the appointment and qualifi-

14 cation of his successor during any such regular session,
15 the compensation provided for in this section shall be
16 prorated between the original member and his successor
17 on the basis of the number of days served (including
18 Saturdays and Sundays) as a member of the Legislature
19 by each during said regular session.

20 (c) In the event of the death, resignation or removal
21 of a member of the Legislature and the appointment and
22 qualification of his successor subsequent to the regular
23 session of the Legislature held in the calendar year in
24 which such successor was appointed and qualified, none
25 of the compensation provided for in this section shall
26 be paid to such successor.

**§4-2A-3. Compensation for members of the Legislature during
any extraordinary session.**

1 Each member of the Legislature shall receive, in addi-
2 tion to the basic compensation provided for in section
3 two of this article, additional compensation of thirty-five
4 dollars per day for each day of his attendance in person
5 upon any business of the Senate or House of Delegates,
6 as the case may be, on any day upon which said Senate
7 or House of Delegates is actually called to order during
8 any extraordinary session of the Legislature. Such addi-
9 tional compensation shall be paid from time to time dur-
10 ing any such extraordinary session, as may be prescribed
11 by rules established by the legislative auditor.

**§4-2A-4. Additional compensation for president of Senate,
speaker of House of Delegates and minority leaders
of both houses.**

1 In addition to the basic and additional compensation
2 provided for in sections two and three of this article, the
3 president of the Senate and the speaker of the House of
4 Delegates shall each receive additional compensation of
5 twenty-five dollars per day for each day actually served
6 during any regular or extraordinary session as presiding
7 officer, including Saturdays and Sundays.

8 In addition to the basic and additional compensation
9 provided for in sections two and three of this article, the
10 minority leader of the Senate and the minority leader

11 of the House of Delegates shall each receive additional
12 compensation of twelve dollars and fifty cents per day
13 for each day actually served during any regular or extraor-
14 dinary session as the elected legislative leaders of the
15 minority party, including Saturdays and Sundays.

16 Such presiding officer and minority leader compensation
17 shall be paid from time to time during any such session,
18 as may be prescribed by rules established by the legisla-
19 tive auditor.

**§4-2A-5. Interim compensation for members of joint committee
on government and finance and commission on inter-
state cooperation.**

1 In addition to the basic and any additional and pre-
2 siding officer and minority leader compensation provided
3 for in sections two, three and four of this article, each
4 member of the joint committee on government and fi-
5 nance and the commission on interstate cooperation shall
6 receive interim compensation of thirty-five dollars per
7 day for each day actually engaged in the performance
8 of interim duties as a member of either such committee
9 or commission between regular sessions of the Legislature:
10 *Provided*, That not more than twenty-eight members
11 combined of both such committee and commission shall
12 be entitled to receive the interim compensation autho-
13 rized in this section, and the total additional interim com-
14 pensation payable to any such member and his replace-
15 ment, if any, on such committee or commission under the
16 provisions of this section shall not exceed the sum of one
17 thousand fifty dollars per calendar year.

PART III. EXPENSES.

§4-2A-6. Travel expenses.

1 Each member of the Legislature shall be entitled to be
2 reimbursed, upon submission of an expense voucher, for
3 expenses incurred incident to travel in the performance
4 of his duties as a member of the Legislature or any com-
5 mittee of the Legislature, whether such committee is
6 operating under general law or resolution, including,
7 but not limited to, attendance at party caucuses held in
8 advance of the date of the assembly of the Legislature

9 in regular session in odd-numbered years for the purpose
10 of selecting candidates for officers of the two houses, at
11 the rate of fifteen cents per mile for the most direct
12 usually traveled route, if travel is by private automobile,
13 or for actual transportation costs for direct route travel,
14 if travel is by public carrier, or for any combination of
15 such means of transportation actually used, plus the cost
16 of necessary taxi or limousine service, tolls and parking
17 fees in connection therewith, but during any regular or
18 extraordinary session, travel expenses shall not be paid
19 to any member for more than one round trip to and
20 from the seat of government and to and from his place
21 of residence for each week of any such session.

§4-2A-7. Reimbursement for expenses incurred during any session.

1 In addition to reimbursement for any travel expenses,
2 as provided for in section six of this article, each member
3 of the Legislature shall also be entitled to be reimbursed,
4 upon submission of an expense voucher therefor, for all
5 reasonable and necessary expenses actually incurred in
6 connection with any regular or extraordinary session of
7 the Legislature, but the total of any and all such reim-
8 bursed expenses, exclusive of reimbursement for any
9 such travel expenses as aforesaid, shall not exceed lodg-
10 ing expenses of twenty-two dollars per day or one hun-
11 dred fifty-four dollars per week and meal and miscel-
12 laneous expenses of fifteen dollars per day or one hun-
13 dred five dollars per week. A receipt for the amount paid
14 for lodging shall be submitted with the expense voucher,
15 but a receipt shall not be required to be submitted with
16 any such expense voucher for meal and miscellaneous
17 expenses. In lieu of reimbursement for lodging expenses
18 pursuant to the provisions of this section, any member
19 of the Legislature shall be entitled to be reimbursed,
20 upon submission of an expense voucher, for expenses
21 incurred incident to daily travel to and from his place
22 of residence and to and from the seat of government at
23 a rate of fifteen cents per mile for the most direct usually
24 traveled route, but the total of such daily travel expenses
25 shall not exceed twenty-two dollars per day.

§4-2A-8. Interim expenses.

1 In addition to reimbursement for any travel expenses
2 and any such reimbursements for any and all such ses-
3 sion expenses as provided for in sections six and seven
4 of this article, each member of the Legislature serving
5 as a member of any committee of the Legislature estab-
6 lished by and operating under general law and desig-
7 nated for the performance of interim assignments by
8 the Legislature or otherwise duly authorized to perform
9 interim assignments between regular sessions of the Leg-
10 islatre shall also be entitled to be reimbursed, upon
11 submission of an expense voucher therefor, for all rea-
12 sonable and necessary expenses actually incurred inci-
13 dent to the performance of duties as a member of any
14 such committee, but the total of any and all such reim-
15 bursed interim expenses, exclusive of reimbursement for
16 any such travel and session expenses as aforesaid, shall
17 not under any circumstances exceed lodging expenses of
18 twenty-two dollars per day or meal and miscellaneous
19 expenses of fifteen dollars per day for each day actually
20 engaged in the performance of interim duties as a
21 member of any such committee. A receipt for the amount
22 paid for lodging shall be submitted with the expense
23 voucher, but a receipt shall not be required to be sub-
24 mitted with any such expense voucher for meal and mis-
25 cellaneous expenses.

§4-2A-9. Out-of-state expenses.

1 In addition to reimbursement for travel expenses as
2 authorized in section six of this article, each member of
3 the Legislature traveling from West Virginia to an out-of-
4 state point or points and return incident to the per-
5 formance of his duties as a member of the Legislature
6 or any committee of the Legislature, whether such com-
7 mittee is operating under general law or resolution, which
8 travel has been duly authorized, shall be entitled to be
9 reimbursed, upon submission of an expense voucher
10 therefor, for all reasonable and necessary expenses ac-
11 tually incurred incident thereto, but the total of any and
12 all such reimbursed expenses, exclusive of reimburse-

13 ment for such travel expenses, shall not under any cir-
14 cumstances exceed lodging expenses of thirty dollars per
15 day or meal and miscellaneous expenses of twenty dol-
16 lars per day. A receipt for the amount paid for lodging
17 and for travel to and from West Virginia shall be sub-
18 mitted with the expense voucher, but a receipt shall not
19 be required to be submitted with any such expense vou-
20 cher for meal and miscellaneous expenses.

**§4-2A-10. Affidavits required; approval by legislative auditor
of vouchers; travel expenses within Charleston
not reimbursable; rules authorized.**

1 Any expense voucher submitted pursuant to the pro-
2 visions of section six, seven, eight or nine of this article
3 must be verified by the affidavit of the member incurring
4 such expense and all such expense vouchers shall be
5 approved by the legislative auditor prior to submission
6 for payment.

7 Notwithstanding any other provisions of this article to
8 the contrary, no member of the Legislature who resides
9 within the corporate limits of the city of Charleston may
10 be reimbursed under this article for any travel expenses
11 incurred within such corporate limits.

12 The legislative auditor is hereby authorized to adopt
13 such rules as may be necessary to implement or effectuate
14 the provisions of this article.

**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 MANAGE-
MENT AND PRESERVATION ACT; DEPARTMENT
OF COMMERCE; WEST VIRGINIA PUBLIC EM-
PLOYEES RETIREMENT ACT; HUMAN RIGHTS
COMMISSION; WEST VIRGINIA ANTIQUITIES
COMMISSION; PUBLIC EMPLOYEES' AND TEACH-
ERS' RECIPROCAL SERVICE CREDIT ACT;
WHITE CANE LAW; WEST VIRGINIA PUBLIC
EMPLOYEES INSURANCE ACT.**

Article**10. West Virginia Public Employees Retirement Act.****16. West Virginia Public Employees Insurance Act.****ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.****§5-10-52. Specific provisions relating to certain members of the Legislature and certain service by members of the Legislature.**

1 The provisions of this article specifying that a legisla-
 2 tor may be a member of the retirement system and at the
 3 same time also a member of another state or political
 4 subdivision retirement program and may receive credit
 5 in the retirement system from two or more public em-
 6 ployments simultaneously and authorizing automatic
 7 increases in the annuities of retired legislators based upon
 8 increases in compensation paid to members of the Legis-
 9 lature shall not be applicable to any member of the
 10 Legislature who first becomes a member of the retirement
 11 system as a member of the Legislature during the year
 12 one thousand nine hundred seventy-one, or any year
 13 thereafter, nor shall such provisions be applicable to the
 14 computation of service, credited service or benefits for
 15 any peroid of service as a member of the Legislature for
 16 the year one thousand nine hundred seventy-one, or any
 17 year thereafter.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**§5-16-17a. Members of Legislature may be covered, if cost of the entire coverage is paid by such members.**

1 Notwithstanding the definition of the term "employee"
 2 contained in section two of this article and notwithstand-
 3 ing any other provision of this article to the contrary,
 4 members of the Legislature may participate in and be cov-
 5 ered by any insurance plan or plans authorized here-
 6 under for state officers and employees, except that all
 7 members of the Legislature who elect to participate in
 8 or to be covered by any such plan or plans shall pay their
 9 proportionate individual share of the full cost for all
 10 group coverage on themselves and their spouses and de-

- 11 pendants, so that there will be no cost to the state for the
12 coverage of any such members, spouses and dependents.

CHAPTER 151

(H. B. 1316—Originating in the House Committee on the Judiciary)

[Passed March 9, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one and three, article four; sections one, two and four, article five; section one, article six-a; sections one, two, three, four and five, article seven; and section one, article eleven, all of chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to mentally ill, mentally retarded and addicted persons; providing detailed procedures as to the voluntary hospitalization of any such person; relating to consents required; providing procedures concerning the release of any such person voluntarily hospitalized; providing detailed procedures for the involuntary hospitalization of any such person; providing for hearings; relating to the appointment of a mental hygiene commissioner; requiring examination and notice following involuntary hospitalization; relating to hearings and release from involuntary hospitalization; relating to legal proceedings for involuntary hospitalization; relating to continuances; providing that medical evidence be not deemed privileged information; relating to the dividing of expenses between county commission and the state; creating a special fund in the state auditor's office; relating to determination of competency of defendant to stand trial and providing detailed procedures in connection therewith; relating to discharge, release on convalescent status and release as unimproved; relating to readmission of patient; relating to return of escapees; and relating to proceedings for appointment of a committee and rule to show cause if person refuses medical examination.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article four; sections one, two and four, article five; section one, article six-a; sections one, two, three,

four and five, article seven; and section one, article eleven, all of chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

Article

4. **Voluntary Hospitalization.**
5. **Involuntary Hospitalization.**
- 6A. **Commitment of Persons Charged or Convicted of a Crime.**
7. **Release, Discharge and Readmission of Patients; Escapees.**
11. **Committee; Disposition of Property.**

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

§27-4-1. Authority to receive voluntary patients.

§27-4-3. Right to release on application.

§27-4-1. Authority to receive voluntary patients.

1 The chief medical officer of a mental health facility, subject
2 to the availability of suitable accommodations and to the rules
3 and regulations promulgated by the director of mental health,
4 shall admit for diagnosis, care and treatment any individual:

5 (a) Over eighteen years of age who is mentally ill, mentally
6 retarded or addicted or who has manifested symptoms of mental
7 illness, mental retardation or addiction and who makes appli-
8 cation for hospitalization; or

9 (b) Under eighteen years of age who is mentally ill,
10 mentally retarded or addicted or who has manifested symptoms
11 of mental illness, mental retardation or addiction and there
12 is application for hospitalization therefor in his behalf (1)
13 by the parents of such person, or (2) if only one parent is
14 living, then by such parent, or (3) if the parents are living
15 separate and apart, by the one who has the custody of such
16 person, or (4) if there is a guardian who has custody of
17 such person, then by such guardian. Such admission shall be
18 conditioned upon the consent of the prospective patient if
19 the patient is twelve years of age or over.

20 (c) No person under eighteen years of age shall be admitted
21 under this section to any state hospital unless said person has
22 first been reviewed and evaluated by a local mental health
23 facility and recommended for admission.

§27-4-3. Right to release on application.

1 A voluntary patient who requests his release or whose release
2 is requested in writing, by his parents, parent, guardian, spouse
3 or adult next of kin shall be released forthwith except that:

4 (a) If the patient was admitted on his own application, and
5 request for release is made by a person other than the patient,
6 release shall be conditioned upon the agreement of the patient
7 thereto;

8 (b) If the patient is under twelve years of age, his release
9 prior to becoming twelve years of age may be conditioned
10 upon the consent of the person or persons who applied for his
11 admission; or

12 (c) If, within ninety-six hours of the receipt of the request,
13 the chief medical officer of the mental health facility in which
14 the patient is hospitalized files with the clerk of the circuit
15 court or mental hygiene commissioner of the county where
16 the facility is situated, an application for involuntary hospitaliz-
17 ation as provided in section four, article five of this chapter,
18 release may be postponed for twenty days pending a finding
19 in accordance with the legal proceedings prescribed therein.

20 Legal proceedings for involuntary hospitalization shall not be
21 commenced with respect to a voluntary patient unless release
22 of the patient has been requested by him or the individual or
23 individuals who applied for his admission.

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-1. Involuntary commitment; hearing; appointment of mental hygiene commissioner; caseworker defined.

§27-5-2. Involuntary hospitalization; admission by medical certification; emergency procedure; examination; hearing; release.

§27-5-4. Legal proceedings for involuntary hospitalization.

§27-5-1. Involuntary commitment; hearing; appointment of mental hygiene commissioner; caseworker defined.

1 No individual shall be involuntarily committed to a mental
2 health facility except by order entered of record at any time by
3 the circuit court of the county wherein such person resides or
4 was found and then only after a full hearing on the issues re-
5 lating to the necessity of committing an individual to a men-
6 tal health facility. The circuit court of each county may appoint

7 a competent attorney in each county to preside over such
8 hearings, who shall be designated "mental hygiene commis-
9 sioner." He shall be a person of good moral character, of
10 standing in his profession and a resident of the county for
11 which he is appointed, and he shall, before assuming the duties
12 of such commissioner, take the oath required of other special
13 commissioners as provided in article one, chapter six of this
14 code. The mental hygiene commissioner may sign and issue
15 summons for the attendance, at any hearing held pursuant to
16 section four, article five of this code, of the individual sought
17 to be committed; may sign and issue subpoenas for witnesses,
18 including subpoenas duces tecum; may place any witness un-
19 der oath; and may make findings of fact on evidence and may
20 make conclusions of law, but such findings and conclusions
21 shall not be binding on the circuit court. The circuit court by
22 order entered of record shall allow the commissioner a reason-
23 able fee for each case heard. The mental hygiene commissioner
24 shall discharge his duties and hold his office at the pleasure of
25 the circuit court by which he is appointed and may be re-
26 moved at any time by the court. It shall be the duty of the
27 mental hygiene commissioner to conduct orderly inquiries into
28 the mental health of any individual brought before him con-
29 cerning the advisability of committing the individual to a men-
30 tal health facility. The mental hygiene commissioner shall safe-
31 guard, at all times, the rights and interests of the individual as
32 well as the interests of the state. The mental hygiene commis-
33 sioner shall make a written report of his findings to the cir-
34 cuit court. In any proceedings before any court of record as set
35 forth in this article, the court of record shall appoint an in-
36 terpreter for any individual who is deaf or cannot speak or
37 who speaks a foreign language and who may be subject to
38 involuntary commitment to a mental health facility.

39 In all proceedings under this article, it shall be the duty of
40 the prosecuting attorney or one of his assistants to represent
41 the applicants.

42 As used in this article, the term "caseworker" means a person
43 employed by a mental health facility, state hospital, county
44 health department or the state department of welfare, as an
45 agent for the providing of the social or medical services, or
46 both, of such facility, hospital or department.

§27-5-2. Involuntary hospitalization; admission by medical certification; emergency procedure; examination; hearing; release.

1 (a) Any individual may be admitted to a mental health
2 facility upon:

3 (1) Written application under oath to the facility by his
4 parents or parent, guardian, spouse, adult next of kin or
5 friend, a health officer or caseworker familiar with the case
6 of the individual, or the head of any institution where such
7 individual may be and certification by two physicians or a
8 physician and a psychologist that they have examined the
9 individual and that they are of the opinion that he is
10 mentally ill, mentally retarded or addicted and because of
11 his mental illness, mental retardation or addiction he is likely
12 to cause serious harm to himself or others if he is allowed
13 to remain at liberty; admission to a mental health facility in
14 accordance with the procedure set forth in this subdivision
15 shall be referred to as a medical certification admission; or

16 (2) Written application under oath to the facility by a
17 health officer, caseworker or law-enforcement officer stating
18 his belief that the individual, because of symptoms of mental
19 illness, mental retardation or addiction, is likely to cause
20 serious harm to himself or others if not immediately restrained
21 and the grounds for such belief and certification by at least
22 one physician or one psychologist that he has examined the in-
23 dividual and that he is of the opinion the individual is mentally
24 ill, mentally retarded or addicted and because of his mental
25 illness, mental retardation or addiction he is likely to cause
26 serious harm to himself or others if not immediately restrained.
27 Admission to a mental health facility in accordance with the
28 procedures set forth in this subdivision (2) shall be referred to
29 as an emergency admission.

30 (b) Any individual with respect to whom such certification
31 has been issued may not be admitted on the basis thereof at
32 any time after the expiration of three days from the date of
33 such examination in the case of emergency admission with one
34 physician's or psychologist's certificate in accordance with sub-
35 division (2), subsection (a) of this section or fifteen days from
36 the first examination in the case of medical certification ad-

37 mission in accordance with subdivision (1) of subsection (a)
38 of this section. A certification under this section must include
39 findings and conclusions of the mental examination, the date,
40 time and place thereof, and the facts upon which the con-
41 clusion of likelihood of causing serious harm is based. The
42 chief medical officer may, with the approval of the director
43 of mental health, transfer such individual to a state hospital
44 or to another similar type of mental health facility after deter-
45 mining that no less restrictive treatment alternative is suit-
46 able or available. The chief medical officer of the mental health
47 facility admitting the individual shall forthwith make a report
48 thereof to the director of mental health.

49 When an individual is admitted to a mental health facility
50 pursuant to the provisions of this section, the chief medical
51 officer thereof shall immediately give notice of the individ-
52 ual's admission to the individual's spouse, if any, and the in-
53 dividual's parents or parent or guardian, or if there be no such
54 spouse, parents, parent or guardian, to two of the individual's
55 adult next of kin. The notice shall be in writing and shall be
56 transmitted to such person or persons at his, her or their
57 last known address by certified or registered mail, return
58 receipt requested.

59 (c) After the individual's admission to a mental health
60 facility, he shall not be detained more than three days unless,
61 within such period, the individual is examined by two staff
62 physicians or one staff psychologist and one staff physician and
63 the likelihood that the individual will cause serious harm to
64 himself or others is confirmed by such physicians, or psycholo-
65 gist and physician. The physicians, or psychologists and phy-
66 sician may jointly examine the individual but must make
67 separate, independent and signed evaluations of his condition.

68 (d) If, on the basis of the examination by the two staff
69 physicians, or one staff psychologist and one staff physician
70 the chief medical officer determines that the individual should
71 continue to be hospitalized, a written request for a hearing shall
72 be sent to the clerk of the circuit court of the county of the
73 individual's residence or to the clerk of the circuit court of the
74 county where he was found within five days after the person's
75 admission. Within a reasonable time after receipt of the re-

76 quest, the circuit court or mental hygiene commissioner
77 shall conduct a hearing pursuant to section four of this article
78 on the question of the individual's mental health and the need
79 for his further hospitalization, but in no event shall such
80 hearing be held later than twenty days after the admission of
81 the individual to a mental health facility: *Provided*, That on
82 the verified motion of the individual, the hearing may be con-
83 tinued for a period of time not to exceed ten days.

84 (e) Unless he chooses to change his status to that of volun-
85 tary hospitalization, an individual hospitalized pursuant to
86 this section shall be released without fail:

87 (1) Within three days after his admittance to a mental
88 health facility, unless he has been examined by two staff phy-
89 sicians or one staff psychologist and one staff physician both
90 of whom confirm in writing that the individual is likely to
91 cause serious harm to himself or others if not immediately re-
92 strained; or

93 (2) Within five days after his admittance to a mental health
94 facility, unless the chief medical officer has sent a written re-
95 quest within such time, to the clerk of the circuit court
96 of the county of which the individual is a resident or where
97 he was found for a hearing on the question of the indi-
98 vidual's mental condition and the need for further hospitaliza-
99 tion; or

100 (3) Within twenty days after his admittance to a mental
101 health facility, unless a hearing has been conducted pursuant
102 to the provisions regarding legal proceedings for involuntary
103 hospitalization and a determination and order made as pre-
104 scribed therein on the question of the individual's mental con-
105 dition or unless the individual has moved for a continuance for
106 a reasonable amount of time.

§27-5-4. Legal proceedings for involuntary hospitalization.

1 (a) Proceedings for the involuntary hospitalization of an
2 individual may be commenced by the filing of a written
3 application under oath and the certificate or affidavit as
4 hereinafter provided with the clerk of the circuit court or
5 mental hygiene commissioner of the county of which the
6 individual is a resident or with the clerk of the circuit court

7 or mental hygiene commissioner of the county where he may
8 be found, by his parents or parent, guardian, spouse, adult
9 next of kin or friend, or by a physician, psychologist, a
10 health officer or caseworker familiar with the case of the
11 individual, or the head of any institution in which such
12 individual may be.

13 Such application shall be made under oath and shall state
14 the belief of the applicant that because of symptoms of mental
15 illness, mental retardation or addiction, the individual is
16 likely to cause serious harm to himself or others and the
17 grounds for such belief. The written application, certificate,
18 affidavit and any warrants issued pursuant thereto, including
19 any papers and documents related thereto filed with any
20 circuit court or mental hygiene commissioner for the involun-
21 tary hospitalization of any individual shall not be open to
22 inspection by any person other than the individual, except upon
23 authorization of the individual or his legal representative or
24 by order of the circuit court and such records shall not be
25 published except upon the authorization of the individual or
26 his legal representative. Such applicant shall file with his
27 application the certificate of a physician or a psychologist
28 stating that in his opinion the individual is mentally ill,
29 mentally retarded or addicted and that because of his mental
30 illness, mental retardation or addiction, the individual is likely
31 to cause serious harm to himself or others if he is allowed to
32 remain at liberty and therefore he should be hospitalized or,
33 in lieu of said certificate, an affidavit by the applicant
34 showing facts that the individual has refused to submit to
35 examination by a physician or a psychologist.

36 (b) Upon receipt of an application, the clerk of the circuit
37 court shall give notice thereof to the individual and to the
38 individual's spouse, parents or parent or guardian, or, if the
39 individual does not have a spouse, parents or parent or guard-
40 ian, to the individual's adult next of kin. Such notice shall be
41 given within ten days after receipt of the application by the
42 clerk of the circuit court and shall be served on such person
43 or persons at his or their last known address by certified or
44 registered mail, return receipt requested.

45 The notice served on the individual shall specify the nature

46 of the charges against him, the facts underlying and supporting
47 the application for his involuntary commitment, and shall ad-
48 vise him of his right to have counsel appointed for him and to
49 consult with counsel at every stage of the proceedings.

50 Within a reasonable time after notice of the commencement
51 of proceedings is given, the circuit court or mental hygiene
52 commissioner shall appoint two physicians or a physician and
53 psychologist, other than the physician or psychologist whose
54 certification may have accompanied the application under this
55 section to the circuit court or mental hygiene commissioner,
56 to examine the individual and report to the circuit court or
57 mental hygiene commissioner their findings as to the mental
58 condition of the individual and the likelihood of his causing
59 serious harm to himself or others. The physicians or physician
60 and psychologist may jointly examine the individual, but must
61 make separate, independent and signed evaluations of this
62 condition stating the facts upon which the conclusions therein
63 are based.

64 If the designated physicians or physician and psychologist
65 report to the circuit court or mental hygiene commissioner that
66 the individual has refused to submit to an examination, the
67 circuit court or mental hygiene commissioner shall order him
68 to submit to such examination. The circuit court may enter an
69 order directing the individual to be taken into custody, but
70 not incarcerated in a jail or penal institution, for the purpose
71 of an immediate examination by the designated physicians or
72 physician and psychologist. All such orders shall be directed
73 to the sheriff of the county or other appropriate law-enforce-
74 ment officer. After such examination has been completed, the
75 individual shall be released from custody unless such custody is
76 in a mental health facility pursuant to an emergency hospitaliz-
77 ation as provided for in section two of this article. If the re-
78 ports of the appointed physician or physicians and psycholo-
79 gists do not confirm that the individual is mentally ill, men-
80 tally retarded or addicted and might be harmful to himself
81 or others, then the proceedings for his involuntary hospitaliz-
82 ation shall be dismissed.

83 The circuit court or mental hygiene commissioner shall
84 forthwith fix a date for and have the clerk of the circuit court

85 give notice of the hearing to (1) the individual, (2) to the ap-
86 plicant or applicants, and (3) to the individual's spouse,
87 parents or parent or guardian, or if the individual does not have
88 a spouse, parents or parent or guardian, to the individual's
89 adult next of kin, and (4) to the mental health facility serving
90 the area. Such notice shall be served on the individual by per-
91 sonal or substitutive service of process not less than ten days
92 prior to the date of the hearing. The notice to the individual's
93 spouse, parents or parent or guardian, or the individual's
94 adult next of kin may be by personal or substitutive service of
95 process or by certified or registered mail, return receipt re-
96 quested. Such notice shall specify the nature of the charges
97 against the individual; the facts underlying and supporting the
98 application of his involuntary commitment; his right to have
99 counsel appointed for him; his right to consult with counsel
100 at every stage of the proceedings and the time and place of the
101 hearing.

102 (c) The individual shall be present at the hearing and he,
103 the applicant and all persons entitled to notice of such hear-
104 ing shall be afforded an opportunity to testify and to present
105 and cross-examine witnesses. In the event that the individual
106 has not retained counsel, the court or mental hygiene commis-
107 sioner at least seven days prior to hearing shall appoint a
108 competent attorney, who shall be present at the hearing and
109 protect the interests of the individual, and the circuit court,
110 by order of record, may allow the attorney a reasonable fee
111 not to exceed the amount allowed for attorneys in felony cases
112 by section one, article two, chapter sixty-two of this code. Any
113 counsel representing an individual shall be entitled to copies of
114 all medical reports, psychiatric or otherwise. The individual
115 shall have the right to have an examination by an independent
116 expert of his choice and testimony from such expert as a medi-
117 cal witness on his behalf. The cost of such independent expert
118 shall be borne by the patient unless he is indigent. The circuit
119 court or mental hygiene commissioner shall hear evidence from
120 all interested parties in chambers, including testimony from
121 representatives of the community mental health facility. The
122 individual shall not be compelled to be a witness against him-
123 self. The circuit court or mental hygiene commissioner shall re-
124 ceive all relevant and material evidence which may be offered.

125 The circuit court or mental hygiene commissioner shall be
126 bound by the rules of evidence except that statements made to
127 physicians or psychologists by the individual may be admitted
128 into evidence by the physician's or psychologist's testimony
129 notwithstanding failure to inform the individual that this state-
130 ment may be used against him. Any psychologist or physician
131 testifying shall bring all records pertaining to said individual
132 to said hearing. Such medical evidence obtained pursuant to
133 an examination under this section, or section two, or section
134 three of this article, is not privileged information for purposes
135 of a hearing pursuant to this section. A transcript or recording
136 shall be made of all proceedings, whether before the circuit
137 court or mental hygiene commissioner, and a transcript made
138 available to the individual or his counsel within thirty days, if
139 the same is requested for the purpose of an appeal. In any
140 case wherein an indigent person seeks an appeal, the circuit
141 court shall, by order entered of record, authorize and direct
142 the court reporter to furnish a transcript of the hearing and
143 the costs of such transcript shall be paid by the county wherein
144 the hearing was held.

145 (d) Upon completion of the hearing, and the evidence pre-
146 sented therein, the circuit court or mental hygiene commis-
147 sioner shall make findings as to whether or not (1) the indi-
148 vidual is mentally ill, mentally retarded or addicted and be-
149 cause of his illness, retardation or addiction is likely to cause
150 serious harm to himself or to others if allowed to remain at
151 liberty and (2) is a resident of the county in which the hearing
152 is held or currently is a patient at a mental health facility in
153 such county. The circuit court or mental hygiene commissioner
154 shall also make a finding as to whether or not there is a less
155 restrictive alternative than commitment appropriate for the
156 individual. The burden of proof of the lack of a less restric-
157 tive alternative than commitment shall be on the person or
158 persons seeking the commitment of the individual.

159 The findings of fact shall be incorporated into the order
160 entered by the circuit court and must be based upon clear,
161 cogent and convincing proof. Upon the requisite findings, the
162 circuit court may order the individual to a mental health fac-
163 ility for an indeterminate period or for a temporary observa-
164 tory period not exceeding six months. If the order is for a

165 temporary observation period, the circuit court or mental hy-
166 giene commissioner may, at any time prior to the expiration
167 of such period on the basis of a report by the chief medical
168 officer of the mental health facility in which the patient is con-
169 fined and such further inquiry as may seem appropriate, order
170 indeterminate hospitalization of the patient or dismissal of the
171 proceedings. An order for an indeterminate period shall ex-
172 pire of its own terms at the expiration of two years from the
173 date of the last order of commitment.

174 If the circuit court or mental hygiene commissioner finds
175 that the individual is not mentally ill, mentally retarded or
176 addicted, the proceeding shall be dismissed. If the circuit
177 court or mental hygiene commissioner finds that the individ-
178 ual is mentally ill, mentally retarded or addicted but is not
179 because of such illness, retardation or addiction likely to
180 cause serious harm to himself or others if allowed to remain
181 at liberty, the proceedings shall be dismissed.

182 (e) The clerk of the circuit court in which an order direct-
183 ing hospitalization is entered, if not in the county of the in-
184 dividual's residence, shall immediately upon entry thereof for-
185 ward a certified copy of same to the clerk of the circuit court
186 of the county of which the individual is a resident.

187 If the circuit court or mental hygiene commissioner is satis-
188 fied that hospitalization should be ordered but finds that the
189 individual is not a resident of the county in which the hearing
190 is held, and the individual is not currently a resident of a
191 mental health facility, a transcript of the evidence adduced at
192 the hearing of such individual, certified by the clerk of the
193 circuit court, shall forthwith be forwarded to the clerk of the
194 circuit court of the county of which such individual is a resi-
195 dent, who shall immediately present such transcript to the cir-
196 cuit court or mental hygiene commissioner of said county. If
197 the circuit court or mental hygiene commissioner of the county
198 of the residence of the individual is satisfied from the evidence
199 contained in such transcript that such individual should be
200 hospitalized as determined by the standards set forth above, the
201 circuit court shall order the appropriate hospitalization as
202 though the individual had been brought before the circuit
203 court or its mental hygiene commissioner in the first instance.

204 This order shall be transmitted forthwith to the clerk of the
205 circuit court of the county in which the hearing was held
206 who shall execute said order promptly.

207 (f) In lieu of ordering the patient to a mental health facil-
208 ity, the circuit court may order the individual delivered to
209 some responsible person who will agree to take care of the
210 individual and the circuit court may take from such responsi-
211 ble person a bond in an amount to be determined by the cir-
212 cuit court, with condition to restrain and take proper care of
213 such individual until further order of the court.

214 (g) If the individual found to be mentally ill, mentally re-
215 tardated or addicted by the circuit court or mental hygiene
216 commissioner is a resident of another state, this information
217 shall be forthwith given to the director of mental health, who
218 shall make appropriate arrangements for his transfer to the
219 state of his residence conditioned on the agreement of the
220 individual except as qualified by the interstate compact on
221 mental health.

222 (h) The chief medical officer of a mental health facility
223 admitting a patient pursuant to proceedings under this sec-
224 tion shall forthwith make a report of such admission to the
225 director of mental health.

226 (i) The state shall pay the attorney fees and commissioner
227 fees out of a special fund to be established within the office
228 of the state auditor to be known as the "mental hygiene fund."
229 The county court shall pay out of the county treasury all
230 other expenses incurred in the hearings conducted under the
231 provisions of this article, whether or not hospitalization is
232 ordered, including any fee allowed by the circuit court by
233 order entered of record for any physician, psychologist and
234 other witnesses.

**ARTICLE 6A. COMMITMENT OF PERSONS CHARGED OR CON-
VICTED OF A CRIME.**

**§27-6A-1. Determination of competency of defendant to stand
trial; examination; commitment.**

1 (a) Whenever a court of record believes that a defendant
2 in a felony case or a defendant in a misdemeanor case in which
3 an indictment has been returned may be incompetent to

4 stand trial or is not criminally responsible by reason of
5 mental illness, mental retardation or addiction, it may at any
6 stage of the proceedings after the return of an indictment
7 or the issuance of a warrant against the defendant, order an
8 examination of such defendant to be conducted by one or more
9 psychiatrists, or a psychiatrist and a psychologist.

10 (b) After the examination described in subsection (a) of
11 this section, the court of record may order that the person
12 be admitted to a mental health facility designated by the
13 director of mental health for a period not to exceed twenty
14 days for observation and further examination if the court has
15 reason to believe that such further observation and examina-
16 tion are necessary in order to determine whether mental
17 illness, mental retardation or addiction have so affected a
18 person that he is not competent to stand trial or not
19 criminally responsible for the crime or crimes with which he
20 has been charged. If, before the expiration of such twenty-
21 day period, the examining physician believes that observation
22 for more than twenty days is necessary, he shall make a
23 written request to the court of record for an extension of the
24 twenty-day period specifying the reason or reasons for which
25 such further observation is necessary. Upon the receipt of
26 such request, the court of record may by order extend said
27 observation period, but in no event shall the period exceed
28 forty days from the date of the initial court order of obser-
29 vation.

30 (c) At the conclusion of each examination or observation
31 period provided for herein, the examining psychiatrists, or
32 psychiatrist and psychologist, shall forthwith give to the court
33 of record a written signed report of their findings on the issue
34 of competence to stand trial or criminal responsibility. Such
35 report shall contain an opinion, supported by clinical findings,
36 as to whether or not the defendant is in need of care and
37 treatment.

38 (d) Within five days after the receipt of the report on the
39 issue of competency to stand trial, or if no observation pur-
40 suant to subsection (b) of this section has been ordered,
41 within five days after the report on said issue following an
42 examination under subsection (a) of this section, the court

43 of record shall make a finding on the issue of whether the
44 defendant is competent for trial. A finding of incompetence
45 for trial shall require proof by a preponderance of the
46 evidence. Notice of such findings shall be sent to the
47 prosecuting attorney, the defendant and his counsel. If the
48 court of record orders or if the defendant or his counsel
49 on his behalf within a reasonable time requests a hearing on
50 such findings, a hearing in accordance with section two of
51 this article shall be held by the court of record within ten
52 days of the date such finding or such request has been made.

53 (e) After a conviction and prior to sentencing, the court of
54 record may order a psychiatric or other clinical examination
55 and, after such examination, may further order a period of
56 observation in a mental health facility designated by the
57 director of mental health. Such period of observation or
58 examination shall not exceed forty days.

59 If after hearing conducted pursuant to the procedures
60 prescribed in subsection (c), section four, article five of this
61 chapter, the court of record makes the findings specified in
62 section four, article five of this chapter or finds that the
63 convicted individual would benefit from treatment in a mental
64 health facility, the court may enter an order of commitment
65 in accord with section four, article five for treatment in a
66 mental health facility designated by the director of mental
67 health.

68 (f) In like manner, in accordance with procedures set
69 forth in subsections (a), (b) and (c) of this section, a juvenile
70 court may order a psychiatric examination or a period of
71 observation for an alleged delinquent or neglected juvenile
72 in a mental health facility to aid the court in its disposition.
73 The period of observation shall not exceed forty days.

ARTICLE 7. RELEASE, DISCHARGE AND READMISSION OF PA- TIENTS; ESCAPEES.

§27-7-1. Discharge.

§27-7-2. Release of patients on convalescent status.

§27-7-3. Release as unimproved.

§27-7-4. Readmission of patients.

§27-7-5. Return of escapees; veterans.

§27-7-1. Discharge.

1 The chief medical officer of the mental health facility shall

2 continually review the case of each individual who is an
3 involuntary patient at the facility pursuant to article five of this
4 chapter and shall as frequently as practicable, in any event at
5 least once every three months, cause a complete psychiatric
6 examination of each patient, and whenever it is determined
7 that the conditions justifying involuntary hospitalization no
8 longer exist or that the individual can no longer benefit from
9 hospitalization, the chief medical officer shall discharge the
10 patient, and forward a copy of the patient's discharge to the
11 clerk of the circuit court or mental hygiene commissioner of
12 the county in which the involuntary hospitalization was
13 ordered and to the circuit court or mental hygiene commissioner
14 of the county wherein the individual is a resident. In the event
15 that the individual was relieved of legal capacity pursuant to
16 article eleven of this chapter, the discharge restores the in-
17 dividual to legal capacity.

§27-7-2. Release of patients on convalescent status.

1 The chief medical officer of a mental health facility may
2 release an involuntary patient on convalescent status (trial
3 visit) when the chief medical officer believes such release is
4 in the best interest of the patient. Release on convalescent
5 status shall include provisions for continuing responsibility
6 to and by a mental health facility, not necessarily the
7 facility in which the patient was previously hospitalized, in-
8 cluding a plan of treatment on an outpatient basis to insure
9 that the patient receives whatever care and treatment he might
10 require. At the end of six months on convalescent status, the
11 patient must be discharged from any involuntary commitment
12 order that might have been entered against him and he cannot
13 be involuntarily returned to any mental health facility unless
14 a new commitment proceeding has been instituted against
15 him. When a patient released on convalescent status is
16 discharged from his involuntary commitment, it shall be the
17 responsibility of the chief medical officer of the mental health
18 facility of which the individual was a patient prior to being
19 placed on convalescent status to immediately make a report of
20 the discharge of the patient to the circuit court or mental
21 hygiene commissioner of the county in which the involuntary
22 hospitalization was ordered and to the circuit court or mental

23 hygiene commissioner of the county wherein the individual is
24 a resident.

§27-7-3. Release as unimproved.

1 The chief medical officer of a mental health facility may
2 release an involuntary patient as unimproved when any person
3 requests the patient's release and is willing and able to take
4 proper care of the patient outside the mental health facility.
5 In the event that a patient is released to a responsible person,
6 a report shall be made by such person at least once every
7 six months to the chief medical officer of the mental health
8 facility. No discharge shall be given to said patient until he
9 has returned to the mental health facility for examination by
10 the chief medical officer and he has determined that said
11 patient is no longer in need of hospitalization.

12 When a patient is released from a mental health facility as
13 unimproved, it shall be the responsibility of the chief medical
14 officer of the mental health facility of which the individual was
15 a patient prior to being released as unimproved to immediately
16 make a report of the discharge of the patient to the circuit
17 court or mental hygiene commissioner of the county in which
18 the involuntary hospitalization was ordered and to the circuit
19 court or mental hygiene commissioner of the county wherein
20 the individual is a resident.

§27-7-4. Readmission of patients.

1 While any involuntary patient is out of the mental health
2 facility under the provisions of section two or section three of
3 this article, he may be readmitted to the mental health facility
4 on the basis of the original commitment. If there is reason to
5 believe that it is in the best interest of the patient to be
6 hospitalized, the chief medical officer of the mental health
7 facility may issue a sworn notice for the immediate re-
8 hospitalization of the patient which notice shall contain facts
9 concerning the condition of the patient. This notice shall be
10 sent to the circuit court or mental hygiene commissioner or to
11 the clerk of the circuit court which ordered his admission
12 as the case may be, and to the clerk of the circuit court of
13 the county of the patient's residence. Upon receipt of such
14 notice, the circuit court may, if satisfied that the condition
15 of the patient warrants his return, authorize any health officer

16 or police officer to take the patient into custody and transport
17 him to a mental health facility where the notice originated.

§27-7-5. Return of escapees; veterans.

1 If any person confined in a mental health facility, pursuant
2 to article five or six-a of this chapter, escapes therefrom, the
3 chief medical officer thereof may issue a notice, giving the
4 name and description of the person escaping and requesting
5 the patient's apprehension and return to the mental health
6 facility. The chief medical officer may issue an order directed
7 to the sheriff of the county in which the patient is a resident,
8 commanding him to take into custody and transport such
9 escaped person back to the mental health facility, which
10 order the sheriff may execute in any part of the state. If
11 such person goes to another state, the chief medical officer
12 may notify the director of mental health and the director
13 may take such action as he may deem proper for the return
14 of such person to the mental health facility.

15 If any veteran duly committed to a veterans' hospital or
16 other veterans' institution, either within or without the state,
17 escapes therefrom and any person makes complaint, under
18 oath, to the clerk of the circuit court of the county from which
19 such veteran was so committed upon the order of the circuit
20 court, giving such information and stating such facts therein
21 as may be required, or if any veteran duly committed to a
22 veterans' hospital or other veterans' institution, either within
23 or without the state, escapes therefrom and the chief medical
24 officer of such hospital or institution issues a notice to the
25 clerk of the circuit court of the county from which such
26 veteran was so committed upon the order of the circuit court,
27 giving the name and description of such veteran and re-
28 questing his apprehension and return to such hospital or
29 institution, the circuit court upon receipt of such complaint
30 or of such notice, may issue an order directed to the sheriff
31 of the county from which the veteran was so committed
32 commanding him to take into custody and transport such
33 veteran back to such hospital or institution, which order the
34 sheriff may execute in any part of the state.

35 The sheriff or other person taking any person into custody

36 under this section shall be paid such compensation as is
37 provided for like services in other cases.

38 A person who is taken into custody under this section may
39 be detained, but not incarcerated in a jail or penal institution,
40 for a period not in excess of fourteen hours, pending return
41 to the appropriate mental health facility.

ARTICLE 11. COMMITTEE; DISPOSITION OF PROPERTY.

§27-11-1. Committees; appointment.

1 (a) The county commission of a person's residence may ap-
2 point a committee for a person found to be incompetent. Any
3 finding of incompetency under this article shall be made
4 separately and at a different proceeding from any finding of
5 mental illness, mental retardation or addiction under article four
6 or five of this chapter.

7 (b) Proceedings for the appointment of a committee for an
8 alleged incompetent may be commenced by the filing of a
9 verified petition of a person setting forth the facts showing the
10 incompetency of an individual with the county commission. Up-
11 on receipt of a petition, the clerk of the county commission shall
12 give notice of the hearing thereon to the individual and to the
13 individual's spouse, or if the individual does not have a spouse,
14 to the individual's adult next of kin. Such notice and petition
15 shall be served upon the individual at least ten days prior to
16 hearing thereon and shall state the purpose of the hearing
17 and advise the individual of his rights with respect thereto.
18 The individual shall appear at the hearing, to testify, to pre-
19 sent and cross-examine witnesses. In the event that the indi-
20 vidual cannot retain counsel, the county commission shall ap-
21 point a competent attorney for the individual. The individual
22 shall have the right to an examination by an independent expert
23 of his choice and testimony from such expert as a medical wit-
24 ness on his behalf. A transcript or recording shall be made of
25 all proceedings. A transcript shall be made available to the
26 individual or his counsel within thirty days, if the same is
27 requested for purposes of appeal. In any case wherein an indi-
28 gent person seeks an appeal, the circuit court shall, by order
29 entered of record, authorize and direct the court reporter to
30 furnish a transcript of the hearing and the costs of such trans-
31 cript shall be paid by the county wherein the hearing was held.

32 (c) Upon completion of the hearing and upon the evidence
33 presented therein the county commission may find that (i) the
34 individual is unable to manage his business affairs, or (ii) the
35 individual is unable to care for his physical well-being, or
36 (iii) both, and is therefore incompetent; or (iv) that the
37 person is competent. Evidence of mere poor judgment or of
38 different life style shall not be competent evidence upon which
39 to base a finding of incompetency.

40 (1) "Unable to manage one's business affairs" means the
41 inability to know and appreciate the nature and effect of his
42 business transactions, notwithstanding the fact that he may
43 display poor judgment.

44 (2) "Unable to care for one's physical well-being" means
45 the substantial risk of physical harm to himself as evidenced by
46 conduct demonstrating that he is dangerous to himself, notwith-
47 standing the fact that he may display poor judgment.

48 If the county commission finds the person to be competent,
49 the proceedings shall be dismissed. No appointment of a com-
50 mittee shall be made on evidence which is uncorroborated by
51 the testimony of a medical expert. If the individual refuses to
52 submit to an examination by a physician, the circuit court may
53 upon petition, issue a rule against the individual to show cause
54 why the individual should not submit to an examination. A copy
55 of the petition shall accompany service of the rule and such rule
56 shall be returnable at a time to be fixed by the court.

57 (d) The extent of the committee's authority shall be speci-
58 fied in the order of the county commission. No authority of a
59 committee shall extend beyond what is necessary for the protec-
60 tion of the individual. A finding of inability to care for one's
61 physical well-being shall entitle the committee to custody of the
62 individual, except when the individual is under a commitment
63 order to a mental health facility, but only to the extent as is
64 necessary for the protection of the individual.

65 (e) An individual found incompetent pursuant to subsection
66 (c) of this section shall have the right to an appeal and hearing
67 thereon in the circuit court of the county. The judge shall hear
68 the matter on appeal as provided in article three, chapter fifty-
69 eight of **this code** or order a hearing de novo on the matter.

70 (f) The individual or any person may apply to the county
 71 commission in the manner provided by subsection (b) of this
 72 section for termination of his committee at any time and appeal
 73 from a determination thereon in the manner provided by this
 74 section; or in the alternative, the individual may seek such
 75 termination by habeas corpus.

CHAPTER 152

(S. B. 199—By Mr. Williams)

[Passed February 17, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to authorize and empower the director of the department of mental health to transfer a certain parcel of real estate, located in Greenbrier county and owned by that department, to the county commission of Greenbrier county.

Be it enacted by the Legislature of West Virginia:

GREENBRIER COUNTY—"NORTH HOUSE."

§1. Director of the department of mental health authorized to transfer certain department-owned land to the county of Greenbrier.

1 The director of mental health is hereby authorized and
 2 empowered to transfer to the county commission of
 3 Greenbrier county, a tract of land, together with the
 4 improvements thereon and the appurtenances thereunto
 5 belonging, owned by the department, consisting of three-
 6 fourths acres, more or less, known as "North House" situ-
 7 ated and located in Greenbrier county.

CHAPTER 153

(S. B. 246—By Mr. Rogerson)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact sections eight, ten, eleven and twenty-three, article one, chapter twenty-two of the code

of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section five, article three of said chapter; relating to mine safety instructors; qualifications; employment; compensation; tenure; oath; bond; employment of electrical inspectors; qualifications; salary and expenses; tenure; oath; bond; eligibility for appointment as mine inspector; qualifications; salary and expenses; removal; mine foreman examiner for mine foremen fire bosses and assistant mine foremen-fire bosses; salary; employment of inspectors for open-pit mines, cement manufacturing plants and underground limestone and sandstone mines; qualifications; eligibility for appointment; tenure; salary and expenses.

Be it enacted by the Legislature of West Virginia:

That sections eight, ten, eleven and twenty-three, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section five, article three, chapter twenty-two of said code be amended and reenacted, all to read as follows:

Article

1. Administration; Enforcement.

3. Open-Pit Mines, Cement Manufacturing Plants and Underground Limestone and Sandstone Mines.

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-8. Mine safety instructors; qualifications; employment; compensation; tenure; oath, bond.

§22-1-10. Employment of electrical inspectors; qualifications; salary and expenses; tenure; oath; bond.

§22-1-11. Eligibility for appointment as mine inspector; qualifications; salary and expenses; removal.

§22-1-23. Mine foreman examiner for mine foremen-fire bosses and assistant mine foremen-fire bosses; salary.

§22-1-8. Mine safety instructors; qualifications; employment; compensation; tenure; oath; bond.

1 The department shall employ eleven or more mine
 2 safety instructors. To be eligible for employment as a
 3 mine safety instructor, the applicant shall be (1) a citi-
 4 zen of West Virginia, in good health, not less than twenty-
 5 five nor more than sixty-five years of age, and of good
 6 character, reputation and temperate habits, and (2) a

7 person who has had at least five years' experience in
8 first aid and mine rescue work and who has had prac-
9 tical experience with dangerous gases found in coal
10 mines, and who has a practical knowledge of mines,
11 mining methods, mine ventilation, sound safety practices,
12 and applicable mining laws.

13 In order to qualify for appointment as a mine safety
14 instructor, an eligible applicant shall submit to a writ-
15 ten and oral examination, given by the mine inspectors'
16 examining board. The examination shall relate to the
17 duties to be performed by a safety instructor and may,
18 subject to the approval of the mine inspectors' examin-
19 ing board, be prepared by the director of West Virginia
20 department of mines.

21 If the board finds after investigation and examination
22 that the applicant (1) is eligible for appointment, and
23 (2) has passed all oral and written examinations with
24 a grade of at least eighty percent, the board shall add
25 such applicant's name and grade to a register of qualified
26 eligible candidates and certify its action to the director
27 of the department of mines. The director may then ap-
28 point one of the candidates from the three having the
29 highest grades.

30 The salary for a mine safety instructor shall be not
31 less than eleven thousand two hundred fifty dollars
32 per year, with graduations of two hundred seventy
33 dollars annually for a ten-year period and shall be
34 fixed by the director of the department of mines, who
35 shall take into consideration ability, performance of
36 duty, and experience. Such instructor shall devote all of
37 his time to the duties of his office. No reimbursement
38 for traveling expenses shall be made except on an item-
39 ized accounting for such expenses submitted by the
40 instructor, who shall verify upon oath that such ex-
41 penses were actually incurred in the discharge of his
42 official duties.

43 Except as expressly provided in this section to the
44 contrary, all provisions of this article relating to the
45 eligibility, qualification, appointment, tenure and re-

46 moval of mine inspectors shall be applicable to mine
47 safety instructors.

**§22-1-10. Employment of electrical inspectors; qualifications;
salary and expenses; tenure; oath; bond.**

1 The department shall employ five or more electrical
2 inspectors. To be eligible for employment as an electri-
3 cal inspector, the applicant shall be: (1) A citizen and
4 resident of West Virginia, in good health, not less than
5 twenty-five nor more than fifty-five years of age, and
6 of good character, reputation and of temperate habits;
7 and (2) a person who has had seven years' practical
8 electrical experience in coal mines, or a degree in elec-
9 trical engineering from an accredited electrical engineer-
10 ing school and one year's practical experience in under-
11 ground coal mining.

12 In order to qualify for appointment as a mine elec-
13 trical inspector, an eligible applicant shall submit to a
14 written and oral examination given by the mine inspec-
15 tors' examining board. The examination shall relate to
16 the duties to be performed by an electrical inspector. If
17 the board finds after investigation and examination that
18 the applicant (1) is eligible for appointment and (2) has
19 passed all oral and written examinations with a grade
20 of at least ninety percent, the board shall add such
21 applicant's name and grade to a register of qualified
22 eligible candidates and certify its action to the director
23 of the department of mines. The director may then
24 appoint one of the candidates from the three having the
25 highest grade.

26 The salary of a mine electrical inspector shall be
27 not less than sixteen thousand three hundred twenty-
28 five dollars per year, with graduations of two hun-
29 dred seventy dollars annually for a ten-year period,
30 and shall be fixed by the director of the department
31 of mines, who shall take into consideration ability, per-
32 formance of duty, and experience. No reimbursement
33 for traveling expenses shall be made except on an item-
34 ized accounting for such expense submitted by the elec-
35 trical inspector, who shall verify upon oath that such

36 expenses were actually incurred in the discharge of his
37 official duties.

38 Mine electrical inspectors, before entering upon the
39 discharge of their duties, shall take and subscribe to the
40 oath and shall execute a bond in the same penal sum,
41 with surety approved by the director of the department
42 of mines, all as is required by this article in the case of
43 mine inspectors.

44 Except as expressly provided in this section to the
45 contrary, all provisions of this article relating to the
46 eligibility, qualifications, appointment, tenure and re-
47 moval of mine inspectors shall be applicable to mine
48 electrical inspectors.

**§22-1-11. Eligibility for appointment as mine inspector; quali-
fications; salary and expenses; removal.**

1 (a) No person shall be eligible for appointment as a
2 mine inspector unless, at the time of his probationary
3 appointment, he (1) is a citizen of West Virginia, in good
4 health, not less than thirty nor more than fifty-five years
5 of age, and of good character, reputation and temperate
6 habits; (2) has had at least ten years' practical experience
7 in coal mines, at least five years of which, immediately
8 preceding his original appointment, shall have been in
9 mines in this state: *Provided*, That graduation from any
10 accredited college of mining engineering shall be consid-
11 ered the equivalent of two years' practical experience;
12 (3) has had practical experience with dangerous gases
13 found in coal mines; and (4) has a good theoretical and
14 practical knowledge of mines, mining methods, mine
15 ventilation, sound safety practices and applicable min-
16 ing laws.

17 (b) In order to qualify for appointment as a mine
18 inspector, an eligible applicant shall submit to a written
19 and oral examination by the mine inspectors' examin-
20 ing board and furnish such evidence of good health,
21 character and other facts establishing eligibility as the
22 board may require. If the board finds after investigation
23 and examination that an applicant: (1) Is eligible for

24 appointment and (2) has passed all written and oral
25 examinations, with a grade of at least eighty percent,
26 the board shall add such applicant's name and grade to
27 the register of qualified eligible candidates and certify
28 its action to the director of the department of mines.
29 No candidate's name shall remain in the register for more
30 than three years without requalifying.

31 (c) Salaries of district inspectors shall not be less
32 than fifteen thousand three hundred dollars per year,
33 with graduations of two hundred seventy dollars an-
34 nually for a ten-year period; assistant inspector-at-large,
35 not less than sixteen thousand eight hundred seventy-
36 five dollars per year, with graduations of two hundred
37 seventy dollars annually for a ten-year period; inspec-
38 tors-at-large, not less than eighteen thousand dollars
39 per year, with graduations of two hundred seventy dol-
40 lars annually for a ten-year period, and they shall re-
41 ceive mileage at the rate of not less than ten cents for
42 each mile actually traveled in the discharge of their
43 official duties in a privately owned vehicle. Within the
44 limits provided by law, the salary of each inspector shall
45 be fixed by the director of the department of mines,
46 subject to the approval of the mine inspectors' exam-
47 ining board. In fixing salaries of mine inspectors, the
48 director of the department of mines shall consider ability,
49 performance of duty and experience. No reimbursement
50 for traveling expenses shall be made except upon an
51 itemized account of such expenses submitted by
52 the inspector, who shall verify upon oath, that such
53 expenses were actually incurred in the discharge of
54 his official duties.

55 (d) Any mine inspector who has fulfilled the re-
56 quirements of this section with respect to employ-
57 ment and who has served satisfactorily as a mine
58 inspector for a minimum period of one year and
59 who has terminated his employment as a mine in-
60 spector, upon successfully passing a physical exam-
61 ination, may be reinstated as a mine inspector with-
62 in two years after terminating his employment with

63 the approval of the examining board and the direc-
64 tor of the department of mines.

65 (e) A mine inspector, after having received a perma-
66 nent appointment, shall be removed from office only
67 for physical or mental impairment, incompetency, neg-
68 lect of duty, drunkenness, malfeasance in office, or other
69 good cause.

70 Proceedings for the removal of a mine inspector may
71 be initiated by the director of the department of mines
72 whenever he has reasonable cause to believe and does
73 believe that adequate cause exists, warranting removal.
74 Such a proceeding shall be initiated by a verified peti-
75 tion, filed with the board by the director of the depart-
76 ment of mines, setting forth with particularity the
77 facts alleged. Not less than twenty reputable citizens,
78 who are operators or employees in mines in the state,
79 may petition the director of the department of mines
80 for the removal of a mine inspector. If such peti-
81 tion is verified by at least one of the petitioners,
82 based on actual knowledge of the affiant and al-
83 leged facts, which, if true, warrant the removal of
84 the inspector, the director of the department of mines
85 shall cause an investigation of the facts to be made.
86 If, after such investigation, the director finds that there
87 is substantial evidence, which, if true, warrants re-
88 moval of the inspector, he shall file a petition with the
89 board requesting removal of the inspector.

90 On receipt of a petition by the director of the de-
91 partment of mines seeking removal of a mine in-
92 spector, the board shall promptly notify the inspec-
93 tor to appear before it at a time and place desig-
94 nated in said notice, which time shall be not less
95 than fifteen days thereafter. There shall be attached
96 to the copy of the notice served upon the inspector a
97 copy of the petition filed with the board.

98 At the time and place designated in said notice,
99 the board shall hear all evidence offered in support
100 of the petition and on behalf of the inspector. Each
101 witness shall be sworn, and a transcript shall be

102 made of all evidence taken and proceedings had at
103 any such hearing. No continuance shall be granted
104 except for good cause shown. The chairman of the
105 board and the director of the department of mines
106 shall have power to administer oaths and subpoena
107 witnesses.

108 Any mine inspector who shall willfully refuse or fail
109 to appear before the board, or having appeared, shall
110 refuse to answer under oath any relevant question on
111 the ground that his testimony or answer might incrimi-
112 nate him, or shall refuse to waive immunity from prose-
113 cution on account of any relevant matter about which
114 he may be asked to testify at any such hearing before
115 the board, shall forfeit his position.

116 If, after hearing, the board finds that the inspector
117 should be removed, it shall enter an order to that effect.
118 The decision of the board shall be final and shall not be
119 subject to judicial review.

**§22-1-23. Mine foreman examiner for mine foremen-fire bosses
and assistant mine foremen-fire bosses; salary.**

1 The director of the department of mines shall appoint
2 a mine foreman examiner to examine and certify mine
3 foremen-fire bosses, assistant mine foremen-fire bosses
4 and mine examiners or fire bosses. Such mine foremen
5 examiners shall be paid a minimum salary of thirteen
6 thousand five hundred dollars per year.

**ARTICLE 3. OPEN-PIT MINES, CEMENT MANUFACTURING PLANTS
AND UNDERGROUND LIMESTONE AND SANDSTONE
MINES.**

§22-3-5. Inspectors.

1 The director of the department of mines shall divide the
2 state into not more than two mining districts and as-
3 sign one inspector to each district. Such inspector shall
4 be a citizen of West Virginia, in good health, of good
5 character and reputation, temperate in habits, having
6 a minimum of five years of practical experience in such
7 mining operations and at the time of his appointment
8 is not more than fifty-five years of age. To qualify for
9 appointment as such an inspector, an eligible applicant

10 shall submit to a written and oral examination by the
11 mine inspectors' examining board and furnish such evi-
12 dence of good health, character and other facts estab-
13 lishing eligibility as the board may require. If the
14 board finds after investigation and examination that
15 an applicant: (1) Is eligible for appointment and (2)
16 has passed all written and oral examinations, with a
17 grade of at least ninety percent, the board shall add
18 such applicant's name and grade to the register of quali-
19 fied eligible candidates and certify its action to the
20 director of the department of mines. No candidate's
21 name shall remain in the register for more than three
22 years without requalifying.

23 Such inspector shall have the same tenure accorded
24 a mine inspector, as provided in subsection (d), section
25 eight, article one of this chapter and shall be paid not
26 less than eleven thousand one hundred dollars per year
27 with graduations of two hundred seventy dollars an-
28 nually for a ten-year period. Such inspector shall also
29 receive reimbursement for traveling expenses at the
30 rate of not less than fifteen cents for each mile
31 actually traveled in the discharge of their official duties
32 in a privately owned vehicle. Such inspector shall also
33 be reimbursed for any expense incurred in maintaining
34 an office in his or her home, which office is used in the
35 discharge of official duties: *Provided*, That such reim-
36 bursement shall not exceed two hundred forty dollars
37 per annum.

CHAPTER 154

(S. B. 443—By Mr. Rogerson)

[Passed March 7, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating

to disposal of junked and abandoned motor vehicles, old vehicle tires and inoperative and abandoned household appliances, collection of portion of fee on issuance of certificate of title to new motor vehicles for deposit in abandoned and junked property fund; establishment of such fund; audit.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 24. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, OLD VEHICLE TIRES AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.

§17-24-11. Collection of portion of fee on issuance of certificate of title to new motor vehicles for deposit in abandoned and junked property fund; establishment of such fund; audit.

1 One dollar of the fee collected by the department of
2 motor vehicles for the issuance of a certificate of title
3 to a new motor vehicle on and after the effective date
4 of this article shall be transmitted by such department
5 of motor vehicles to the state treasurer and deposited
6 by him in the "Abandoned and Junked Property Fund,"
7 hereinafter in this section established: *Provided*, That
8 no further transmittals shall be made after a total of
9 two hundred thousand dollars has been so collected and
10 deposited in such fund.

11 There is hereby established a special fund in the state
12 treasury which is hereby designated the "Abandoned and
13 Junked Property Fund." The state treasurer shall quar-
14 terly transfer to the account of the department of high-
15 ways one fourth of all moneys appropriated by the
16 Legislature for implementation of the provisions of this
17 article, and shall quarterly transfer to such account all
18 fees collected and deposited in such special fund, as
19 aforesaid, to the date of such transfer, and the net pro-
20 ceeds deposited in such special fund, as provided in sec-

21 tion ten of this article, to the date of such transfer. The
22 moneys, fees and net proceeds transferred to the depart-
23 ment of highways and any federal moneys made avail-
24 able for such purpose shall be used to defray all costs
25 incurred in the removal and disposal of property as
26 authorized in this article. The legislative auditor shall
27 quarterly conduct an audit of the funds available to the
28 department of highways for implementation of the pro-
29 visions of this article.

CHAPTER 155

(S. B. 307—By Mr. Rogerson)

[Passed March 7, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article seven, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to operation of motor vehicles and vehicles by dealers or other persons under special stickers; application and fees; expiration.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. SPECIAL STICKERS.

§17A-7-2. Operation of motor vehicles by dealers or other persons under special stickers; application and fees; expiration.

1 A member of the department of public safety may at
2 any detachment office, upon application therefor on a
3 form prescribed by the commissioner, issue to a licensed
4 dealer or any other person other than those specified
5 in section one of this article, a paper sticker or decal
6 to be affixed to the left side of the rear window of a motor

7 vehicle or to the left rear of a vehicle which is not self-
 8 propelled. Such sticker or decal shall be of a size to be
 9 designated by the commissioner and shall be serially
 10 numbered and shall have provision thereon to indicate
 11 the date of issuance thereof. A fee of one dollar per
 12 sticker shall be charged and shall be deposited in the state
 13 road fund. Such sticker or decal shall be valid for forty-
 14 eight hours after its issuance for the operation of a vehicle,
 15 whether under its own power or while being towed, one
 16 time only over the streets or highways of this state, and
 17 upon being once affixed to a vehicle shall become invalid
 18 for subsequent use on that or any other vehicle.

CHAPTER 156

(H. B. 1085—By Mr. Seibert)

[Passed February 28, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article eight, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven, relating to special antitheft laws; setting forth that certain unlawful acts relating to certificates of title, blank certificates of title or blank registration forms are a felony; and providing a penalty for such offenses.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. SPECIAL ANTITHEFT LAWS.

§17A-8-11. Unlawful acts relating to certificates of title, blank certificates of title and blank registration forms; penalty.

1 Any person who obtains unlawfully or who steals any
 2 certificate of title, blank certificate of title or blank registration

3 form, or any person who knowingly buys, receives, disposes of,
4 sells, offers for sale, or has in his possession any of the above
5 which such person knows or has reason to know has been
6 obtained unlawfully or stolen shall be guilty of a felony, and,
7 upon conviction thereof, shall be confined in the penitentiary
8 not less than one year nor more than ten years.

CHAPTER 157

(H. B. 771—By Mrs. Withrow and Mr. Lewis)

[Passed March 6, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-b, relating to operator's and chauffeur's licenses; and directing the commissioner to adopt and implement a program to identify anatomical organ donors by appropriate marking on drivers' or chauffeurs' license.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1B. DRIVERS' OR CHAUFFEURS' LICENSE IDENTIFICATION OF ANATOMICAL ORGAN DONORS.

§17B-1B-1. Commissioner to adopt and implement program.

§17B-1B-2. License application to contain space for donor.

§17B-1B-3. Commissioner to publish information and notify other states of program.

§17B-1B-4. Anatomical gift act not affected.

§17B-1B-1. Commissioner to adopt and implement program.

1 The commissioner is hereby directed to adopt and imple-
2 ment a program whereby anatomical organ donors and the
3 anatomical organ or organs to be donated shall be so identified
4 by an appropriate decal, sticker or other marking to be affixed
5 to the drivers' or chauffeurs' license of such person.

§17B-1B-2. License application to contain space for donor.

1 The commission shall provide space on every application
2 for a driver's or chauffeur's license or renewal thereof in which
3 the applicant may indicate his desire to have such marking on
4 his driver's or chauffeur's license. In addition, any person
5 whose license has not expired or who has already obtained a
6 license may have such marking affixed by the commissioner
7 upon request.

§17B-1B-3. Commissioner to publish information and notify other states of program.

1 The commissioner shall publish the existence of such pro-
2 gram along with information regarding the procedures for
3 having such marking affixed to a license and shall notify
4 his counterparts in each of the other states as to the existence
5 of the program and the significance of the marking.

§17B-1B-4. Anatomical gift act not affected.

1 No provision of this article shall be construed to modify
2 or repeal any provisions of the anatomical gift act and the
3 actual donation of such anatomical organ shall be in con-
4 formity with and subject to all provisions of the anatomical
5 gift act.

◇

CHAPTER 158**(H. B. 682—By Mr. Childers and Mr. Payne)**

[Passed February 14, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article three, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to traffic-control signal legend; permitting vehicular traffic to turn right after having stopped in obedience to a red or "stop" signal or to make a left turn at any such signal when the left turn is from a one-way street which intersects another one-way street on which traffic moves to the left; and empowering local authorities to

prohibit such right and left turns by ordinance and erection of a sign at any traffic control signal where such turns are prohibited.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. TRAFFIC SIGNS, SIGNALS AND MARKINGS.

§17C-3-5. Traffic-control signal legend.

1 Whenever traffic is controlled by traffic-control signals ex-
2 hibiting the words "go," "caution" or "stop," or exhibiting dif-
3 ferent colored lights successively one at a time, or with arrows,
4 the following colors only shall be used and said terms and
5 lights shall indicate and apply to drivers of vehicles and pedes-
6 trians as follows:

7 (a) Green alone or "go":

8 (1) Vehicular traffic facing the signal, except when pro-
9 hibited under section two, article twelve of this chapter may
10 proceed straight through or turn right or left unless a sign at
11 such place prohibits either such turn. But vehicular traffic,
12 including vehicles turning right or left, shall yield the right-of-
13 way to other vehicles and to pedestrians lawfully within the
14 intersection or an adjacent crosswalk at the time such signal
15 is exhibited.

16 (2) Pedestrians facing the signal may proceed across the
17 roadway within any marked or unmarked crosswalk.

18 (b) Yellow alone or "caution" when shown following the
19 green or "go" signal:

20 (1) Vehicular traffic facing the signal is thereby warned that
21 the red or "stop" signal will be exhibited immediately there-
22 after and such vehicular traffic shall not enter or be crossing
23 the intersection when the red or "stop" signal is exhibited.

24 (2) Pedestrians facing such signal are thereby advised that
25 there is insufficient time to cross the roadway, and any pedes-
26 trian then starting to cross shall yield the right-of-way to all
27 vehicles.

28 (c) Red alone or "stop":

29 (1) Vehicular traffic facing the signal shall stop before en-
30 tering the crosswalk on the near side of the intersection or, if
31 none, then before entering the intersection and shall remain
32 standing until green or "go" is shown alone except as pro-
33 vided in paragraphs (2) and (3) of this subdivision (c).

34 (2) A vehicle which is stopped in obedience to a red or
35 "stop" signal as close as practicable at the entrance to the
36 crosswalk on the near side of the intersection or, if none, then
37 at the entrance to the intersection, may cautiously make a right
38 turn but such vehicle shall yield the right-of-way to pedestrians
39 lawfully within a crosswalk and to other vehicular traffic pro-
40 ceeding as directed by the signal at said intersection, except
41 that local authorities in their respective jurisdictions may by
42 ordinance prohibit any such right turn against a red or "stop"
43 signal at any intersection within such jurisdiction, which or-
44 dinance shall be effective when a sign is erected at such
45 intersection giving notice thereof.

46 (3) A vehicle which is stopped in obedience to a red or
47 "stop" signal as close as practicable at the entrance to the
48 crosswalk on the near side of the intersection or, if none,
49 then at the entrance to the intersection on a one-way street
50 which intersects another one-way street on which traffic moves
51 to the left, may cautiously make a left turn into said one-way
52 street but such vehicle shall yield the right-of-way to pedestrians
53 lawfully within a crosswalk and to other vehicular traffic
54 proceeding as directed by the signal at said intersection, except
55 that local authorities in their respective jurisdictions may by
56 ordinance prohibit any such left turn against a red or "stop"
57 signal at any intersection within such jurisdiction, which
58 ordinance shall be effective when a sign is erected at such
59 intersection giving notice thereof.

60 (4) No pedestrian facing such signal shall enter the road-
61 way unless he can do so safely and without interfering with
62 any vehicular traffic.

63 (d) Red with green arrow:

64 (1) Vehicular traffic facing such signal may cautiously
65 enter the intersection only to make the movement indicated by

66 such arrow but shall yield the right-of-way to pedestrians law-
67 fully within a crosswalk and to other traffic lawfully using the
68 intersection.

69 (2) No pedestrian facing such signal shall enter the road-
70 way unless he can do so safely and without interfering with
71 any vehicular traffic.

72 (e) In the event an official traffic-control signal is erected
73 and maintained at a place other than an intersection, the pro-
74 visions of this section shall be applicable except as to those pro-
75 visions which by their nature can have no application. Any
76 stop required shall be made at a sign or marking on the pave-
77 ment indicating where the stop shall be made, but in the ab-
78 sence of any such sign or marking the stop shall be made at
79 the signal.

80 (f) The motorman of any streetcar shall obey the above
81 signals as applicable to vehicles.

CHAPTER 159

(Com. Sub. for S. B. 485—By Mr. Williams)

[Passed March 6, 1975; 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 seven, relating to signs on workers and church buses; warning lamps required and the use thereof, and making it lawful for such buses bearing proper signs to stop on highways and streets to load and discharge persons.

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 seven, to read as follows:

ARTICLE 13. STOPPING, STANDING AND PARKING.**§17C-13-7. Signs on workers and church buses; when lawful for such buses to stop on highways and streets.**

1 Any bus used primarily for the transportation of work-
2 ers only and any bus operated by a church may bear
3 upon the front and rear thereof a plainly visible sign,
4 either painted or affixed on the body of the bus proper,
5 or attached securely to the bus, containing the words
6 "workers bus" or "church bus", respectively, in letters
7 not less than eight inches in height. Any bus used pri-
8 marily for the transportation of workers only and any
9 bus operated by a church and bearing signs in that man-
10 ner may lawfully stop upon the paved portion of any
11 highway or street where there is no loading zone or pull-
12 off adjacent to the highway or street to load or discharge
13 persons: *Provided*, That such bus shall be equipped with
14 warning lamps permitted under subsection (d), section
15 nineteen, article fifteen of this chapter, and shall use
16 such warning lamps when stopped on the highway or de-
17 creasing speed in order to stop, in order to warn the
18 operators of other vehicles of a possible traffic hazard.

CHAPTER 160

(H. B. 894—By Mr. Caudle and Mr. Donley)

[Passed February 13, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to when lighted lamps are required and requiring head lamps on motorcycles and motor driven cycles to be on when being operated on a highway.

Be it enacted by the Legislature of West Virginia:

That section two, article fifteen, chapter seventeen-c of the code

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

ARTICLE 15. EQUIPMENT.

§17C-15-2. When lighted lamps are required.

1 Every vehicle other than a motorcycle or motor driven
2 cycle upon a highway within this state at any time from a
3 half hour after sunset to a half hour before sunrise and at
4 any other time when there is not sufficient light to render
5 clearly discernible persons and vehicles on the highway at a
6 distance of five hundred feet ahead shall display lighted
7 lamps and illuminating devices as hereinafter respectively
8 required for different classes of vehicles, subject to exceptions
9 with respect to parked vehicles as hereinafter stated. Every
10 motorcycle or motor driven cycle shall display lighted head
11 lamps at all times when upon the highway.

;

CHAPTER 161

(Com. Sub. for H. B. 688—By Mr. Goodwin and Mr. Chafin)

[Passed February 26, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nineteen, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional lighting equipment on motor vehicles; providing amber flashing lights are permissible on rural mail carrying vehicles; and specifying the placement of such lights.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. EQUIPMENT.

§17C-15-19. Additional lighting equipment.

1 (a) Any motor vehicle may be equipped with not more than

2 two side cowl or fender lamps which shall emit an amber or
3 white light without glare.

4 (b) Any motor vehicle may be equipped with not more
5 than one running-board courtesy lamp on each side thereof
6 which shall emit a white or amber light without glare.

7 (c) Any motor vehicle may be equipped with not more than
8 two back-up lamps either separately or in combination with
9 other lamps, but any such back-up lamp shall not be lighted
10 when the motor vehicle is in forward motion.

11 (d) Any vehicle may be equipped with lamps which may be
12 used for the purpose of warning the operators of other ve-
13 hicles of the presence of a vehicular traffic hazard requiring
14 the exercise of unusual care in approaching, overtaking or
15 passing, and when so equipped may display such warning in
16 addition to any other warning signals required by this article.
17 The lamps used to display such warning to the front shall be
18 mounted at the same level and as widely spaced laterally as
19 practicable and shall display simultaneously flashing white or
20 amber lights, or any shade of color between white and amber.
21 The lamps used to display such warning to the rear shall be
22 mounted at the same level and as widely spaced laterally as
23 practicable, and shall show simultaneously flashing amber or
24 red lights, or any shade of color between amber and red.

25 (e) Vehicles used by "rural mail carriers" in carrying or
26 delivering mail in rural areas may be equipped with amber
27 flashing lights. Such lights shall be on the front and rear
28 of the vehicle and may be activated when the vehicle is
29 stopped or decreasing speed in order to stop in the course
30 of carrying, delivering or picking up mail along the route.

⋄

CHAPTER 162

(Com. Sub. for H. B. 698—By Mr. Teets)

[Passed February 4, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-seven, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to the use of studded tires during the period from November first of each year until April first of the following year; rules and regulations as to certain tires.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. EQUIPMENT.

§17C-15-37. Tire equipment restriction; rules and regulations as to certain tires.

1 (a) Every solid rubber tire on a vehicle shall have rubber
2 on its entire traction surface at least one inch thick above the
3 edge of the flange of the entire periphery.

4 (b) No person shall operate or move on any highway any
5 motor vehicle, trailer or semitrailer having any metal tire in
6 contact with the roadway.

7 (c) No tire on a vehicle moved on a highway shall have on
8 its periphery any block, stud, flange, cleat or spike or any
9 other protuberance of any material other than rubber which
10 projects beyond the tread of the traction surface of the tire,
11 except that (1) it shall be permissible to use farm machinery
12 with tires having protuberances which will not injure the
13 highway, (2) it shall be permissible to use tire chains of rea-
14 sonable proportions upon any vehicle when required for safety
15 because of snow, ice or other conditions tending to cause a
16 vehicle to skid, and (3) it shall be permissible to use studded
17 tires during the period from November first of each year until
18 April first of the following year: *Provided*, That in the interest
19 of highway maintenance, no vehicle moved on a highway,
20 other than school buses, shall be equipped with studded tires
21 which are operational with a recommended air pressure greater
22 than forty pounds per square inch.

23 (d) No studded tires or chains shall be sold or used within
24 the state of West Virginia which do not meet the specifications
25 established by the rules and regulations which the commis-

26 sioner of highways shall promulgate, but the commissioner
27 may not by those rules and regulations prohibit the use of
28 studded tires or chains within the state.

29 (e) The commissioner of highways and local authorities in
30 their respective jurisdictions may in their discretion issue spe-
31 cial permits authorizing the operation upon the highway of trac-
32 tion engines or tractors having movable tracks with trans-
33 verse corrugations upon the periphery of such movable tracks
34 or farm tractors or other farm machinery, the operation of
35 which upon a highway would otherwise be prohibited under
36 this chapter.

CHAPTER 163

(S. B. 289—By Mr. Brotherton, Mr. President, and Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections eight, nine, eleven-a and fourteen, article seventeen, chapter seventeen-c 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 eight-a, all relating to weight and axle load limit of vehicles; the amount of allowable gross weight of vehicles, combination of vehicles and loads, authority of commissioner to increase weight limitations upon designated highways; and violation of the motor vehicle weight laws and the imposition of penalties therefor.

Be it enacted by the Legislature of West Virginia:

That sections eight, nine, eleven-a and fourteen, article seventeen, chapter seventeen-c 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 eight-a, all to read as follows:

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-8. Single-axle load limit.

§17C-17-8a. Tandem-axle load limit.

§17C-17-9. Gross weight of vehicles and loads.

§17C-17-11a. Authority of commissioner of the department of highways to increase weight limitations upon highways designated by him.

§17C-17-14. Penalties for violation of weight laws; impounding vehicles.

§17C-17-8. Single-axle load limit.

1 (a) The gross weight imposed on the highway by the
2 wheels of any one axle of a vehicle shall not exceed
3 twenty thousand pounds.

4 (b) For the purpose of this article an axle load shall
5 be defined as the total load transmitted to the road by all
6 wheels whose centers are included between two parallel
7 transverse vertical planes forty inches apart, extending
8 across the full width of the vehicle.

§17C-17-8a. Tandem-axle load limit.

1 (a) The gross weight imposed on the highway by the
2 wheels of a tandem-axle of a vehicle shall not exceed
3 thirty-four thousand pounds.

4 (b) For the purpose of this article a tandem-axle load
5 shall be defined as the total load transmitted to the road
6 by two or more consecutive axles whose centers may be
7 included between parallel transverse vertical planes
8 spaced more than forty inches and not more than ninety-
9 six inches apart, extending the full width of the vehicle.

§17C-17-9. Gross weight of vehicles and loads.

1 (a) It shall be unlawful for any owner, lessee or
2 borrower of a vehicle or combination of vehicles to oper-
3 ate on any highway such vehicle or combination of
4 vehicles with a gross weight in excess of the gross weight
5 for which such vehicle or combination of vehicles is
6 registered or in excess of any weight limitation set forth
7 in this chapter, whether such limitation be specifically
8 stated in this chapter or set by express authority granted
9 in this chapter.

10 (b) Subject to the limit upon the weight imposed upon
11 the highway through any one axle as set forth in section

12 eight of this article, or the limit imposed upon the high-
 13 way through any tandem-axle as set forth in section
 14 eight-a of this article, the total gross weight with load
 15 imposed upon the highway by any one group of two or
 16 more consecutive axles of a vehicle or combination of
 17 vehicles shall not exceed the gross weight given for the
 18 respective distance between the first and last axle of
 19 the total group of axles measured longitudinally to the
 20 nearest foot as set forth in the following table:

Distance in feet between the extremes of any group of two or more consecutive axles		Maximum load in pounds carried on any group of two or more consecutive axles				
		2 axles	3 axles	4 axles	5 axles	6 axles
21	4	34000				
22	5	34000				
23	6	34000				
24	7	34000				
25	8	34000	34000			
26	9	39000	42500			
27	10	40000	43500			
28	11		44000			
29	12		45000	50000		
30	13		45500	50500		
31	14		46500	51500		
32	15		47000	52000		
33	16		48000	52500	58000	
34	17		48500	53500	58500	
35	18		49500	54000	59000	
36	19		50000	54500	60000	
37	20		51000	55500	60500	66000
38	21		51500	56000	61000	66500
39	22		52500	56500	61500	67000
40	23		53000	57500	62500	68000
41	24		54000	58000	63000	68500
42	25		54500	58500	63500	69000
43	26		55500	59500	64000	69500
44	27		56000	60000	65000	70000
45	28		57000	60500	65500	71000
46	29		57500	61500	66000	71500
47	30		58500	62000	66500	72000

48	31	59000	62500	67500	72500
49	32	60000	63500	68000	73000
50	33		64000	68500	74000
51	34		64500	69000	74500
52	35		65500	70000	75000
53	36		66000	70500	75500
54	37		66500	71000	76000
55	38		67500	72000	77000
56	39		68000	72500	77500
57	40		68500	73000	78000
58	41		69500	73500	78500
59	42		70000	74000	79000
60	43		70500	75000	80000
61	44		71500	75500	80500
62	45		72000	76000	81000
63	46		72500	76500	81500
64	47		73500	77500	82000
65	48		74000	78000	83000
66	49		74500	78500	83500
67	50		75500	79000	84000
68	51		76000	80000	84500
69	52		76500	80500	85000
70	53		77500	81000	86000
71	54		78000	81500	86500
72	55		78500	82500	87000
73	56		79500	83000	87500
74	57		80000	83500	88000
75	58			84000	89000
76	59			85000	89500
77	60			85500	90000

78 *Provided*, That no vehicle or combination of vehicles
79 shall have a gross weight, including the load, in excess
80 of sixty-five thousand pounds, except as otherwise pro-
81 vided in this article. Notwithstanding the limits pre-
82 scribed in subsection (b) of this section, two consecutive
83 sets of tandem-axles may carry a gross load of thirty-
84 four thousand pounds each providing the overall distance
85 between the first and last axles of such consecutive sets
86 of tandem-axles is thirty-six feet or more: *Provided*,
87 *however*, That the limits prescribed in subsection (b) of
88 this section shall not prohibit the operation of any vehicle

89 or combination of vehicles of a type which could be law-
90 fully operated in accordance with gross vehicle weights in
91 effect on the first day of January, one thousand nine hun-
92 dred seventy-five: *Provided further*, That no maximum
93 weight in excess of or in conflict with any weight limita-
94 tions prescribed by or pursuant to any act of Congress
95 shall be permitted on the national system of interstate
96 and defense highways.

**§17C-17-11a. Authority of commissioner of the department of
highways to increase weight limitations upon
highways designated by him.**

1 If, in the opinion of the commissioner of the department
2 of highways, the design, construction and safety of any
3 highway, or portion thereof, are such that the gross weight
4 limitations prescribed in section nine of this article can
5 be increased without undue damage to any such highway,
6 the commissioner may, by order, increase the gross weight
7 limitations of vehicles which may be operated upon any
8 such highway, or portion thereof, designated by him in
9 such order and may establish therein the gross weight
10 limitations which shall thereafter be applicable to the
11 highway or portion thereof so designated by him: *Pro-*
12 *vided*, That the maximum gross weight, including the
13 load established by the commissioner for any such
14 designated highway or portion thereof, shall not exceed
15 eighty thousand pounds, except as otherwise provided
16 in this article: *Provided, however*, That no such order
17 of the commissioner shall establish any weight limitation
18 in excess of or in conflict with any weight limitation
19 prescribed by or pursuant to acts of Congress with respect
20 to the national system of interstate and defense highways.

**§17C-17-14. Penalties for violation of weight laws; impound-
ing vehicles.**

1 Any owner, lessee or borrower of a vehicle or combi-
2 nation of vehicles who operates or permits to be operated
3 on any highway such vehicle or combination of vehicles
4 with any axle load in excess of that permitted by sections
5 eight and eight-a of this article, or with a total gross
6 weight with load imposed upon the highway by any one

7 group of two or more consecutive axles in excess of that
 8 permitted by section nine or eleven-a of this article, shall
 9 be guilty of a misdemeanor, and, upon conviction thereof,
 10 shall be punished by a fine scheduled in proportion to
 11 the amount of pounds in excess of the registered weight,
 12 or in excess of allowable weights for single axle, or in
 13 excess of allowable weights for groups of two or more
 14 consecutive axles, in accordance with the schedule in
 15 words and figures as follows:

16 Pounds in excess of registered weight, or in excess of
 17 allowable weights for single axle, or in excess of allowable
 18 weights for groups of two or more consecutive axles.

	Amount of Fine
19 1 to 4,000	\$ 20.00
20 4,001 to 5,000	\$ 25.00
21 5,001 to 6,000	\$ 60.00
22 6,001 to 7,000	\$ 70.00
23 7,001 to 8,000	\$ 80.00
24 8,001 to 9,000	\$ 90.00
25 9,001 to 10,000	\$ 100.00
26 10,001 to 11,000	\$ 165.00
27 11,001 to 12,000	\$ 180.00
28 12,001 to 13,000	\$ 195.00
29 13,001 to 14,000	\$ 210.00
30 14,001 to 15,000	\$ 225.00
31 15,001 to 16,000	\$ 320.00
32 16,001 to 17,000	\$ 340.00
33 17,001 to 18,000	\$ 360.00
34 18,001 to 19,000	\$ 380.00
35 19,001 to 20,000	\$ 400.00
36 20,001 to 21,000	\$ 525.00
37 21,001 to 22,000	\$ 550.00
38 22,001 to 23,000	\$ 575.00
39 23,001 to 24,000	\$ 600.00
40 24,001 to 25,000	\$ 625.00
41 25,001 to 26,000	\$ 780.00
42 26,001 to 27,000	\$ 810.00
43 27,001 to 28,000	\$ 840.00

89 or combination of vehicles of a type which could be law-
90 fully operated in accordance with gross vehicle weights in
91 effect on the first day of January, one thousand nine hun-
92 dred seventy-five: *Provided further*, That no maximum
93 weight in excess of or in conflict with any weight limita-
94 tions prescribed by or pursuant to any act of Congress
95 shall be permitted on the national system of interstate
96 and defense highways.

**§17C-17-11a. Authority of commissioner of the department of
highways to increase weight limitations upon
highways designated by him.**

1 If, in the opinion of the commissioner of the department
2 of highways, the design, construction and safety of any
3 highway, or portion thereof, are such that the gross weight
4 limitations prescribed in section nine of this article can
5 be increased without undue damage to any such highway,
6 the commissioner may, by order, increase the gross weight
7 limitations of vehicles which may be operated upon any
8 such highway, or portion thereof, designated by him in
9 such order and may establish therein the gross weight
10 limitations which shall thereafter be applicable to the
11 highway or portion thereof so designated by him: *Pro-*
12 *vided*, That the maximum gross weight, including the
13 load established by the commissioner for any such
14 designated highway or portion thereof, shall not exceed
15 eighty thousand pounds, except as otherwise provided
16 in this article: *Provided, however*, That no such order
17 of the commissioner shall establish any weight limitation
18 in excess of or in conflict with any weight limitation
19 prescribed by or pursuant to acts of Congress with respect
20 to the national system of interstate and defense highways.

**§17C-17-14. Penalties for violation of weight laws; impound-
ing vehicles.**

1 Any owner, lessee or borrower of a vehicle or combi-
2 nation of vehicles who operates or permits to be operated
3 on any highway such vehicle or combination of vehicles
4 with any axle load in excess of that permitted by sections
5 eight and eight-a of this article, or with a total gross
6 weight with load imposed upon the highway by any one

7 group of two or more consecutive axles in excess of that
 8 permitted by section nine or eleven-a of this article, shall
 9 be guilty of a misdemeanor, and, upon conviction thereof,
 10 shall be punished by a fine scheduled in proportion to
 11 the amount of pounds in excess of the registered weight,
 12 or in excess of allowable weights for single axle, or in
 13 excess of allowable weights for groups of two or more
 14 consecutive axles, in accordance with the schedule in
 15 words and figures as follows:

16 Pounds in excess of registered weight, or in excess of
 17 allowable weights for single axle, or in excess of allowable
 18 weights for groups of two or more consecutive axles.

	Amount of Fine
19	
20	
21	
22	\$ 20.00
23	\$ 25.00
24	\$ 60.00
25	\$ 70.00
26	\$ 80.00
27	\$ 90.00
28	\$ 100.00
29	\$ 165.00
30	\$ 180.00
31	\$ 195.00
32	\$ 210.00
33	\$ 225.00
34	\$ 320.00
35	\$ 340.00
36	\$ 360.00
37	\$ 380.00
38	\$ 400.00
39	\$ 525.00
40	\$ 550.00
41	\$ 575.00
42	\$ 600.00
43	\$ 625.00
44	\$ 780.00
45	\$ 810.00
46	\$ 840.00

47	28,001 to 29,000	_____	\$ 870.00
48	29,001 to 30,000	_____	\$ 900.00
49	30,001 to 40,000	_____	\$1,200.00
50	40,001 to 50,000	_____	\$1,400.00
51	50,001 and over	_____	\$1,600.00

52 In the event any owner, lessee or borrower of a
53 vehicle is charged with violating this section, the ve-
54 hicle which is charged to be overloaded shall be im-
55 pounded by the arresting officer and shall not be re-
56 leased to such owner, lessee or borrower unless and until
57 such owner, lessee or borrower either shall have been
58 found guilty and paid any fine assessed against such
59 owner, lessee or borrower, or shall have furnished cash
60 or surety bond in at least double the amount of the fine
61 which may be assessed against such owner, lessee or
62 borrower for such violation of this section and con-
63 ditioned upon the payment of any such fine and costs
64 assessed for such violation, or shall have been acquitted
65 of such charge. Such owner, lessee or borrower shall be
66 liable for any reasonable storage costs incurred in storing
67 such vehicles: *Provided*, That if the owner of such vehicle
68 is a resident of or has a principal place of business
69 located in this state, and said vehicle has been duly
70 licensed in the state, then said vehicle shall not be im-
71 pounded but the arresting officer shall deliver to the
72 driver a written notice stating such violation; the place,
73 date and time; the license number of said vehicle; the
74 title number and name and address of the owner; the
75 driver's name, address, and the number of his operator's
76 or chauffeur's card or permit; and the court, place, date
77 and time for hearing, which shall be within five days of
78 such violation (Saturdays, Sundays, and holidays, ex-
79 cluded). A copy of such notice shall within forty-eight
80 hours be mailed to the owner of said vehicle. Upon the
81 failure by such owner or his or its agent to appear at the
82 designated place and time, or upon failure to pay the
83 fine and costs assessed for such violation, unless such
84 owner shall have been acquitted of such charge, the
85 court shall order a bond or the impounding of said ve-
86 hicle as provided in this section.

CHAPTER 164

(S. B. 284—By Mr. Rogerson)

[Passed March 8, 1975; in effect ninety days from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend and reenact section eleven, article seventeen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to special permits for vehicles of excess size, weight or load; giving the commissioner of highways discretion to specify escort vehicles for such vehicles; and permitting the commissioner to charge a fee for the issuance of such special permits to pay the administrative cost thereof.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-11. Permits for excess size and weight.

1 (a) The commissioner of highways may, in his dis-
2 cretion, upon application in writing and good cause being
3 shown therefor issue a special permit in writing autho-
4 rizing, (1) the applicant, in crossing any highway of this
5 state, to operate or move a vehicle or combination of
6 vehicles of a size or weight or load exceeding the maxi-
7 mum specified in this chapter or otherwise not in con-
8 formity with the provisions of this chapter, whether such
9 operation be continuous or not, provided such applicant
10 shall agree to compensate the commissioner of highways
11 for all damages or expenses incurred in connection with
12 such crossing; and (2) the applicant to operate or move a
13 vehicle or combination of vehicles of a size or weight of
14 vehicles or load exceeding the maximum specified in this
15 chapter or otherwise not in conformity with the provi-

16 sions of this chapter, except that a permit shall not be
17 issued for continuous operation of a vehicle not in con-
18 formity with the provisions of this article relating to
19 weight limitations.

20 (b) The application for any such permit shall
21 specifically describe the vehicle or vehicles and load to be
22 operated or moved along or across such highway and the
23 particular highway or crossing of the highway for which
24 permit to operate is requested, and whether such permit
25 is requested for a single trip or for a continuous opera-
26 tion.

27 (c) The commissioner of highways is authorized to
28 issue or withhold such permit at his discretion; or, if such
29 permit is issued, to limit the number of trips, or to
30 establish seasonal or other time limitations within which
31 the vehicles described may be operated on or across the
32 highways indicated, or otherwise to limit or prescribe
33 conditions of operation of such vehicle or vehicles, when
34 necessary to assure against undue damage to the road
35 foundations, surface, or structures, and may require such
36 undertaking, bond or other security as may be deemed
37 necessary to compensate for any injury to any roadway
38 structure and to specify the type, number and the loca-
39 tion for escort vehicles for any such vehicle.

40 The commissioner may charge a fee not to exceed five
41 dollars for the issuance of a permit for a mobile home
42 and a reasonable fee for the issuance of a permit for any
43 other vehicle under the provisions of this section to pay
44 the administrative costs thereof.

45 (d) Every such permit shall be carried in the vehicle
46 or combination of vehicles to which it refers and shall be
47 open to inspection by any police officer or authorized
48 agent of the commissioner of highways granting such
49 permit, and no person shall violate any of the terms or
50 conditions of such special permit.

CHAPTER 165

(H. B. 1062—By Mr. Tompkins and Mrs. Given)

[Passed March 8, 1975; in effect ninety days 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 three, authorizing Class I cities to levy and collect a hotel occupancy tax; limiting the rate of any such tax to three percent of the room rental; providing that any such tax shall be imposed on the occupant and collected by the hotel as part of the consideration paid for the room; defining the term "hotel" for the purpose of the levy and collection of such tax; specifying the use to be made of revenues derived from such tax; and specifying provisions which must be set forth in any municipal ordinance imposing such tax.

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 three, to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

§8-13-3. Hotel occupancy tax.

1 Each Class I city shall have plenary power and authority to
2 levy and collect an excise tax upon the occupancy of hotel
3 rooms within the corporate limits of such city; but the rate
4 of such tax shall not exceed three percent of the cost of the
5 hotel room or rooms. The tax shall be levied on the person
6 paying the consideration for the occupancy of the hotel room
7 and shall be collected by the hotel as part of the consideration
8 paid for the use of the hotel room. The tax shall not be levied
9 on any person paying the consideration for the occupancy of
10 a hotel room for ninety or more consecutive days.

11 For the purpose of this section and any ordinance enacted
12 pursuant thereto, the term "hotel" means any building or
13 buildings in which the public may, for a consideration, obtain

14 sleeping accommodations, including, but not limited to, hotels,
15 motels, inns or courts. The term "hotel" shall not be con-
16 strued to mean any hospital, sanitarium, extended care facil-
17 ity, nursing home or university or college housing unit.

18 All revenues collected by a Class I city from any such hotel
19 occupancy tax shall be deposited in the general revenue fund
20 of such city and expended for the following purposes and none
21 other: (1) Planning, construction, reconstruction, establish-
22 ment, acquisition, improvement, renovation, extension, en-
23 largement, equipment, maintenance, repair and operation of
24 convention facilities including, but not limited to, arenas, audi-
25 toriums, civic centers and convention centers; (2) the payment
26 of principal or interest or both on municipal bonds issued pur-
27 suant to the provisions of article sixteen of this chapter, the
28 proceeds from the sale of which were used to finance conven-
29 tion facilities; (3) the promotion of conventions; or any com-
30 bination of the foregoing.

31 The ordinance of any Class I city imposing any such hotel
32 occupancy tax shall (1) specify the minimum number of hotel
33 rooms which a hotel must have in order for the occupancy of
34 such hotel to be subject to the tax herein authorized; (2) specify
35 the rate of tax, which shall not exceed three percent of the
36 cost of the hotel room or rooms; (3) provide the manner in
37 which the occupancy tax shall be collected and remitted to such
38 Class I city; and (4) provide such other provisions as are nec-
39 essary for the proper administration and enforcement of the
40 tax.

†

CHAPTER 166

(H. B. 850—By Mr. Kopp)

[Passed February 21, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-five, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to retirement;

policemen's pension and relief fund; firemen's pension and relief fund; number of years used to compute pensions.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article twenty-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 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-25. Retirement pensions.

1 (a) Any member of a paid police or fire department who
2 is entitled to a retirement pension hereunder, and who has
3 been in the honorable service of such department for twenty
4 years, may, upon written application to the board of trustees,
5 be retired from all service in such department without medical
6 examination or disability; and on such retirement the board
7 of trustees shall authorize the payment of annual retirement
8 pension benefits commencing upon his retirement or upon his
9 attaining the age of fifty years, whichever is later, payable in
10 twelve monthly installments for each year of the remainder of
11 his life, in an amount equal to sixty percent of such member's
12 average annual salary or compensation received during the
13 three fiscal years, not necessarily consecutive, in which such
14 member received his highest salary or compensation while a
15 member of the department, or an amount of two hundred
16 dollars per month, whichever shall be greater.

17 (b) Any member of any such department who is entitled
18 to a retirement pension under the provisions of subsection
19 (a) of this section and who has been in the honorable
20 service of such department for more than twenty years at
21 the time of his retirement, as herein provided, shall, in
22 addition to the sixty percent authorized in said subsection
23 (a), receive one additional percent, to be added to the sixty
24 percent, per each year served in excess of said twenty years,
25 up to a maximum of five additional percent.

26 (c) Any member of any such department whose service
27 has been interrupted by duty with the armed forces of the
28 United States as provided in section twenty-seven of this
29 article, shall be eligible for retirement pension benefits
30 immediately upon retirement, regardless of his age, if he shall
31 otherwise be eligible for such retirement pension benefits.

32 (d) Any member of a paid police or fire department
33 shall be retired at the age of sixty-five years in the manner
34 provided in this subsection. When a member of the paid
35 police or fire department shall have reached the age of
36 sixty-five years, the said board of trustees shall notify the
37 mayor of this fact, within thirty days of such member's sixty-
38 fifth birthday; and the mayor shall cause such sixty-five-
39 year-old member of the paid police or fire department to be
40 retired within a period of not more than thirty additional
41 days. Upon retirement under the provisions of this subsection
42 (d), such member, whether he has been employed in said
43 department for twenty years or not, shall receive retirement
44 pension benefits payable in twelve monthly installments for
45 each year of the remainder of his life, in an amount equal
46 to sixty percent of such member's average annual salary or
47 compensation received during the three fiscal years, not neces-
48 sarily consecutive, in which such member received his highest
49 salary or compensation while a member of the department,
50 or an amount of two hundred dollars per month, whichever
51 shall be greater, and if such member has been employed in
52 said department for more than twenty years, the provisions
53 of subsection (b) of this section shall apply.

54 (e) It shall be the duty of each member of a paid police
55 or fire department at the time a fund is hereafter established
56 to furnish the necessary proof of his date of birth to the
57 said board of trustees, as specified in section twenty-three of
58 this article, within a reasonable length of time, said length
59 of time to be determined by the said board of trustees; and
60 then the board of trustees and the mayor shall proceed to act
61 in the manner provided in subsection (d) of this section and
62 shall cause all members of the paid police or fire department
63 who are over the age of sixty-five years to be retired in not
64 less than sixty days from the date the fund is established.
65 Upon retirement under the provisions of this subsection (e),

66 such member, whether he has been employed in said depart-
67 ment for twenty years or not, shall receive retirement pension
68 benefits payable in twelve monthly installments for each year
69 of the remainder of his life, in an amount equal to sixty
70 percent of such member's average annual salary or com-
71 pensation received during the three fiscal years, not neces-
72 sarily consecutive, in which such member received his highest
73 salary or compensation while a member of the department, or
74 an amount of two hundred dollars per month, whichever
75 shall be greater, and if such member has been employed in
76 said department for more than twenty years, the provisions
77 of subsection (b) of this section shall apply.

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CHAPTER 167

(S. B. 32—By Mr. Huffman)

[Passed February 10, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, four and five, article thirty-three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal, county and municipal-county building commissions and to the powers and indebtedness of such commissions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 33. INTERGOVERNMENTAL RELATIONS—BUILDING COMMISSIONS.

PART I. COMMISSIONS AUTHORIZED; ORGANIZATION OF COMMISSIONS.

§8-33-1. Municipal, county and municipal-county building commissions authorized; reference to county courts and county commissions.

PART II. POWERS OF COMMISSIONS.

§8-33-4. Powers.

PART III. INDEBTEDNESS; SURPLUSES; EXEMPTION
FROM TAXATION; FUNDS; PROPERTY.

§8-33-5. Indebtedness of commission.

PART I. COMMISSIONS AUTHORIZED; ORGANIZATION OF
COMMISSIONS.

§8-33-1. Municipal, county and municipal-county building commissions authorized; reference to county courts and county commissions.

1 Any municipality or county, or one or more municipi-
2 palities and any county, or any two or more municipalities
3 within any county or counties, or any combination there-
4 of, may create and establish a municipal building com-
5 mission, a county building commission, or a municipal-
6 county building commission, as the case may be (here-
7 inafter in this article referred to as commission or
8 commissions). Such commissions shall be formed by an
9 ordinance or order, as appropriate, by each governmental
10 body establishing the same. The governing body of a
11 county is hereinafter in this article referred to either as
12 a county court or county commission.

PART II. POWERS OF COMMISSIONS.

§8-33-4. Powers.

1 Each commission shall have plenary power and au-
2 thority to:

3 (a) Sue and be sued;

4 (b) Contract and be contracted with;

5 (c) Adopt, use and alter a common seal;

6 (d) Make and adopt all necessary, appropriate and
7 lawful bylaws and rules and regulations pertaining to
8 its affairs;

9 (e) Elect such officers, appoint such committees and
10 agents and employ and fix the compensation of such
11 employees and contractors as may be necessary for the

- 12 conduct of the affairs and operations of the commis-
13 sion;
- 14 (f) (1) Acquire, purchase, own and hold any prop-
15 erty, real or personal, and (2) acquire, construct, equip,
16 maintain and operate public buildings, structures, proj-
17 ects and appurtenant facilities, of any type or types for
18 which the governmental body or bodies creating such
19 commission are permitted by law to expend public funds
20 (all hereinafter in this article referred to as facilities);
- 21 (g) Apply for, receive and use grants-in-aid, dona-
22 tions and contributions from any source or sources, in-
23 cluding but not limited to the United States of Amer-
24 ica, or any department or agency thereof, and accept
25 and use bequests, devises, gifts and donations from any
26 source whatsoever;
- 27 (h) Sell, encumber or dispose of any property, real
28 or personal;
- 29 (i) Issue negotiable bonds, notes, debentures or other
30 evidences of indebtedness and provide for the rights of
31 the holders thereof, incur any proper indebtedness and
32 issue any obligations and give any security therefor
33 which it may deem necessary or advisable in connection
34 with exercising powers as provided herein;
- 35 (j) Raise funds by the issuance and sale of revenue
36 bonds in the manner provided by the applicable provisions
37 of article sixteen of this chapter, without regard to the
38 extent provided in section five of this article, to the limita-
39 tions specified in said article sixteen, it being hereby ex-
40 pressly provided that for the purpose of the issuance and
41 sale of revenue bonds, each commission is a "governing
42 body" as that term is used in said article sixteen only;
- 43 (k) Exercise the power of eminent domain in the
44 manner provided in chapter fifty-four of this code for
45 business corporations, for the purposes set forth in sub-
46 division (f) of this section, which purposes are hereby
47 declared public purposes for which private property may
48 be taken or damaged;
- 49 (l) Lease its property or any part thereof, for public

50 purposes, to such persons and upon such terms as the
51 commission deems proper, but when any municipality
52 or county commission is a lessee under any such lease,
53 such lease must contain a provision granting to such
54 municipality or county commission the option to ter-
55 minate such lease during any fiscal year covered there-
56 by; and

57 (m) Do all things reasonable and necessary to carry
58 out the foregoing powers.

PART III. INDEBTEDNESS; SURPLUSES; EXEMPTION
FROM TAXATION; FUNDS; PROPERTY.

§8-33-5. Indebtedness of commission.

1 No constitutional or statutory limitation with respect
2 to the nature or amount of or rate of interest on in-
3 debtedness which may be incurred by municipalities,
4 counties or other public or governmental bodies shall ap-
5 ply to the indebtedness of a commission. No indebtedness
6 of any nature of a commission shall constitute an indebted-
7 ness of any municipality or county creating and estab-
8 lishing such commission or a charge against any prop-
9 erty of said municipalities or counties. No indebtedness
10 or obligation incurred by any commission shall give any
11 right against any member of the governing body of any
12 municipality or any member of the county commission
13 of any county or any member of the board of any com-
14 mission. The rights of creditors of any commission shall
15 be solely against the commission as a corporate body
16 and shall be satisfied only out of property held by it
17 in its corporate capacity.

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CHAPTER 168

(S. B. 65—By Mr. Galperin)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one, chapter
twenty of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to changing the definitions of the terms "nonresident" and "resident" for the purposes of chapter twenty of the code and reducing the residency requirement for licenses and permits issued by the department of natural resources from six months to thirty days.

Be it enacted by the Legislature of West Virginia:

That section two, 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 I. ORGANIZATION AND ADMINISTRATION.

§20-1-2. Definitions.

- 1 As used in this chapter, unless the context clearly re-
- 2 quires a different meaning:
- 3 "Agency" means any branch, department or unit of the
- 4 state government, however designated or constituted.
- 5 "Alien" means any person not a citizen of the United
- 6 States.
- 7 "Bag limit" or "creel limit" means the maximum num-
- 8 ber of wildlife which may be taken, caught, killed or pos-
- 9 sessed by any licensee.
- 10 "Board" means the water resources board of the de-
- 11 partment of natural resources.
- 12 "Citizen" means any native born citizen of the United
- 13 States, and foreign born persons who have procured their
- 14 final naturalization papers.
- 15 "Closed season" means the time or period during which
- 16 it shall be unlawful to take any wildlife as specified and
- 17 limited by the provisions of this chapter.
- 18 "Commission" means the natural resources commission.
- 19 "Commissioner" means a member of the advisory com-
- 20 mission of the natural resources commission.
- 21 "Director" means the director of the department of
- 22 natural resources.

23 "Fishing" or "to fish" means the taking, by any means,
24 of fish, minnows, frogs, or other amphibians, aquatic tur-
25 tles, and other forms of aquatic life used as fish bait.

26 "Fur-bearing animals" shall include (a) the mink, (b)
27 the weasel, (c) the muskrat, (d) the beaver, (e) the
28 opossum, (f) the skunk, and civet cat, commonly called
29 polecat, (g) the otter, (h) the red fox, (i) the gray fox,
30 (j) the wildcat, bobcat or bay lynx, (k) the raccoon and
31 (l) the fisher.

32 "Game" means game animals, game birds and game fish
33 as herein defined.

34 "Game animals" shall include (a) the elk, (b) the deer,
35 (c) the cottontail rabbits and hares, (d) the fox squirrels,
36 commonly called red squirrels, and gray squirrels, and all
37 their color phases—red, gray, black or albino, (e) the
38 raccoon, and (f) the black bear.

39 "Game birds" shall include (a) the Anatidae, commonly
40 known as swan, geese, brants and river and sea ducks, (b)
41 the Rallidae, commonly known as rails, sora, coots, mud-
42 hens, and gallinales, (c) the Limicolae, commonly known
43 as shorebirds, plover, snipe, woodcock, sandpipers, yellow
44 legs, and curlews, (d) the Galli, commonly known as wild
45 turkey, grouse, pheasants, quails and partridges (both
46 native and foreign species), and (e) the Columbidae,
47 commonly known as doves and the Icteridae, commonly
48 known as blackbirds, redwings and grackle.

49 "Game fish" shall include (a) brook trout, (b) brown
50 trout, (c) rainbow trout, (d) golden rainbow trout, (e)
51 Kokanee salmon, (f) largemouth bass, (g) smallmouth
52 bass, (h) Kentucky or spotted bass, (i) striped bass, (j)
53 pickerel, (k) muskellunge, (l) walleye pike, or pike perch,
54 (m) northern pike, (n) rock bass, (o) white bass, (p)
55 white and black crappie, (q) all sunfish and (r) channel
56 and flathead catfish.

57 "Hunt" means to pursue, chase, catch or take any wild
58 birds or wild animals.

59 "Lands" means land, waters, and all other appurte-
60 nances connected therewith.

61 "Migratory birds" means any migratory game or non-
62 game birds included in the terms of conventions between
63 the United States and Great Britain and between the
64 United States and United Mexican States, known as the
65 "Migratory Bird Treaty Act," for the protection of migra-
66 tory birds and game mammals concluded, respectively,
67 August sixteen, one thousand nine hundred sixteen, and
68 February seven, one thousand nine hundred thirty-six.

69 "Nonresident" means any person who is a citizen of the
70 United States and who has not been a domiciled resident
71 of the state of West Virginia for a period of thirty conse-
72 cutive days immediately prior to the date of his applica-
73 tion for a license or permit except any full-time student of
74 any college or university of this state, even though he be
75 paying a nonresident tuition.

76 "Open season" means the time during which the various
77 species of wildlife may be legally caught, taken, killed or
78 chased in a specified manner, and shall include both the
79 first and the last day of the season or period designated by
80 the director.

81 "Person," except as otherwise defined elsewhere in this
82 chapter, means the plural "persons," and shall include
83 individuals, partnerships, corporations, or other legal
84 entity.

85 "Preserve" means all duly licensed private game farm-
86 lands, or private plants, ponds or areas, where hunting or
87 fishing is permitted under special licenses or seasons other
88 than the regular public hunting or fishing seasons.

89 "Protected birds" means all wild birds not included
90 within the definition of "game birds" and "unprotected
91 birds."

92 "Resident" means any person who is a citizen of the
93 United States and who has been a domiciled resident of
94 the state of West Virginia for a period of thirty consecu-
95 tive days or more immediately prior to the date of his ap-
96 plication for a license or permit: *Provided*, That a member
97 of the armed forces of the United States who is stationed
98 beyond the territorial limits of this state, but who was a

99 resident of this state at the time of his entry into such
100 service, and any full-time student of any college or uni-
101 versity of this state, even though he be paying a nonresi-
102 dent tuition, shall be considered a resident under the pro-
103 visions of this chapter.

104 "Roadside menagerie" means any place of business,
105 other than a commercial game farm, commercial fish pre-
106 serve, place or pond, where any wild bird, game bird, un-
107 protected bird, game animal or fur-bearing animal is kept
108 in confinement for the attraction and amusement of the
109 people for commercial purposes.

110 "Take" means to hunt, shoot, pursue, lure, kill, destroy,
111 catch, capture, keep in captivity, gig, spear, trap, ensnare,
112 wound or injure any wildlife, or attempt to do so.

113 "Unprotected birds" shall include (a) the English spar-
114 row, (b) the European starling, (c) the cowbird, and (d)
115 the crow.

116 "Wild animals" means all mammals native to the state
117 of West Virginia occurring either in a natural state or in
118 captivity, except house mice or rats.

119 "Wild birds" shall include all birds other than (a) do-
120 mestic poultry—chickens, ducks, geese, guinea fowl,
121 peafowls and turkeys, (b) Psittacidae, commonly called
122 parrots and parakeets, and (c) other foreign cage birds
123 such as the common canary, exotic finches and ring dove.
124 All wild birds, either (a) those occurring in a natural state
125 in West Virginia or (b) those imported foreign game
126 birds, such as waterfowl, pheasants, partridges, quail and
127 grouse, regardless of how long raised or held in captivity,
128 shall remain wild birds under the meaning of this
129 chapter.

130 "Wildlife" means wild birds, wild animals, game and
131 fur-bearing animals, fish (including minnows), frogs and
132 other amphibians, aquatic turtles and all forms of aquatic
133 life used as fish bait, whether dead or alive.

134 "Wildlife refuge" means any land set aside by action of
135 the director as an inviolate refuge or sanctuary for the
136 protection of designated forms of wildlife.

CHAPTER 169

(S. B. 36—By Mr. Gainer)

[Passed February 14, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact sections seven and seventeen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transferring from the director of the department of natural resources to the natural resources commission the authority to fix by regulation the open hunting, trapping and fishing seasons and the bag, creel, size, age, weight and sex limits of wildlife which may be taken in this state.

Be it enacted by the Legislature of West Virginia:

That sections seven and seventeen, 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.

§20-1-17. Natural resources commission—Organization and services.

§20-1-7. Additional powers, duties and services of director.

1 In addition to all other powers, duties and responsi-
2 bilities granted and assigned to the director in this chap-
3 ter and elsewhere by law, the director is hereby autho-
4 rized and empowered to:

5 (1) With the advice of the commission, prepare and
6 administer, through the various divisions created by this
7 chapter, a long-range comprehensive program for the
8 conservation of the natural resources of the state which
9 best effectuates the purpose of this chapter and which
10 makes adequate provisions for the natural resources laws
11 of the state;

12 (2) Sign and execute in the name of the state by the
13 "department of natural resources" any contract or agree-
14 ment with the federal government or its departments

15 or agencies, subdivisions of the state, corporations, asso-
16 ciations, partnerships or individuals;

17 (3) Conduct research in improved conservation meth-
18 ods and disseminate information matters to the residents
19 of the state;

20 (4) Conduct a continuous study and investigation of
21 the habits of wildlife, and for purposes of control and
22 protection to classify by regulation the various species
23 into such categories as may be established as necessary;

24 (5) Prescribe the locality in which the manner and
25 method by which the various species of wildlife may be
26 taken, or chased, unless otherwise specified by this chapter;

27 (6) Hold at least six meetings each year at such time
28 and at such points within the state, as in the discretion
29 of the natural resources commission may appear to be nec-
30 essary and proper for the purpose of giving interested
31 persons in the various sections of the state an opportunity
32 to be heard concerning open season for their respective
33 areas, and report the results of the meetings to the natural
34 resources commission before such season and bag limits
35 are fixed by it;

36 (7) Suspend open hunting season upon any or all
37 wildlife in any or all counties of the state with the prior
38 approval of the governor in case of an emergency such
39 as a drought, forest fire hazard or epizootic of disease
40 among wildlife. The suspension shall continue during
41 the existence of the emergency and until rescinded by
42 the director. Suspension, or reopening after such sus-
43 pension, of open seasons may be made upon twenty-four
44 hours' notice by delivery of a copy of the order of sus-
45 pension or reopening to the wire press agencies at the
46 state capitol;

47 (8) Supervise the fiscal affairs and responsibilities
48 of the department;

49 (9) Designate such localities as he shall determine to
50 be necessary and desirable for the perpetuation of any
51 species of wildlife;

- 52 (10) Enter private lands to make surveys or inspec-
53 tions for conservation purposes, to investigate for viola-
54 tions of provisions of this chapter, to serve and execute
55 warrants and processes, to make arrests and to other-
56 wise effectively enforce the provisions of this chapter;
- 57 (11) Acquire for the state in the name of the "de-
58 partment of natural resources" by purchase, condem-
59 nation, lease or agreement, or accept or reject for the
60 state, in the name of the department of natural resources,
61 gifts, donations, contributions, bequests or devises of
62 money, security or property, both real and personal,
63 and any interest in such property, including lands and
64 waters, which he deems suitable for the following pur-
65 poses:
- 66 (a) For state forests for the purpose of growing tim-
67 ber, demonstrating forestry, furnishing or protecting
68 watersheds or providing public recreation;
- 69 (b) For state parks or recreation areas for the pur-
70 pose of preserving scenic, esthetic, scientific, cultural,
71 archaeological or historical values or natural wonders,
72 or providing public recreation;
- 73 (c) For public hunting, trapping, or fishing grounds
74 or waters for the purpose of providing areas in which
75 the public may hunt, trap or fish, as permitted by the
76 provisions of this chapter, and the rules and regulations
77 issued hereunder;
- 78 (d) For fish hatcheries, game farms, wildlife research
79 areas and feeding stations;
- 80 (e) For the extension and consolidation of lands or
81 waters suitable for the above purposes by exchange of
82 other lands or waters under his supervision;
- 83 (f) For such other purposes as may be necessary to
84 carry out the provisions of this chapter;
- 85 (12) Capture, propagate, transport, sell or exchange
86 any species of wildlife as may be necessary to carry out
87 the provisions of this chapter;
- 88 (13) Sell, with the approval in writing of the gov-

89 error, timber for not less than the value thereof, as
90 appraised by a qualified appraiser appointed by the di-
91 rector, from all lands under the jurisdiction and control
92 of the director, except those lands that are designated
93 as state parks. The appraisal shall be made within a
94 reasonable time prior to any sale, reduced to writing,
95 filed in the office of the director and shall be available
96 for public inspection. When the appraised value of the
97 timber to be sold is more than five hundred dollars, the
98 director, before making sale thereof, shall receive sealed
99 bids therefor, after notice by publication as a Class II
100 legal advertisement in compliance with the provisions
101 of article three, chapter fifty-nine of this code, and the
102 publication area for such publication shall be each county
103 in which the timber is located. The timber so ad-
104 vertised shall be sold at not less than the appraised
105 value to the highest responsible bidder, who shall give
106 bond for the proper performance of the sales contract
107 as the director shall designate; but the director shall
108 have the right to reject any and all bids and to read-
109 vertise for bids. If the foregoing provisions of this sec-
110 tion have been complied with, and no bid equal to or
111 in excess of the appraised value of the timber is re-
112 ceived, the director may, at any time, during a period
113 of six months after the opening of the bids, sell the tim-
114 ber in such manner as he deems appropriate, but the
115 sale price shall not be less than the appraised value of
116 the timber advertised. No contract for sale of timber
117 made pursuant to this section shall extend for a period
118 of more than ten years. And all contracts heretofore
119 entered into by the state for the sale of timber shall not
120 be validated by this section if the same be otherwise
121 invalid. The proceeds arising from the sale of the tim-
122 ber so sold, shall be paid to the treasurer of the state
123 of West Virginia, and shall be credited to the de-
124 partment and used exclusively for the purposes of
125 this chapter;

126 (14) Sell or lease, with the approval in writing of
127 the governor, coal, oil, gas, sand, gravel and any other
128 minerals that may be found in the lands under the juris-
129 diction and control of the director, except those lands

130 that are designated as state parks. The director, before
131 making sale or lease thereof, shall receive sealed bids
132 therefor, after notice by publication as a Class II legal
133 advertisement in compliance with the provisions of ar-
134 ticle three, chapter fifty-nine of this code, and the pub-
135 lication area for such publication shall be each county
136 in which such lands are located. The minerals so ad-
137 vertised shall be sold or leased to the highest respon-
138 sible bidder, who shall give bond for the proper per-
139 formance of the sales contract or lease as the director
140 shall designate; but the director shall have the right
141 to reject any and all bids and to readvertise the bids.
142 The proceeds arising from any such sale or lease shall
143 be paid to the treasurer of the state of West Virginia
144 and shall be credited to the department and used exclu-
145 sively for the purposes of this chapter;

146 (15) Exercise the powers granted by this chapter for
147 the protection of forests, and regulate fires and smoking
148 in the woods or in their proximity at such times and in
149 such localities as may be necessary to reduce the
150 danger of forest fires;

151 (16) Cooperate with departments and agencies of
152 state, local and federal governments in the conserva-
153 tion of natural resources and the beautification of the
154 state;

155 (17) Report to the governor each year all informa-
156 tion relative to the operation and functions of his de-
157 partment and he shall make such other reports and
158 recommendations as may be required by the governor,
159 including an annual financial report covering all receipts
160 and disbursements of the department of each fiscal year,
161 and he shall deliver such report to the governor on or
162 before the first day of December next after the end of
163 the fiscal year so covered. A copy of such report shall
164 be delivered to each house of the Legislature when con-
165 vened in January next following;

166 (18) Keep a complete and accurate record of all pro-
167 ceedings, record and file all bonds and contracts taken
168 or entered into, and assume responsibility for the cus-

169 tody and preservation of all papers and documents per-
170 taining to his office, except as otherwise provided by
171 law;

172 (19) Offer and pay, in his discretion, rewards for
173 information respecting the violation, or for the appre-
174 hension and conviction of any violators, of any of the
175 provisions of this chapter;

176 (20) Require such reports as he may deem to be
177 necessary from any person issued a license or permit
178 under the provisions of this chapter, but no person shall
179 be required to disclose secret processes or confidential
180 data of competitive significance;

181 (21) Purchase as provided by law all equipment nec-
182 essary for the conduct of his department;

183 (22) Conduct and encourage research designed to
184 further new and more extensive uses of the natural re-
185 sources of this state and to publicize the findings of such
186 research;

187 (23) Encourage and cooperate with other public and
188 private organizations or groups in their efforts to pub-
189 licize the attractions of the state;

190 (24) Accept and expend, without the necessity of
191 appropriation by the Legislature, any gift or grant of
192 money made to the department for any and all purposes
193 specified in this chapter, and he shall account for and
194 report on all such receipts and expenditures to the gov-
195 ernor;

196 (25) Cooperate with the state historian and other
197 appropriate state agencies in conducting research with
198 reference to the establishment of state parks and monu-
199 ments of historic, scenic and recreational value, and to
200 take such steps as may be necessary in establishing such
201 monuments or parks as he deems advisable;

202 (26) Maintain in his office at all times, properly in-
203 dexed by subject matter, and also, in chronological se-
204 quence, all rules and regulations made or issued under
205 the authority of this chapter. Such records shall be

206 available for public inspection on all business days dur-
207 ing the business hours of working days;

208 (27) Delegate the powers and duties of his office,
209 except the power to execute contracts, to appointees and
210 employees of the department, who shall act under the
211 direction and supervision of the director and for whose
212 acts he shall be responsible;

213 (28) Conduct schools, institutes and other educational
214 programs, apart from or in cooperation with other gov-
215 ernmental agencies, for instruction and training in all
216 phases of the natural resources programs of the state;

217 (29) Authorize the payment of all or any part of the
218 reasonable expenses incurred by an employee of the
219 department in moving his household furniture and ef-
220 fects as a result of a reassignment of the employee:
221 *Provided*, That no part of the moving expenses of any
222 one such employee shall be paid more frequently than
223 once in twelve months; and

224 (30) Promulgate rules and regulations, in accordance
225 with the provisions of chapter twenty-nine-a of this code,
226 to implement and make effective the powers and duties
227 vested in him by the provisions of this chapter and take
228 such other steps as may be necessary in his discretion
229 for the proper and effective enforcement of the provi-
230 sions of this chapter: *Provided, however*, That all rules
231 and regulations relating to articles five and five-a of this
232 chapter shall be promulgated by the water resources
233 board.

§20-1-17. Natural resources commission—Organization and services.

1 Members of the natural resources commission shall
2 take and subscribe to the public officer's oath prescribed
3 by the constitution before entering upon the duties of
4 their office. All such executed oaths shall be filed in the
5 office of the secretary of state. Members of the com-
6 mission shall receive no compensation as such, but each
7 shall be reimbursed for his actual and necessary traveling
8 expenses incurred in the performance of his official
9 duties.

10 The director of the department shall be ex officio a
11 member of the commission and its presiding officer. A
12 majority of the commission shall constitute a quorum
13 for transaction of business. Four regular meetings of the
14 commission shall be held each year commencing on the
15 first Monday in the months of July, October, January
16 and April. Special meetings may be convened by the
17 governor, the director or by a majority of the commis-
18 sion. The meetings of the commission shall be regularly
19 held at the office of the director, but may be held at
20 other points within the state when need therefor exists
21 as explained in the call setting forth the time and place
22 of the meeting. The director shall furnish all articles
23 and supplies required by the commission in the perform-
24 ance of its duties and shall provide necessary steno-
25 graphic, secretarial and clerical assistance therefor. All
26 such materials and services shall be paid for from de-
27 partment funds.

28 The director, at any regular or special meeting of the
29 commission, may submit to the commission any program
30 or policy matters on which he wishes to obtain the ad-
31 vice, counsel and opinion of the commission and may
32 consult with members of the commission on functions,
33 services, policies and practices of the department at any
34 time. The commission shall serve as a body advisory to
35 the director and shall perform all other duties assigned
36 to it by law. It shall have the following powers and duties:

37 (1) To consider and study the entire field of legis-
38 lation and administrative methods concerning the forests
39 and their maintenance and development, the protection
40 of fish and game, the beautification of the state and its
41 highways, and the development of lands, minerals, waters
42 and other natural resources;

43 (2) To advise with the director concerning the con-
44 servation problems of particular localities or districts of
45 the state;

46 (3) To recommend policies and practices to the direc-
47 tor relative to any duties imposed upon him by law;

48 (4) To investigate the work of the director, and for
49 this purpose to have access at reasonable times to all
50 official books, papers, documents and records;

51 (5) To advise or make recommendations to the gov-
52 ernor relative to natural resources of the state;

53 (6) To keep minutes of the transactions of each ses-
54 sion, regular or special, which shall be public records
55 and filed with the director; and

56 (7) To fix by regulation which it is hereby empowered
57 to promulgate, in accordance with the provisions of chap-
58 ter twenty-nine-a of this code, the open seasons and the
59 bag, creel, size, age, weight and sex limits with respect
60 to wildlife in this state.

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CHAPTER 170

(H. B. 1134—By Mr. Chafin and Mr. Goodwin)

[Passed March 7, 1975; in effect July 1, 1976. Approved by the Governor.]

AN ACT to amend and reenact section fourteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing a division of law enforcement within the department of natural resources.

Be it enacted by the Legislature of West Virginia:

That section fourteen, 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.

§20-1-14. Divisions within department.

1 Divisions of game and fish, of forestry, of parks and
2 recreation, of water resources, of law enforcement and of
3 reclamation are hereby created and established within the
4 department. Subject to provisions of law, the director shall
5 allocate the functions and services of the department to the

6 divisions, offices and activities thereof and may from time
7 to time establish and abolish other divisions, offices and
8 activities within the department in order to carry out fully
9 and in an orderly manner the powers, duties and respon-
10 sibilities of his office as director. The director shall select
11 and designate a competent and qualified person to be chief
12 of each division. The chief shall be the principal administrative
13 officer of his division and shall be accountable and responsible
14 for the orderly and efficient performance of the duties, func-
15 tions and services thereof.

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CHAPTER 171

(H. B. 704—By Mr. Chafin)

[Passed March 5, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections thirty-nine, forty-a and forty-three, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, three, eight and nine, article seven, chapter sixty-one of said code, all relating to the issuance by the department of natural resources of various types of hunting and combination licenses to unnaturalized persons; providing that any unnaturalized person may lawfully possess, transport, carry and use any firearm he is permitted to use for hunting under a valid license issued by the department of natural resources if he obeys all of the laws, rules and regulations pertaining thereto; allowing unnaturalized persons to own, keep, possess, transport, carry and use firearms for hunting and permitting the sale, rental, gift or loan of any firearm which may be lawfully used for hunting to any unnaturalized person who has been issued and holds a valid permit from the department of natural resources allowing him to apply for a hunting license.

Be it enacted by the Legislature of West Virginia:

That sections thirty-nine, forty-a and forty-three, article two, chapter twenty of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended and reenacted; and that sections one, three, eight and nine, article seven, 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 2. WILDLIFE RESOURCES.

§20-2-39. Class A resident statewide hunting and trapping license.

§20-2-40a. Class AB combination resident statewide hunting, trapping and fishing license.

§20-2-43. Class E, Class F and Class G licenses for nonresidents.

§20-2-39. Class A resident statewide hunting and trapping license.

1 A Class A license shall be a resident statewide hunting
2 and trapping license and shall entitle the licensee to hunt
3 and trap all legal species of game in all counties of the
4 state, except as prohibited by rules or regulations of the
5 director. It shall be issued only to citizens of the United
6 States and to unnaturalized persons who possess the permit
7 referred to in section twenty-nine of this article who are
8 residents of this state. The fee therefor shall be five dollars.

§20-2-40a. Class AB combination resident statewide hunting, trapping and fishing license.

1 A class AB combination license shall be a resident state-
2 wide hunting, trapping and fishing license and shall entitle
3 the licensee to hunt and trap for all legal species of game,
4 and fish for all legal species of fish and frogs in all counties of
5 the state, except as prohibited by rules or regulations of the
6 director. It shall be issued only to citizens of the United
7 States and to unnaturalized persons who possess the permit
8 referred to in section twenty-nine of this article who are
9 residents of this state. The fee therefor shall be eight dollars.

§20-2-43. Class E, Class F and Class G licenses for nonresidents.

1 A Class E license shall be a nonresident hunting license
2 and shall entitle the licensee to hunt all game in all counties
3 of the state. It shall be issued only to citizens of the United

4 States and to unnaturalized persons who possess the permit
5 referred to in section twenty-nine of this article who are not
6 residents of this state. The fee therefor shall be thirty dollars.

7 A Class F license shall be a nonresident fishing license
8 and shall entitle the licensee to fish for all fish in all counties
9 of the state. It shall be issued only to citizens of the United
10 States and to unnaturalized persons who possess the permit
11 referred to in section twenty-nine of this article who are not
12 residents of this state. The fee therefor shall be twenty dollars.

13 A Class G license shall be a nonresident family fishing
14 license and shall entitle the licensee and members of his family
15 to fish within the territorial limits of state parks and state
16 forests and in the waters of streams bounding same, for a
17 distance of not to exceed one hundred yards from the ex-
18 terior boundary of any state park or state forest, for a period
19 not to exceed one week. It may be issued to any adult
20 nonresident who is temporarily residing in any state park or
21 forest as tenant or lessee of the state. The fee therefor shall
22 be three dollars for the head of the family, plus fifty cents
23 additional for each member of his family to whom the
24 privileges of such license are extended. Class G licenses may
25 be issued in such manner and under such regulations as the
26 director may see fit to prescribe.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-1. Carrying dangerous or deadly weapon without license or other authorization; penalties; second offense a felony.

§61-7-3. Exceptions as to prohibition against carrying deadly weapons.

§61-7-8. Possession of machine guns, high-powered rifles, or ammunition therefor; permits; unnaturalized persons may not possess firearms; exception.

§61-7-9. Display of dangerous weapons for sale or hire; sale to unnaturalized person; penalties for violation of this section or §61-7-8.

§61-7-1. Carrying dangerous or deadly weapon without license or other authorization; penalties; second offense a felony.

1 If any person, without a state license therefor or except
2 as provided elsewhere in this article and other provisions of
3 this code, carry about his person any revolver or pistol, dirk,
4 bowie knife, slung shot, razor, billy, metallic or other false

5 knuckles, or other dangerous or deadly weapon of like kind or
6 character, he shall be guilty of a misdemeanor, and, upon
7 conviction thereof, shall be imprisoned in the county jail
8 not less than six nor more than twelve months for the first
9 offense; but upon the conviction of the same person for the
10 second offense in this state, he shall be guilty of a felony,
11 and, upon conviction thereof, shall be imprisoned in the peni-
12 tentiary not less than one nor more than five years, and, in
13 either case, shall be fined not less than fifty dollars nor more
14 than two hundred dollars; and it shall be the duty of the
15 prosecuting attorney in all cases to ascertain whether or not
16 the charge made by the grand jury is the first or second offense,
17 and if it shall be the second offense, it shall be so stated in
18 the indictment returned, and the prosecuting attorney shall in-
19 troduce the record evidence before the trial court of such
20 second offense, and shall not be permitted to use his dis-
21 cretion in charging such second offense nor in introducing
22 evidence to prove the same on the trial: *Provided*, That boys
23 or girls under the age of eighteen years, upon the second con-
24 viction, may, in the discretion of the court, be sent to the
25 industrial school for boys or the industrial home for girls,
26 respectively, of this state.

**§61-7-3. Exceptions as to prohibition against carrying deadly
weapons.**

1 Nothing in this article shall prevent any person from carry-
2 ing any such weapon as is mentioned in the first section of
3 this article, in good faith and not having felonious purposes,
4 upon his own premises; nor shall anything herein prevent a
5 person from carrying any such weapon, unloaded, from the
6 place of purchase to his home or residence, or to a place of
7 repair and back to his home or residence; nor shall anything
8 herein prevent a guard at the West Virginia penitentiary duly
9 appointed in conformity with section five, article five, chapter
10 twenty-eight of the code of West Virginia, from carrying
11 any such weapon while on duty; nor shall anything herein
12 prevent a bona fide member of the national guard of West
13 Virginia, or of the reserve officers component of the United
14 States army, while in performance of his official duties as
15 such or any properly organized target-shooting club authorized
16 by law to obtain firearms by purchase or requisition from

17 this state, or from the United States for the purpose of target
18 practice, from carrying any revolver or pistol mentioned in
19 this article, unloaded, from his home or place of residence
20 to a place of target practice, and from any such place of
21 target practice back to his home or residence, or using any
22 such weapon at such place of target practice in training and
23 improving his skill in the use of such weapons; but nothing
24 herein shall be construed to authorize any employee of any
25 person, firm or corporation doing business in this state to
26 carry, on or about the premises of such employer, any such
27 pistol, or other weapon mentioned in this article, for which a
28 license is herein required, without having first obtained the
29 license and given the bond as herein provided.

30 Notwithstanding any other provision of this article or any
31 other provision of this code, any resident, nonresident or
32 unnaturalized person may lawfully possess, transport, carry
33 and use any firearm he is permitted to use for hunting under
34 any valid license he has been issued by the department of
35 natural resources and which he holds in his possession. At
36 all times such person shall comply with all of the requirements
37 of law set forth in this code and the rules and regulations
38 promulgated thereunder pertaining to possessing, transporting,
39 carrying and using firearms for hunting.

§61-7-8. Possession of machine guns, high-powered rifles, or ammunition therefor; permits; unnaturalized persons may not possess firearms; exception.

1 It shall be unlawful for any person to carry, transport, or
2 have in his possession, any machine gun, sub-machine gun, or
3 what is commonly known as a high-powered rifle, or any
4 gun of similar kind or character, or any ammunition therefor,
5 except on his own premises or premises leased to him for a
6 fixed term, until such person shall have first obtained a permit
7 from the superintendent of the department of public safety of
8 this state, and approved by the governor, or until a license
9 therefor shall have been obtained from the circuit court as in
10 the case of revolvers and pistols, and all such licenses, together
11 with the numbers identifying such firearms, shall be certified to
12 the superintendent of the department of public safety: *Provided*,
13 That nothing herein contained shall prevent the use of rifles by

14 bona fide rifle club members who are freeholders or tenants for
15 a fixed term in this state, at their usual or customary place of
16 practice, and: *Provided, however,* That notwithstanding any
17 other provision of this article or any other provision of this
18 code, any resident, nonresident and unnaturalized person may
19 lawfully possess, transport, carry and use any firearm he is per-
20 mitted to use for hunting under any valid license he has been
21 issued by the department of natural resources and which he
22 holds in his possession. At all times such person shall comply
23 with all of the requirements of law set forth in this code and the
24 rules and regulations promulgated thereunder pertaining to pos-
25 sessing, transporting, carrying and using firearms for hunting.

26 No such permit shall be granted by the superintendent except
27 in cases of riot, public danger and emergency until such
28 applicant shall have filed his written application with the
29 superintendent in accordance with the rules and regulations
30 that may be from time to time prescribed by the department
31 of public safety relative thereto, which application shall be
32 accompanied by a fee of two dollars to be used in defraying
33 the expense of issuing such permit, and such application shall
34 contain the same provisions as are required to be shown under
35 the provisions of section two of this article by applicants for
36 a state license to carry a weapon, and shall be duly verified
37 by such applicant and at least one other reputable citizen of
38 this state. Any such permit as granted under the provisions of
39 this section may be revoked by the governor at his pleasure, and
40 upon the revocation of any such permit, the department of
41 public safety shall immediately seize and take possession of
42 any machine gun, sub-machine gun, high-powered rifle, or gun
43 of similar kind and character, held by reason of such permit,
44 and all ammunition therefor; and the department of public
45 safety shall also confiscate any such machine gun, sub-machine
46 gun, high-powered rifle, or any gun of similar kind and charac-
47 ter, and all ammunition therefor, so owned, carried, transported
48 or possessed contrary to the provisions of this section, and shall
49 safely store and keep the same, subject to the order of the
50 governor.

51 No unnaturalized person may own, keep, possess, transport,
52 carry or use any firearm of any kind or character, except for

53 hunting as provided in sections three and eight of this article
54 and article two, chapter twenty of this code.

**§61-7-9. Display of dangerous weapons for sale or hire; sale to
unnaturalized person; penalties for violation of this
section or §61-7-8.**

1 It shall be unlawful for any person, firm or corporation to
2 place or keep on public display to passersby on the streets,
3 roads or alleys, for rent or sale, any revolver, pistol, dirk,
4 bowie knife, slung shot, or other dangerous weapons of like
5 kind or character, or any machine gun, sub-machine gun or
6 high-powered rifle, or any gun of similar kind or character,
7 or any ammunition for the same. All dealers licensed to sell
8 any of the foregoing arms or weapons shall take the name,
9 address, age and general appearance of the purchaser, as well
10 as the maker of the gun, manufacturer's serial number and the
11 caliber, and report the same at once in writing to the super-
12 intendent of the department of public safety. It shall be
13 unlawful for any person to sell, rent, give or lend any of the
14 arms mentioned in this article to an unnaturalized person:
15 *Provided*, That a person may lawfully sell, rent, give or lend
16 any firearm which may lawfully be used for hunting to any
17 unnaturalized person who has been issued and holds a valid
18 permit in accordance with the provisions of section twenty-
19 nine, article two, chapter twenty of this code and the un-
20 naturalized person shows such permit to such person when
21 the sale, rental, gift or loan is made.

22 Any person violating the provisions of this or the pre-
23 ceding section shall be guilty of a misdemeanor, and, upon
24 conviction thereof, shall be fined not less than fifty dollars
25 nor more than three hundred dollars, or imprisoned in the
26 county jail not less than thirty days nor more than six
27 months, or both fined and imprisoned.

CHAPTER 172

(S. B. 151—By Mr. Benson)

[Passed February 17, 1975; in effect ninety days from passage. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to amend and reenact section fifty, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting the director of the department of natural resources from issuing permits to kill deer and bear for scientific or propagation purposes.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-50. Permit to hunt, kill, etc., wildlife for scientific or propagation purposes.

1 The director may issue a permit to a person to hunt, kill,
2 take, capture or maintain in captivity wildlife or reptiles
3 exclusively for scientific or propagation purposes, but not
4 for any commercial purposes. A permit may be issued
5 only upon written application to the director setting forth
6 at least:

7 (1) The number and kind of wildlife or reptiles to be
8 taken;

9 (2) The purpose and manner of taking; and

10 (3) The name, residence and profession of the person
11 applying for the permit.

12 No charge shall be made for this permit: *Provided, That*
13 no permit shall be issued for the purpose of killing deer
14 and bear.

CHAPTER 173

(H. B. 602—By Mr. Bailouz)

[Passed February 10, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to acquisition of areas and lands for forest culture, state forests, wildlife refuges, public hunting and fishing areas and other similar areas and lands by the director of the department of natural resources, with the approval of the governor, and removing the prohibition that the director cannot acquire such areas and lands which cost more than twenty-five dollars per acre without the governor's approval.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. FORESTS AND WILDLIFE AREAS.**§20-3-2. Acquisition of suitable lands by director; maintenance thereof as state forests or wildlife areas; relinquishment of construction and maintenance of roads to the commissioner of highways.**

1 The director may with the consent of the governor purchase,
2 in the name of the state, out of funds set aside for the purpose,
3 or out of any unused funds in his hands, lands suitable for
4 forest culture, state forests or wildlife refuges, public hunting
5 areas, public fishing areas, public hunting and fishing areas,
6 public access sites and other lands for the purposes set forth
7 in this article. Such funds may also be used for the construc-
8 tion of dams for fish refuges on lands so acquired. Purchase
9 may be made on terms requiring not less than one third of the
10 purchase price to be paid at the time of the conveyance with
11 the residue to be paid in not less than one or two years after

12 date. The director may also receive the gift, in the name of the
13 state, of such lands by deed or bequest. In all cases of transfer
14 to the state, the fee simple title shall pass to the state, except
15 minerals and mining rights to remove such minerals may be
16 excepted or reserved.

17 The director shall protect, preserve and maintain lands so
18 acquired as forest culture areas, state forests, wildlife areas,
19 public hunting areas, public fishing areas, public hunting and
20 fishing areas, public access sites and other such lands for the
21 propagation and distribution of forest trees and for the pro-
22 tection, management, propagation and distribution of the fish,
23 wild animals and birds thereon. He may prescribe and enforce
24 rules and regulations consistent with the laws of the state to
25 carry out that objective. The director may prescribe and
26 enforce rules prohibiting all hunting and fishing, pursuing,
27 catching, trapping, capturing and killing of fish, wild animals
28 and birds upon such areas and lands for such length of time
29 as he may deem proper.

30 The director may provide special regulations and open sea-
31 sons for the taking of any wild birds, wild animals or fish upon
32 such areas and lands in the manner provided in this chapter.

33 Except for the authority and responsibility to do the neces-
34 sary cutting and planting of vegetation along road rights-
35 of-way in state parks, state forests and public hunting and
36 fishing areas, the director of the department of natural re-
37 sources shall, upon the effective date of this section, relinquish
38 to the commissioner of highways his authority over publicly
39 owned roads in state parks, state forests and public hunting
40 and fishing areas, and shall thereafter neither construct, re-
41 construct nor maintain any road or vehicular bridge for public
42 usage in such areas except as is specifically authorized by this
43 chapter. This relinquishment shall not be construed to alter the
44 responsibilities assigned to the director of the department of
45 natural resources in section eleven, article four, chapter twenty
46 of the code of West Virginia.

CHAPTER 174

(H. B. 893—By Mr. Burke and Mr. Long)

[Passed March 9, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article five-b, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the natural streams preservation act and adding to said act the Birch river and the New river to be designated as protected streams.

Be it enacted by the Legislature of West Virginia:

That section four, article five-b, 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 5B. NATURAL STREAMS PRESERVATION ACT.

§20-5B-4. Designation of protected streams.

1 The following streams are hereby designated as protected
2 streams within the natural streams preservation system,
3 namely:

4 (a) Greenbrier river from its confluence with Knapps
5 creek to its confluence with the New river.

6 (b) Anthony creek from its headwaters to its confluence
7 with the Greenbrier river.

8 (c) Cranberry river from its headwaters to its confluence
9 with the Gauley river.

10 (d) Birch river from the Cora Brown bridge in Nicholas
11 county to the confluence of the river with the Elk river.

12 (e) New river from its confluence with the Gauley river to
13 its confluence with the Greenbrier river.

CHAPTER 175

(H. B. 649—By Mr. Speaker, Mr. McManus, and Mr. Gilliam)

[Passed February 24, 1975; 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-five, and ending on the twelfth day of
3 March, one thousand nine hundred seventy-seven, 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 of coal
7 existed under lawful permit during the calendar year one
8 thousand nine hundred seventy.

CHAPTER 176

(S. B. 126—By Mr. Sharpe, Mr. Jones and Mr. Darby)

[Passed March 9, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the uniform controlled substances act generally and standards and schedules

specifically; removing the authority of the state board of pharmacy to add, reschedule and delete certain controlled substances to and from certain schedules; providing that said state board of pharmacy shall make certain recommendations to the Legislature with regard to the addition, rescheduling and deletion of controlled substances to and from certain statutory schedules; authorizing said state board of pharmacy to administer the regulatory provisions of the uniform controlled substances act; relating to nomenclature; providing certain criteria relative to making recommendations with regard to substances in Schedules I, II, III, IV and V; listing certain controlled substances in Schedules I, II, III, IV and V; relating to a publication of the aforesaid schedules by the state board of pharmacy; prescribing that certain recommendations made by said board of pharmacy to the Legislature shall be public information; and relating to criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STANDARDS AND SCHEDULES.

- §60A-2-201. Authority of state board of pharmacy; recommendations to Legislature.
- §60A-2-202. Nomenclature.
- §60A-2-203. Schedule I criteria.
- §60A-2-204. Schedule I.
- §60A-2-205. Schedule II criteria.
- §60A-2-206. Schedule II.
- §60A-2-207. Schedule III criteria.
- §60A-2-208. Schedule III.
- §60A-2-209. Schedule IV criteria.
- §60A-2-210. Schedule IV.
- §60A-2-211. Schedule V criteria.
- §60A-2-212. Schedule V.
- §60A-2-213. Review and printing of schedules by board; public information.

§60A-2-201. Authority of state board of pharmacy; recommendations to Legislature.

- 1 (a) The state board of pharmacy shall administer the
- 2 provisions of this chapter. It shall also, on the first day of
- 3 each regular legislative session, recommend to the Legis-

4 lature which substances should be added to or deleted
5 from the schedules of controlled substances contained in
6 this article or reschedule therein.

7 In making any such recommendation regarding a sub-
8 stance, the state board of pharmacy shall consider the
9 following factors:

- 10 (1) The actual or relative potential for abuse;
- 11 (2) The scientific evidence of its pharmacological
12 effect, if known;
- 13 (3) The state of current scientific knowledge regarding
14 the substance;
- 15 (4) The history and current pattern of abuse;
- 16 (5) The scope, duration, and significance of abuse;
- 17 (6) The potential of the substance to produce psychic
18 or physiological dependence liability; and
- 19 (7) Whether the substance is an immediate precursor
20 of a substance already controlled under this article.

21 (b) After considering the factors enumerated in sub-
22 section (a), the state board of pharmacy shall make
23 findings with respect to the substance under considera-
24 tion. If it finds that any substance not already controlled
25 under any schedule has a potential for abuse, it shall
26 recommend to the Legislature that the substance be added
27 to the appropriate schedule. If it finds that any substance
28 already controlled under any schedule should be re-
29 scheduled or deleted, it shall so recommend to the Legis-
30 lature.

31 (c) If the state board of pharmacy designates a sub-
32 stance as an immediate precursor, substances which are
33 precursors of the controlled precursor shall not be sub-
34 ject to control solely because they are precursors of the
35 controlled precursor.

36 (d) If any substance is designated, rescheduled, or
37 deleted as a controlled substance under federal laws and
38 notice thereof is given to the state board of pharmacy, the
39 board shall recommend similar control of such substance

40 to the Legislature, specifically stating that such recom-
41 mendation is based on federal action and the reasons why
42 the federal government deemed such action necessary
43 and proper.

44 (e) The authority vested in the board by subsection (a)
45 of this section shall not extend to distilled spirits, wine,
46 malt beverages or tobacco as those terms are defined or
47 used in other chapters of this code nor to any nonnarcotic
48 substance if such substance may under the "Federal Food,
49 Drug and Cosmetic Act" and the law of this state law-
50 fully be sold over the counter without a prescription.

§60A-2-202. Nomenclature.

1 The controlled substances listed in the schedules in
2 this article are included by whatever official, common,
3 usual, chemical or trade name designated.

§60A-2-203. Schedule I criteria.

1 The state board of pharmacy shall recommend to the
2 Legislature that a substance be included in Schedule I if
3 it finds that the substance:

4 (1) Has high potential for abuse; and

5 (2) Has no accepted medical use in treatment in the
6 United States or lacks accepted safety for use in treat-
7 ment under medical supervision.

§60A-2-204. Schedule I.

1 (a) The controlled substances listed in this section
2 are included in Schedule I.

3 (b) Unless specifically excepted or unless listed in
4 another schedule, any of the following opiates, including
5 its isomers, esters, ethers, salts, and salts of isomers, esters,
6 and ethers whenever the existence of such isomers, es-
7 ters, ethers, and salts is possible within the specific chem-
8 ical designation:

9 (1) Acetylmethadol;

10 (2) Allylprodine;

11 (3) Alphacetylmethadol;

- 12 (4) Alphameprodine;
- 13 (5) Alphamethadol;
- 14 (6) Benzethidine;
- 15 (7) Betacetylmethadol;
- 16 (8) Betameprodine;
- 17 (9) Betamethadol;
- 18 (10) Betaprodine;
- 19 (11) Clonitazene;
- 20 (12) Dextromoramide;
- 21 (13) Dextrophan;
- 22 (14) Diampromide;
- 23 (15) Diethylthiambutene;
- 24 (16) Dimenoxadol;
- 25 (17) Dimepheptanol;
- 26 (18) Dimethylthiambutene;
- 27 (19) Dioxaphetyl butyrate;
- 28 (20) Dipipanone;
- 29 (21) Ethylmethylthiambutene;
- 30 (22) Etonitazene;
- 31 (23) Etoxidine;
- 32 (24) Furethidine;
- 33 (25) Hydroxypethidine;
- 34 (26) Ketobemidone;
- 35 (27) Levomoramide;
- 36 (28) Levophenacilmorphan;
- 37 (29) Morpheridine;
- 38 (30) Noracymethadol;
- 39 (31) Norlevorphanol;
- 40 (32) Normethadone;
- 41 (33) Norpipanone;
- 42 (34) Phenadoxone;
- 43 (35) Phenampromide;
- 44 (36) Phenomorphan;
- 45 (37) Phenoperidine;
- 46 (38) Piritramide;
- 47 (39) Proheptazine;
- 48 (40) Properidine;
- 49 (41) Racemoramide;
- 50 (42) Trimeperidine.

51 (c) Unless specifically excepted or unless listed
52 in another schedule, any of the following opium de-

53 rivatives, its salts, isomers and salts of isomers when-
 54 ever the existence of such salts, isomers, and salts of
 55 isomers is possible within the specific chemical desig-
 56 nation:

- 57 (1) Acetorphine;
- 58 (2) Acetyldihydrocodeine;
- 59 (3) Benzylmorphine;
- 60 (4) Codeine methylbromide;
- 61 (5) Codeine-N-Oxide;
- 62 (6) Cyprenorphine;
- 63 (7) Desomorphine;
- 64 (8) Dihydromorphine;
- 65 (9) Etorphine;
- 66 (10) Heroin;
- 67 (11) Hydromorphinol;
- 68 (12) Methyldesorphine;
- 69 (13) Methyldihydromorphine;
- 70 (14) Morphine methylbromide;
- 71 (15) Morphine methylsulfonate;
- 72 (16) Morphine-N-Oxide;
- 73 (17) Myrophine;
- 74 (18) Nicocodeine;
- 75 (19) Nicomorphine;
- 76 (20) Normorphine;
- 77 (21) Phoclodine;
- 78 (22) Thebacon.

79 (d) Unless specifically excepted or unless listed in
 80 another schedule, any material, compound, mixture or
 81 preparation, which contains any quantity of the following
 82 hallucinogenic substances, or which contains any of the
 83 salts, isomers and salts of isomers of any thereof when-
 84 ever the existence of such salts, isomers and salts of
 85 isomers is possible within the specific chemical desig-
 86 nation and for the purposes of this subsection only,
 87 "isomer" includes the optical position and geometric iso-
 88 mers:

- 89 (1) 3,4-methylenedioxy amphetamine;
- 90 (2) 5-methoxy-3, 4-methylenedioxy amphetamine;
- 91 (3) 3,4,5-trimethoxy amphetamine;
- 92 (4) Bufotenine; known also by these trade and other

- 93 names: 3-(S-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-
94 dimethylamino-ethyl)-5) indolol; N-N-dimethylserotonin;
95 5-hydroxy-N-dimethyltryptamine; mappine;
- 96 (5) Diethyltryptamine; known also by these trade
97 and other names: N,N-Diethyltryptamine; "DET";
- 98 (6) Dimethyltryptamine; known also by the name
99 "DMT";
- 100 (7) 4-methyl-2,5-dimethoxy amphetamine; known also
101 by these trade and other names; 4-methyl-2,5-dimethoxy-
102 a-methylphenethylamine; "DOM"; "STP";
- 103 (8) Ibogaline; known also by these trade and other
104 names: 7-Ethyl-6, 6a, 7, 8, 9, 10, 12, 13-octahydro-2-meth-
105 oxy-6, 9-methano-5H-pyrido (1', 2': 1, 2 adepino 4,5b)
106 indole; tabernanthe iboga;
- 107 (9) Lysergic acid diethylamide;
- 108 (10) Marihuana;
- 110 (12) Peyote;
- 109 (11) Mescaline;
- 111 (13) N-ethyl-3-piperidyl benzilate;
- 112 (14) N-methyl-3-piperidyl benzilate;
- 113 (15) Psilocybin;
- 114 (16) Psilocyn;
- 115 (17) Tetrahydrocannabinols; including synthetic
116 equivalents of the substances contained in the plant or
117 in the resinous extractives of Cannabis or synthetic sub-
118 stances, derivatives and their isomers with similar chem-
119 ical structure and pharmacological activity such as the
120 following:
- 121 ▲1
122 Cis or trans tetrahydrocannabinol, and their optical
123 isomers;
- 124 ▲6
125 Cis or trans tetrahydrocannabinol, and their optical
126 isomers;
- 127 ▲3,4
128 Cis or trans tetrahydrocannabinil tetrahydrocannabinol,
129 and their optical isomers.

§60A-2-205. Schedule II criteria.

1 The state board of pharmacy shall recommend to the
2 Legislature that a substance be placed in Schedule II if
3 it finds that:

4 (1) The substance has high potential for abuse;

5 (2) The substance has currently accepted medical use
6 in treatment in the United States or currently accepted
7 medical use with severe restrictions;

8 (3) Abuse of the substance may lead to severe psychic
9 or physical dependence.

§60A-2-206. Schedule II.

1 (a) The controlled substances listed in this section
2 are included in Schedule II.

3 (b) Unless specifically excepted or unless listed in
4 another schedule, any of the following substances whether
5 produced directly or indirectly by extraction from sub-
6 stances of vegetable origin, or independently by means
7 of chemical synthesis, or by a combination of extraction
8 and chemical synthesis:

9 (1) Opium and opiate, and any salt, compound, deriva-
10 tive or preparation of opium or opiate, including the fol-
11 lowing:

- 12 (A) Raw opium;
- 13 (B) Opium extracts;
- 14 (C) Opium fluid extracts;
- 15 (D) Powdered opium;
- 16 (E) Granulated opium;
- 17 (F) Tincture of opium;
- 18 (G) Apomorphine;
- 19 (H) Codeine;
- 20 (I) Ethylmorphine;
- 21 (J) Hydrocodone;
- 22 (K) Hydromorphone;
- 23 (L) Metopon;
- 24 (M) Morphine;
- 25 (N) Oxycodone;

- 26 (O) Oxymorphone;
27 (P) Thebaine;
- 28 (2) Any salt, compound, isomer derivative or prepa-
29 ration thereof which is chemically equivalent or iden-
30 tical with any of the substances referred to in subdivision
31 (1) of this subsection, except that these substances shall
32 not include the isoquinoline alkaloids of opium;
- 33 (3) Opium poppy and poppy straw;
- 34 (4) Coca leaves and any salt, compound, derivative
35 or preparation of coca leaves, and any salt, compound,
36 derivative or preparation thereof which is chemically
37 equivalent or identical with any of these substances, ex-
38 cept that the substances shall not include decocainized
39 coca leaves or extractions of coca leaves, which extrac-
40 tions do not contain cocaine or ecgonine.
- 41 (c) Unless specifically excepted or unless in another
42 schedule, any of the following opiates, including its iso-
43 mers, esters, ethers, salts and salts of isomers, esters and
44 ethers whenever the existence of such isomers, esters,
45 ethers and salts is possible within the specific chemical
46 designation:
- 47 (1) Alphaprodine;
48 (2) Anileridine;
49 (3) Bezitramide;
50 (4) Dihydrocodeine;
51 (5) Diphenoxylate;
52 (6) Fentanyl;
53 (7) Isomethadone;
54 (8) Levomethorphan;
55 (9) Levorphanol;
56 (10) Metazocine;
57 (11) Methadone;
58 (12) Methadone-Intermediate, 4-cyano-2-dimethyla-
59 mino-4,4-diphenyl butane;
60 (13) Moramide-Intermediate, 2-methyl-3-morpholino-
61 1 1-diphenyl-propane-carboxylic acid;

- 62 (14) Pethidine;
- 63 (15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
- 64 phenylpiperidine;
- 65 (16) Pethidine-Intermediate-B, ethyl-4-phenylpiperi-
- 66 dine-4-carboxylate;
- 67 (17) Pethidine-Intermediate-C, 1-methyl-4-phenylpi-
- 68 peridine-4-carboxylic acid;
- 69 (18) Phenazocine;
- 70 (19) Piminodine;
- 71 (20) Racemethorphan;
- 72 (21) Racemorphan.

§60A-2-207. Schedule III criteria.

- 1 The state board of pharmacy shall recommend to the
- 2 Legislature that a substance be placed in Schedule III
- 3 if it finds that:
 - 4 (1) The substance has a potential for abuse less than
 - 5 the substances listed in Schedules I and II;
 - 6 (2) The substance has currently accepted medical use
 - 7 in treatment in the United States; and
 - 8 (3) Abuse of the substance may lead to moderate or
 - 9 low physical dependence or high psychological depend-
 - 10 ence.

§60A-2-208. Schedule III.

- 1 (a) The controlled substances listed in this section
- 2 are included in Schedule III.
- 3 (b) Unless specifically excepted or unless listed in
- 4 another schedule, any material, compound, mixture or
- 5 preparation which contains any quantity of the following
- 6 substances having a stimulant effect on the central ner-
- 7 vous system:
 - 8 (1) Methamphetamine, including its salts, isomers and
 - 9 salts of isomers;
 - 10 (2) Amphetamine, its salts, optical isomers and salts
 - 11 of its optical isomers;
 - 12 (3) Phenmetrazine (Preludin);
 - 13 (4) Methylphenidate (Ritalin) and any compound,

14 mixture or preparation which contains any quantity of
15 phenmetrazine or methlpenidate.

16 (c) Unless specifically excepted or unless listed in
17 another schedule, any material, compound, mixture or
18 preparation which contains any quantity of the following
19 substances having a depressant effect on the central ner-
20 vous system:

21 (1) Any substance which contains any quantity of a
22 derivative of barbituric acid or any salt of a derivative of
23 barbituric acid;

24 (2) Chlorhexadol;

25 (3) Glutethimide;

26 (4) Lysergic acid;

27 (5) Lysergic acid amide;

28 (6) Methypylon;

29 (7) Phencyclidine;

30 (8) Sulfondiethylmethane;

31 (9) Sulfonethylmethane;

32 (10) Sulfor methane.

33 (d) Nalorphine (narcotic drug).

34 (e) Unless specifically excepted or unless listed in
35 another schedule, any material, compound, mixture or
36 preparation containing limited quantities of any of the
37 following narcotic drugs or any salts thereof:

38 (1) Not more than 1.8 grams of codeine per 100 millili-
39 ters and not more than 90 milligrams per dosage unit,
40 with an equal or greater quantity of an isoquinolin alka-
41 loid of opium;

42 (2) Not more than 1.8 grams of codeine per 100 millili-
43 ters and not more than 90 milligrams per dosage unit,
44 with one or more active, nonnarcotic ingredients in recog-
45 nized therapeutic amounts;

46 (3) Not more than 300 milligrams of dihydrocodeinone
47 per 100 milliliters and not more than 15 milligrams per
48 dosage unit, with a fourfold or greater quantity of an
49 isoquinoline alkaloid of opium;

50 (4) Not more than 300 milligrams of dihydrocodeinone

51 per 100 milliliters and not more than 15 milligrams per
52 dosage unit, with one or more active, nonnarcotic ingredi-
53 ents in recognized therapeutic amounts;

54 (5) Not more than 1.8 grams of dihydrocodeine per
55 100 milliliters and not more than 90 milligrams per dos-
56 age unit, with one or more active, nonnarcotic ingredi-
57 ents in recognized therapeutic amounts;

58 (6) Not more than 300 milligrams of ethylmorphine
59 per 100 milliliters and not more than 15 milligrams per
60 dosage unit, with one or more active, nonnarcotic ingre-
61 dients in recognized therapeutic amounts;

62 (7) Not more than 500 milligrams of opium per 100
63 milliliters or per 100 grams and not more than 25 milli-
64 grams per dosage unit, with one or more active, nonnar-
65 cotic ingredients in recognized therapeutic amounts;

66 (8) Not more than 50 milligrams of morphine per 100
67 milliliters or per 100 grams and not more than 2.5 milli-
68 grams per dosage unit, with one or more active, non-
69 narcotic ingredients in recognized therapeutic amounts.

§60A-2-209. Schedule IV criteria.

1 The state board of pharmacy shall recommend to the
2 Legislature that a substance be placed in Schedule IV
3 if it finds that:

4 (1) The substance has a low potential for abuse rela-
5 tive to substances in Schedule III;

6 (2) The substance has currently accepted medical use
7 in treatment in the United States; and

8 (3) Abuse of the substance may lead to limited physi-
9 cal dependence or psychological dependence relative to
10 the substances in Schedule III.

§60A-2-210. Schedule IV.

1 (a) The controlled substances listed in this section
2 are included in Schedule IV.

3 (b) Unless specifically excepted or unless listed in
4 another schedule, any material, compound, mixture or
5 preparation which contains any quantity of the following
6 substances, including its salts, isomers and salts of isomers

7 whenever the existence of such salts, isomers and salts
8 of isomers is possible within the specific chemical desig-
9 nation:

- 10 (1) Barbital;
- 11 (2) Chloral betaine;
- 12 (3) Chloral hydrate;
- 13 (4) Ethchlorvynol;
- 14 (5) Ethinamate;
- 15 (6) Methohexital;
- 16 (7) Meprobamate;
- 17 (8) Methylphenobarbital;
- 18 (9) Paraldehyde;
- 19 (10) Petrichloral;
- 20 (11) Phenobarbital.

21 (c) Any material, compound, mixture or preparation
22 which contains any quantity of the following substance,
23 including its salts, isomers (whether optical position or
24 geometric), and salts of such isomers whenever the exist-
25 ence of such salts, isomers and salts of isomers is pos-
26 sible: Fenfluramine.

§60A-2-211. Schedule V criteria.

1 The state board of pharmacy shall recommend to the
2 Legislature that a substance be placed in Schedule V if it
3 finds that:

4 (1) The substance has a low potential for abuse rela-
5 tive to the controlled substances listed in Schedule IV;

6 (2) The substance has currently accepted medical use
7 in treatment in the United States; and

8 (3) The substance has limited physical dependence or
9 psychological dependence liability relative to the con-
10 trolled substances listed in Schedule IV.

§60A-2-212. Schedule V.

1 (a) The controlled substances listed in this section
2 are included in Schedule V.

3 (b) Narcotic drugs containing nonnarcotic active
4 medicinal ingredients. Any compound, mixture or prep-
5 aration containing any of the following limited quanti-

6 ties of narcotic drugs or salts thereof, which shall in-
7 clude one or more nonnarcotic active medicinal ingredi-
8 ents in sufficient proportion to confer upon the compound,
9 mixture or preparation valuable medicinal qualities
10 other than those possessed by the narcotic drug alone:

11 (1) Not more than 200 milligrams of codeine per 100
12 milliliters or per 100 grams and not more than 10 milli-
13 grams per dosage unit;

14 (2) Not more than 100 milligrams of dihydrocodeine
15 per 100 milliliters or per 100 grams and not more than 5
16 milligrams per dosage unit;

17 (3) Not more than 100 milligrams of ethylmorphine
18 per 100 milliliters or per 100 grams and not more than 5
19 milligrams per dosage unit;

20 (4) Not more than 2.5 milligrams of diphenoxylate and
21 not less than 25 micrograms of atropine sulfate per
22 dosage unit;

23 (5) Not more than 100 milligrams of opium per 100
24 milliliters or per 100 grams.

§60A-2-213. Review and printing of schedules by board; public information.

1 The state board of pharmacy shall annually review and
2 cause to be printed the schedules contained in this article,
3 which printed schedules shall be made available to the
4 public.

CHAPTER 177

(Com. Sub. for S. B. 16—By Mr. Galperin and Mr. Nelson)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine-a, re-

lating to open governmental proceedings; setting forth a declaration of legislative policy; defining terms; providing for open meetings; relating to the holding of such meetings; providing exceptions; relating to minutes of such meetings; and relating to enforcement.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 9A. OPEN GOVERNMENTAL PROCEEDINGS.

§6-9A-1. Declaration of legislative policy.

§6-9A-2. Definitions.

§6-9A-3. Proceedings to be open.

§6-9A-4. Exceptions.

§6-9A-5. Minutes.

§6-9A-6. Enforcement.

§6-9A-1. Declaration of legislative policy.

1 The Legislature hereby finds and declares that public
2 agencies, boards, commissions, governing bodies, councils
3 and all other public bodies in this state exist for the
4 singular purpose of representing citizens of this state
5 in governmental affairs, and it is, therefore, in the best
6 interests of the people of this state for all proceedings
7 of all public bodies to be conducted in an open and public
8 manner. The Legislature hereby further finds and de-
9 clares that the citizens of this state do not yield their
10 sovereignty to the governmental agencies which serve
11 them. The people in delegating authority do not give
12 their public servants the right to decide what is good
13 for them to know and what is not good for them to know.
14 The people insist on remaining informed so that they may
15 retain control over the instruments of government created
16 by them.

§6-9A-2. Definitions.

1 As used in this article:

2 (1) "Decision" means any determination, action, vote
3 or final disposition of a motion, proposal, resolution, order,

4 ordinance or measure on which a vote of the governing
5 body is required, at any meeting at which a quorum is
6 present;

7 (2) "Executive session" means any meeting or part
8 of a meeting of a governing body which is closed to the
9 public;

10 (3) "Governing body" means the members of any
11 public body having the authority to make decisions for
12 or recommendations to a public body on policy or adminis-
13 tration, the membership of which governing body con-
14 sists of two or more members;

15 (4) "Meeting" means the convening of a governing
16 body of a public body for which a quorum is required in
17 order to make a decision or to deliberate toward a decision
18 on any matter, but such term does not include (a) any
19 meeting for the purpose of making an adjudicatory deci-
20 sion in any quasi-judicial, administrative or court of
21 claims proceeding, (b) any on-site inspection of any
22 project or program, or (c) any political party caucus;

23 (5) "Political subdivision" means any county, county
24 board of education or municipality in or any other politi-
25 cal subdivision of this state;

26 (6) "Public body" means any executive, legislative or
27 administrative body or agency of this state or any political
28 subdivision, or any commission, board, council, bureau,
29 committee or subcommittee or any other agency of any
30 of the foregoing, and such term shall not be construed
31 to include the judicial branch of government, state or
32 local, or any political party executive committee; and

33 (7) "Quorum" means, unless otherwise defined by
34 applicable law, a simple majority of the constituent mem-
35 bership of a governing body.

§6-9A-3. Proceedings to be open.

1 Except as expressly and specifically otherwise pro-
2 vided by law, whether heretofore or hereinafter enacted,
3 and except as provided in section four of this article, all
4 meetings of any governing body shall be open to the

5 public. Any governing body may make and enforce
6 reasonable rules and regulations for attendance at any
7 meeting where there is not room enough for all members
8 of the public who wish to attend, and this article shall
9 not be construed to prohibit the removal from a meeting
10 of any member of the public who is disrupting the meet-
11 ing to the extent that orderly conduct of the meeting is
12 compromised.

§6-9A-4. Exceptions.

1 (a) Notwithstanding the provisions of section three
2 of this article, a governing body may hold an executive
3 session concerning and may make a decision in such
4 executive session concerning:

5 (1) Matters of war, threatened attack from a foreign
6 power, civil insurrection or riot; or

7 (2) The appointment, employment, retirement, pro-
8 motion, demotion, disciplining, resignation, discharge,
9 dismissal or compensation of any public officer or em-
10 ployee, or other personnel matters, or for the purpose of
11 conducting a hearing on a complaint against a public
12 officer or employee, unless such public officer or employee
13 requests an open meeting; or

14 (3) The disciplining, suspension or expulsion of any
15 student in any public school or public college or univer-
16 sity, unless such student requests an open meeting; or

17 (4) The issuance, effecting, denial, suspension or
18 revocation of a license, certificate or registration under
19 the laws of this state or any political subdivision, unless
20 the person seeking such license, certificate or registration
21 or whose license, certificate or registration was denied,
22 suspended or revoked requests an open meeting; or

23 (5) The physical or mental health of any person,
24 unless such person requests an open meeting; or

25 (6) Matters which if discussed in public would be
26 likely to affect adversely the reputation of any person; or

27 (7) Any official investigation or matters relating to
28 crime prevention or law enforcement; or

29 (8) The deployment of security personnel or devices;
30 or

31 (9) Matters involving or affecting the purchase, sale
32 or lease of property, advance construction planning, the
33 investment of public funds or other matters involving
34 competition which, if made public, might adversely affect
35 the financial or other interest of the state or any political
36 subdivision.

37 (b) Notwithstanding the provisions of section three
38 of this article, and in addition to the exceptions provided
39 in subsection (a) of this section four, a governing body
40 may, after convening a meeting open to the public, go
41 into executive session upon a vote of a majority of the
42 members of the governing body present, but no decision
43 shall be made in such an executive session but shall be
44 made only in a meeting open to the public. Notwith-
45 standing any other provision of law or of this article to
46 the contrary, all meetings of the West Virginia board of
47 probation and parole held to discuss whether to parole
48 any person shall be open to the public.

§6-9A-5. Minutes.

1 Each governing body shall provide for the preparation
2 of written minutes of all of its meetings. All such minutes,
3 other than the minutes of an executive session, shall be
4 available to the public within a reasonable time after
5 the meeting and shall include, at least, the following in-
6 formation:

7 (1) The date, time and place of the meeting;

8 (2) The name of each member of the governing body
9 present and absent;

10 (3) All motions, proposals, resolutions, orders, ordi-
11 nances and measures proposed, the name of the person
12 proposing the same and their disposition; and

13 (4) The results of all votes and, upon the request of
14 a member, the vote of each member, by name.

§6-9A-6. Enforcement.

1 Any action taken or decision made at a meeting held

2 in violation of the provisions of this article shall not be
3 void or voidable, but the circuit court of the county
4 wherein a governing body regularly meets, or the judge
5 thereof in vacation, shall have jurisdiction to enforce the
6 provisions of this article by mandamus or by injunction
7 on petition by any citizen of this state, and no injunction
8 bond shall be required.

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CHAPTER 178

(Com. Sub. for H. B. 1186—By Mr. Tompkins)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section thirty-one, article three, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of secretary of state of this state as true and lawful attorney for a nonresident motorist or if a natural person for his administrator, administratrix, executor or executrix for the service of process in any action or proceeding arising out of a motor vehicle accident in this state; requiring a bond and fee in connection therewith; specifying procedural details with respect to service under such section; relating to disposition of fee; defining words and phrases; and specifying that the provisions of such section are cumulative.

Be it enacted by the Legislature of West Virginia:

That section thirty-one, article three, 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 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

§56-3-31. Actions by or against nonresident operators of motor vehicles involved in highway accidents or their administrators, etc.

1 The operation by a nonresident, or by his duly authorized
2 agent, of a motor vehicle upon a public street, road or highway

3 of this state, shall be deemed equivalent to an appointment by
4 such nonresident of the secretary of state, or his successor in
5 office, to be his true and lawful attorney, or the true and law-
6 ful attorney of his administrator, administratrix, executor or
7 executrix in the event said nonresident is a natural person and
8 dies, upon whom may be served all lawful process in any action
9 or proceeding against him or if a natural person against his ad-
10 ministrator, administratrix, executor or executrix, in any court
11 of record in this state, including an action or proceeding brought
12 by a nonresident plaintiff or plaintiffs, growing out of any acci-
13 dent or collision in which such nonresident may be involved
14 while so operating or so permitting to be operated a motor
15 vehicle on any such street, road or highway, and such operation
16 shall be a signification of his agreement that any such process
17 against him, or if a natural person against his administrator, ad-
18 ministratrix, executor or executrix, which is served in the man-
19 ner hereinafter provided, shall be of the same legal force and
20 validity as though said nonresident or if a natural person his ad-
21 ministrator, administratrix, executor or executrix were personal-
22 ly served with a summons and complaint within this state.

23 Any such action or proceeding may be instituted, continued
24 or maintained on behalf of or against the administrator,
25 administratrix, executor or executrix of said nonresident who
26 dies during or subsequent to said operation of a motor vehicle
27 by such nonresident or his duly authorized agent.

28 (a) At the time of filing a complaint and before a sum-
29 mons is issued thereon, the plaintiff, or someone for him,
30 shall execute a bond in the sum of one hundred dollars before
31 the clerk of the court, with surety to be approved by said
32 clerk, conditioned that on failure of the plaintiff to prevail in
33 the action that he will reimburse the defendant, or cause
34 him to be reimbursed, the necessary expense incurred by
35 him in and about the defense of the action in this state,
36 and upon the issue of a summons the clerk will certify
37 thereon that said bond has been given and approved. Service
38 shall be made by leaving the original and two copies of
39 both the summons and complaint with the certificate afore-
40 said of the clerk thereon, and a fee of two dollars with said
41 secretary of state, or in his office, and said service shall be
42 sufficient upon said nonresident or if a natural person his ad-

43 ministrator, administratrix, executor or executrix: *Provided*,
44 That notice of such service and a copy of the summons and
45 complaint shall forthwith be sent by registered mail, return re-
46 ceipt requested, by said secretary of state to the defendant, and
47 the defendant's return receipt signed by himself or his duly
48 authorized agent or the registered mail so sent by said secretary
49 of state is refused by the addressee and the registered mail is re-
50 turned to said secretary of state, or to his office, showing there-
51 on the stamp of the post-office department that delivery has
52 been refused, is appended to the original summons and com-
53 plaint, and filed therewith in the clerk's office of the court from
54 which process issued. The court may order such continuances
55 as may be reasonable to afford the defendant opportunity to de-
56 fend the action.

57 (b) The fee of two dollars, remitted to the said secretary of
58 state at the time of service, shall be taxed in the costs of the
59 proceeding and said secretary of state shall pay into the state
60 treasury all funds so coming into his hands from such service.
61 The secretary of state shall keep a record in his office of all
62 such process and the day and hour of service thereof.

63 (c) The following words and phrases, when used in this
64 article, shall, for the purpose of this article and unless a differ-
65 ent intent on the part of the Legislature be apparent from the
66 context, have the following meanings:

67 (1) "Duly authorized agent" means and includes among
68 others a person who operates a motor vehicle in this state for a
69 nonresident as defined in this section and chapter, in pursuit of
70 business, pleasure, or otherwise, or who comes into this state
71 and operates a motor vehicle therein for, or with the knowledge
72 or acquiescence of, such nonresident; and shall include among
73 others a member of the family of such nonresident or a person
74 who, at the residence, place of business or post office of such
75 nonresident, usually receives and receipts for mail addressed to
76 such nonresident.

77 (2) "Motor vehicle" means and includes any self-propelled
78 vehicle, including motorcycle, tractor, and trailer, not operated
79 exclusively upon stationary tracks.

80 (3) "Nonresident" means any person who is not a resident

81 of this state or resident who has moved from the state subse-
82 quent to said accident or collision, and among others includes a
83 nonresident firm, partnership, corporation or voluntary associa-
84 tion, or a firm, partnership, corporation or voluntary associa-
85 tion that has moved from the state subsequent to said accident
86 or collision.

87 (4) "Nonresident plaintiff or plaintiffs" means a nonresident
88 who institutes an action in a court in this state having jurisdic-
89 tion against a nonresident in pursuance of the provisions of this
90 article.

91 (5) "Street," "road" or "highway" means the entire width
92 between property lines of every way or place of whatever
93 nature when any part thereof is open to the use of the public,
94 as a matter of right, for purposes of vehicular traffic.

95 (d) The provision for service of process herein is cumula-
96 tive and nothing herein contained shall be construed as a bar
97 to the plaintiff in any action from having process in such
98 action served in any other mode and manner provided by law.

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CHAPTER 179

(S. B. 332—By Mr. Jones and Mr. Darby)

[Passed March 7, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section four, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to persons permitted to practice medicine and surgery; certain physicians not to be ineligible to practice under temporary license permit in certain facilities; additional facilities wherein certain physicians may be eligible to practice under temporary license permit; certain physicians not to be ineligible to practice under temporary license permit for failure to pass medical examination.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter thirty of the code of

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

ARTICLE 3. PHYSICIANS AND SURGEONS.

§30-3-4. Who permitted to practice medicine and surgery in this state; licensing of licensed practitioners from other states; permits to practice in prescribed areas.

1 The following persons and no others shall hereafter be
2 permitted to practice medicine and surgery in this state;
3 (a) All such persons as shall be legally entitled to prac-
4 tice medicine and surgery in this state including those
5 persons holding temporary permits to practice in pre-
6 scribed areas as of the effective date of this section; (b)
7 all such persons as shall be graduates of medical schools,
8 as approved by the medical licensing board of West Vir-
9 ginia, and who provide their original diplomas or evi-
10 dence thereof for authentication by the medical licensing
11 board, and who shall pass an examination before the
12 medical licensing board and shall receive a certificate
13 therefrom as hereinafter provided: *Provided*, That the
14 said board, or a majority of them, may accept in lieu of
15 an examination of applicants, the certificate of the
16 national board of medical examiners, or diplomate certifi-
17 cate from an American specialty board, such certification
18 shall be limited to that specific specialty in the practice
19 of medicine and surgery in this state, or the certificate of
20 license to practice medicine and surgery legally granted
21 by the state board of registration or examination or
22 licensing board of another state or territory, whose stan-
23 dard of qualification for the practice of medicine and
24 surgery is equivalent to that of this state, and grant to
25 such applicant a certificate of license to practice medi-
26 cine and surgery in this state: *Provided, however*, That
27 any physician who has been certified by the Educational
28 Council for Foreign Medical Graduates or who, as of the
29 effective date of this section, holds a temporary permit to
30 practice in a prescribed area, shall not be ineligible for a
31 temporary license permit to practice in any mental health
32 or state owned facility and, when under the supervision
33 of a licensed physician, in any hospital, clinic, physician's
34 office and any other approved health care facility until

35 July one, one thousand nine hundred eighty, by virtue
36 of his failure to pass the medical examination prescribed
37 by the board, so long as such physician shall take said
38 examination at least once each year: *Provided*, That the
39 board shall not limit the number of times a physician
40 may take the medical examination. Whenever in the judg-
41 ment of the medical licensing board a condition exists
42 in which medical service may be required, the said
43 board is authorized to grant permits for the practice of
44 medicine to qualified physicians in prescribed areas, and
45 such permits shall be subject to revocation when the
46 agreement, under which they were issued, has been
47 violated.

48 A fee of one hundred dollars shall accompany each
49 application for licensure by examination, reexamination,
50 or reciprocity, twenty-five dollars of which shall be re-
51 tained by the board in the event an application is with-
52 drawn or rejected. A fee of twenty-five dollars shall
53 accompany each application for temporary permits and
54 a fee of ten dollars shall accompany each application for
55 an extension thereof.

CHAPTER 180

(S. B. 510—By Mr. Darby)

[Passed March 8, 1975; in effect ninety days 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 three-c, relating to health care peer review organizations; defining terms; and providing immunity from civil liability, with certain exceptions, to persons who provide information to, or who are members or employees of, such organizations.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-c, to read as follows:

ARTICLE 3C. HEALTH CARE PEER REVIEW ORGANIZATIONS.

§30-3C-1. Definitions.

§30-3C-2. Immunity from liability.

§30-3C-1. Definitions.

1 As used in this article:

2 "Health care professionals" means individuals who are
3 licensed to practice in any health care field under the laws
4 of this state.

5 "Peer review" means the procedure for evaluation by
6 health care professionals of the quality and efficiency of
7 services ordered or performed by other health care pro-
8 fessionals, including practice analysis, inpatient hospital
9 and extended care facility utilization review, medical
10 audit, ambulatory care review, and claims review.

11 "Professional society" includes medical, psychological,
12 nursing, dental, optometric, pharmaceutical, chiropractic
13 and podiatric organizations having as members at least a
14 majority of the eligible licentiates in the area or health
15 care facility or agency served by the particular organiza-
16 tion.

17 "Review organization" means any committee or organ-
18 ization engaging in peer review, including a hospital
19 utilization review committee, a hospital tissue committee,
20 a medical audit committee, a health insurance review
21 committee, a hospital plan corporation review committee,
22 a professional health service plan review committee or
23 organization, a dental review committee, a physicians'
24 advisory committee, a podiatry advisory committee, a
25 nursing advisory committee, any committee or organiza-
26 tion established pursuant to a medical assistance pro-
27 gram, and any committee established by one or more
28 state or local professional societies or institutes, to gather
29 and review information relating to the care and treatment
30 of patients for the purposes of (i) evaluating and im-
31 proving the quality of health care rendered; (ii) reducing

32 morbidity or mortality; or (iii) establishing and enforcing
33 guidelines designed to keep within reasonable bounds the
34 cost of health care. It shall also mean any hospital board
35 committee, or organization reviewing the professional
36 qualifications or activities of its medical staff or appli-
37 cants for admission thereto, and any professional stan-
38 dards review organizations established or required under
39 state or federal statutes or regulations.

§30-3C-2. Immunity from liability.

1 (a) Notwithstanding any other provision of law, no
2 person providing information to any review organization
3 shall be held, by reason of having provided such infor-
4 mation, to be civilly liable under any law, unless:

5 (1) Such information is unrelated to the performance
6 of the duties and functions of such review organization,
7 or (2) such information is false and the person providing
8 such information knew, or had reason to believe, that
9 such information was false.

10 (b) No member or employee of any review organiza-
11 tion who furnishes professional counsel or services to
12 such organization shall be held by reason of the per-
13 formance by him of any duty, function or activity au-
14 thorized or required of review organizations to be civilly
15 liable, if he has exercised due care in such performance.
16 The foregoing provisions of this subsection shall not apply
17 with respect to any action taken by any individual if
18 such individual, in taking such action, was motivated by
19 malice toward any person affected by such action.

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CHAPTER 181

(S. B. 168—By Mr. Gilligan and Mr. Harman)

[Passed February 19, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article five, chapter thirty of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to reducing from one year to nine months the period of time of practical experience which a person seeking to be registered as a pharmacist must serve under the instruction and supervision of a registered pharmacist before such person can be so registered; prescribing certain other qualifications for registration as a pharmacist; and relating to certain certificates of registration.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND DRUGSTORES.

§30-5-5. Qualifications for registration as pharmacist; certificates of registration.

1 In order to be registered as a pharmacist within the
2 meaning of this article, a person shall be a citizen of the
3 United States, not less than eighteen years of age, shall
4 present to the board of pharmacy satisfactory evidence
5 that he is a graduate of a recognized school of pharmacy
6 as defined by the board of pharmacy. In addition thereto,
7 he shall have had at least nine months of practical experi-
8 ence in a pharmacy or drugstore under the instruction and
9 supervision of a registered pharmacist and shall pass
10 satisfactorily an examination by or under the direction of
11 the board of pharmacy. Each application for examination
12 must be accompanied by a fee of fifty dollars, which shall
13 be forwarded to the secretary according to law.

14 Every applicant for registration as a pharmacist shall
15 present to the board of pharmacy satisfactory evidence
16 that he is a person of good moral character and not
17 addicted to drunkenness or the use of controlled substan-
18 ces. The board shall issue certificates of registration to all
19 persons who successfully pass the required examination
20 and are otherwise qualified and to all those whose certifi-
21 cates or licenses the board shall accept in lieu of an ex-
22 amination as provided in section six of this article.

CHAPTER 182

(H. B. 968—By Mr. Altmeyer and Mr. Rollins)

[Passed March 5, 1975; in effect July 1, 1976. Approved by the Governor.]

AN ACT to amend and reenact section six, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disposition of fees and other moneys remaining with the West Virginia board of embalmers and funeral directors after payment of expenses.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. EMBALMERS AND FUNERAL DIRECTORS.

§30-6-6. Examination, registration and renewal fees; disposition of fees; report to governor.

1 The examination fee for a funeral director's license shall be
2 fifty dollars and shall be remitted at the time the application for
3 a funeral director's license is submitted to the board.

4 The examination fee for an embalmer's license shall be
5 fifty dollars and shall be remitted at the time the application
6 for an embalmer's license is submitted to the board.

7 All the licenses and certificates of registration shall expire
8 on the thirtieth day of June of each calendar year and the
9 renewal date for all licenses and certificates shall be the
10 first day of July of each calendar year.

11 The annual renewal fee for embalmer's license, funeral
12 director's license, assistant funeral director's license, or ap-
13 prentice registration shall be five dollars and shall be paid
14 on or before the first day of July of each calendar year.

15 Any person who has been duly licensed as a funeral
16 director or as an embalmer under the laws of this state but
17 who fails to renew his license within ninety days after the

18 expiration date for renewals, may file an application for a
19 renewal of his license, without examination, upon payment of
20 a penalty of ten dollars and the required renewal fee.

21 Any person who has been duly licensed as a funeral
22 director or as an embalmer under the laws of this state but
23 who fails to renew his license within one year after the
24 expiration date for renewals, may file an application for a
25 renewal of his license, without examination, upon payment of
26 a penalty of twenty-five dollars and the required renewal fee.

27 A funeral director or an embalmer whose license has lapsed
28 one year or more shall make application to the board for a
29 new license in compliance with the provisions of this article
30 relating to unlicensed persons.

31 Any person who has been duly licensed as an assistant
32 funeral director and fails to renew his license within ninety
33 days after the expiration date for renewal may file an appli-
34 cation for renewal of his license upon payment of a penalty of
35 ten dollars and the required renewal fee. Otherwise, after the
36 said period of ninety days, his license will automatically be
37 canceled.

38 Any person who has been duly registered as an apprentice
39 embalmer or apprentice funeral director and fails to renew his
40 registration within ninety days after the expiration date for
41 renewals may file an application for such renewal upon pay-
42 ment of a penalty of two dollars and the required renewal fee.
43 Otherwise, after the said period of ninety days, his registra-
44 tion will automatically be canceled.

45 All fees and other moneys received by the board pursuant
46 to the provisions of this article shall be kept in a separate
47 fund and expended solely for the purposes of this article. After
48 expenditures for the fiscal year, of the remaining moneys, all
49 sums in excess of ten thousand dollars in the separate fund
50 shall revert to the general fund of the state. The compensation
51 provided by this article and all expenses incurred the payment
52 of which is authorized under this article shall be paid from this
53 separate fund. No compensation or expense incurred under
54 this article shall be a charge against the general funds of the
55 state.

CHAPTER 183

(H. B. 1317—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the practice of veterinary medicine and deleting the provision allowing any person with ten years' experience to practice veterinary medicine if the services of a veterinarian are not available within a reasonable time or at a reasonable cost.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, 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 10. VETERINARIANS.

§30-10-2. License or permit required; exceptions.

1 No person may, for a fee or other compensation, practice
2 veterinary medicine in this state without a license or a tem-
3 porary permit issued by the board in accordance with the
4 provisions of this article, which license or permit remains
5 unexpired, unsuspended and unrevoked. This article shall,
6 however, not be construed to prohibit:

7 (a) Any employee of the federal, state or local govern-
8 ment from performing his official duties, as defined by his
9 employing agency;

10 (b) Any person who is a regular student in a veterinary
11 school from performing research assigned by his instructors,
12 or from working under the direct supervision of a licensed
13 veterinarian during a school vacation period;

14 (c) Any person from advising with respect to or performing
15 acts which the board has prescribed as accepted livestock
16 management practices;

17 (d) Any veterinarian regularly licensed in another state
18 from consulting with a licensed veterinarian in this state;

19 (e) The owner of an animal, the owner's employees, or
20 persons assisting the owner without any fee or compensation,
21 from caring for and treating such animal, except where the
22 ownership of such animal was transferred for the purpose of
23 circumventing the provisions of this article;

24 (f) Any member of the faculty of a veterinary school from
25 performing his regular functions, or any person from lecturing,
26 or giving instructions or demonstrations, at a veterinary school
27 or in connection with a continuing education course or
28 seminar;

29 (g) Any person from selling or applying any pesticide,
30 insecticide or herbicide;

31 (h) Any person from engaging in bona fide scientific
32 research which reasonably requires experimentation involving
33 animals;

34 (i) Any person from engaging in bona fide scientific
35 research in consultation with a licensed veterinarian in this
36 state;

37 (j) The treatment or relief of any living animal in the
38 case of an emergency or the disposal of the carcass of a dead
39 animal;

40 (k) Any person, with reference to domestic animals, from
41 performing care and treatment of such animals, provided that
42 such person other than those not prohibited otherwise in
43 this section shall be allowed to continue after the first
44 day of January, one thousand nine hundred seventy-six,
45 only if such person meets the minimum requirements set
46 out by the veterinary licensing board for certification of
47 licensing as veterinarians, veterinary assistants or veterinary
48 technicians;

49 (l) The practice of veterinary medicine by those certain
50 persons who were licensed to practice under the laws of this
51 state on the effective date of this section or the practice of vet-
52 erinary medicine by those certain persons who were permitted
53 to practice by the provisions of chapter thirty-three, acts of the
54 Legislature, regular session, one thousand nine hundred fifteen,
55 notwithstanding any of the provisions contained in section six,
56 article ten, chapter thirty of this code to the contrary; or

- 57 (m) The veterinary licensing board from certifying and
58 licensing veterinary assistants or technicians to work under
59 the direct supervision of a licensed veterinarian.

CHAPTER 184

(H. B. 938—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact article thirteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the practice of professional engineering and the registration of persons engaging in the practice of professional engineering; providing legislative findings, intent and declaration of public policy; defining terms; requiring registration of persons engaging in the practice of professional engineering; providing prohibitions and restrictions on certain activities; continuing the West Virginia state board of registration for professional engineers; providing for the appointment, qualifications, terms of office, oath, removal and payment of compensation and expenses of members of the board; relating to the election of officers, meetings and quorum of the board; specifying powers and duties of the board; relating to the receipt and disbursement of funds by the board; establishing qualifications of applicants for registration; providing for reciprocal registration of certain professional engineers; providing for applications and fees for examinations and certificates of registration; providing for the issuance of certificates of registration, renewal thereof and fees in connection therewith; relating to the certificate of registration and the requirement and use of a seal for professional engineers; providing for various exemptions from said article thirteen; relating to partnerships, corporations and other business entities and the practice of professional engineering; authorizing board to suspend or revoke certificate of registration and establishing the grounds therefor; relating to resignation of registrant; authorizing said board to hold hearings; providing a time and place for such hearings; specifying that provisions of chapter twenty-

nine-a of the code shall govern the hearings; authorizing the board to issue subpoenas and subpoenas duces tecum in connection with such hearings; providing automatic stay or suspension of certain orders of board pending such hearing; relating to the cost of such hearing; providing for judicial review of decisions of the board entered following such hearing; providing for appeals to the supreme court of appeals; providing legal representation for the board; providing for injunctive relief; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. ENGINEERS.

- §30-13-1. Legislative findings; intent.
- §30-13-2. Definitions.
- §30-13-3. Registration required to practice professional engineering; prohibitions and restrictions.
- §30-13-4. Continuation of board of registration for professional engineers; members, terms, meetings, officers, oath and expenses; general provisions.
- §30-13-5. Powers and duties of board; funds of board.
- §30-13-6. Qualifications of applicants; reciprocity; applications; fees.
- §30-13-7. Registration; certificate of registration; renewal; renewal fee; expiration; seal.
- §30-13-8. Exemptions.
- §30-13-9. Application of article to partnerships, corporations and other business entities.
- §30-13-10. Suspension or revocation of certificate of registration; resignation.
- §30-13-11. Order denying application or suspending or revoking certificate; procedures for hearing.
- §30-13-12. Judicial review; appeal to supreme court of appeals; legal representation for board.
- §30-13-13. Actions to enjoin violations.
- §30-13-14. Offenses and penalties.

§30-13-1. Legislative findings; intent.

1 The Legislature of the state of West Virginia hereby deter-
 2 mines and finds that the advancing state of knowledge in
 3 mathematical, physical, and engineering sciences as applied in
 4 the practice of professional engineering has a critical impact on
 5 the lives, property, economy, security and the general health
 6 and welfare of our state and our citizens. Therefore, the Legis-
 7 lature declares that in order to protect public health, safety,

8 welfare, property and the general public interest, the practice
9 of professional engineering must be regulated and controlled
10 in accordance with this article in order to insure that the
11 privilege of practicing professional engineering shall only be
12 entrusted to persons with necessary qualifications, good char-
13 acter, education, training and experience. In furtherance of
14 such intent and purpose of the Legislature, the practice of en-
15 gineering is hereby declared a learned profession to be prac-
16 ticed and regulated as such and its practitioners in this state
17 shall be held accountable to the state and members of the pub-
18 lic by high professional standards in keeping with the ethics
19 and practices of other learned professions in this state.

§30-13-2. Definitions.

1 (a) Unless the context in which used clearly requires a dif-
2 ferent meaning as used in this article:

3 (1) "Applicant" means any person making application for
4 registration, whether original or renewal, under the provisions
5 of this article.

6 (2) "Board" means the West Virginia state board of regis-
7 tration for professional engineers as provided for in this
8 article.

9 (3) "Certificate of registration" means a license issued by
10 the state granting its licensee the privilege of practicing pro-
11 fessional engineering in accordance with the provisions of this
12 article.

13 (4) "Current certificate of registration" means a certifi-
14 cate of registration issued pursuant to the provisions of this
15 article or under the prior provisions of this article which certifi-
16 cate is and remains unexpired, unsuspended or unrevoked.

17 (5) "Practice of professional engineering" means performing
18 or doing, or offering or attempting to do or perform any pro-
19 fessional service or creative work such as consultation, investi-
20 gation, evaluation, planning, design or inspection of construc-
21 tion for the purpose of assuring compliance with drawings and
22 specifications, in connection with any public or private utilities,
23 structures, buildings, machines, equipment, processes, work
24 or projects, wherein the public welfare, or the safeguarding of

25 life, health or property is concerned or involved, when such
26 professional service requires engineering education, training
27 and experience in the application of special knowledge of the
28 mathematical, physical, or engineering sciences to such ser-
29 vices or creative work.

30 (6) "Professional engineer" means any person who by rea-
31 son of his knowledge of mathematics, the physical sciences,
32 and the principles of engineering, acquired by professional
33 education and practical experience, is qualified to engage in
34 the practice of professional engineering and holds a current
35 certificate of registration.

36 (7) "Registrant" means any person registered under the
37 provisions of this article.

**§30-13-3. Registration required to practice professional engineer-
ing; prohibitions and restrictions.**

1 (a) From and after the effective date of this article, no
2 person in this state who does not hold a current certificate
3 of registration shall:

4 (1) Practice, continue to practice, offer or attempt to prac-
5 tice professional engineering or any branch or part thereof;

6 (2) Directly or indirectly, employ, use, cause to be used
7 or make use of any of the following terms or any combinations,
8 variations or abbreviations thereof as a professional, business
9 or commercial identification, title, name, representation, claim,
10 asset or means of advantage or benefit: "professional engi-
11 neer," "licensed engineer," "registered professional engineer."
12 "licensed professional engineer";

13 (3) Directly or indirectly, employ, use, cause to be used or
14 make use of any letter, abbreviation, word, symbol, slogan,
15 sign or any combinations or variations thereof, which in any
16 manner whatsoever tends or is likely to create any impression
17 with the public or any member thereof that any person is quali-
18 fied or authorized to practice professional engineering; or

19 (4) Receive any fee or compensation or the promise of any
20 fee or compensation for performing, offering or attempting to
21 perform any service, work, act or thing which is any part of

22 the practice of professional engineering as defined by this
23 article.

24 (b) Nothing contained in this article shall under any circum-
25 stances whatever be construed as in any way affecting the
26 laws relating to the practicing, licensing, certification or regis-
27 tration of architects, landscape architects and land surveyors.

§30-13-4. Continuation of board of registration for professional engineers; members, terms, meetings, officers, oath and expenses; general provisions.

1 There is hereby continued the West Virginia state board of
2 registration for professional engineers created under prior
3 provisions of this article. The board shall be composed of five
4 professional engineers appointed by the governor by and with
5 the advice and consent of the Senate. The members of the
6 board as constituted under prior provisions of this article shall
7 continue in office until the expiration of the term for which
8 each was appointed, and as the terms of the present members
9 shall expire appointments shall be made for terms of five
10 years so as to have the term of one member expire each year.
11 Each member shall hold office until the expiration of the term
12 for which such member is appointed or until a successor shall
13 have been duly appointed and shall have qualified. No person
14 may serve on the board for more than three consecutive full
15 terms. Before entering upon the performance of his duty, each
16 member shall take and subscribe to the oath prescribed by
17 section five, article four of the constitution of this state. Vac-
18 ancies shall be filled by appointment by the governor for the
19 unexpired term of the member whose office shall be vacant
20 and such appointment shall be made within sixty days of the
21 occurrence of such vacancy. Any member may be removed by
22 the governor in case of incompetency, neglect of duty, gross
23 immorality or malfeasance in office.

24 Each member of the board shall be a citizen of the United
25 States and a resident of this state, and shall have been engaged
26 in the practice of professional engineering for at least ten
27 years, and shall have been in responsible charge of engineering
28 work for at least five years. Each member of the board shall
29 hold a current certificate of registration.

30 The board shall elect from its membership a president and
31 a secretary who shall serve at the will and pleasure of the
32 board. A majority of the board shall constitute a quorum and
33 meetings shall be held at the call of the president or upon re-
34 quest of two members at such time and place as designated in
35 such call or request. In any event, the board shall meet at
36 least once annually to conduct the examination hereinafter
37 provided for and to transact such other business as may come
38 before it. Members may be paid such reasonable compensa-
39 tion as the board may from time to time determine, and in
40 addition may be reimbursed for all reasonable and necessary
41 expenses actually incurred in the performance of their duties,
42 which compensation and expenses shall be paid in accordance
43 with the provisions of subsection (b), section five of this
44 article.

§30-13-5. Powers and duties of board; funds of board.

- 1 (a) The board shall:
 - 2 (1) Examine applicants and determine their eligibility to
3 be registered as a professional engineer;
 - 4 (2) Prepare or approve, administer, and grade appropriate
5 written or written and oral examinations for applicants to as-
6 certain whether an applicant is qualified as to the theory and
7 practice of professional engineering;
 - 8 (3) Determine the time and place for any examination and
9 the passing score of such examination;
 - 10 (4) Promulgate reasonable rules and regulations imple-
11 menting the provisions of this article and the powers and dut-
12 ies conferred upon the board hereby, all of which reasonable
13 rules and regulations shall be promulgated in accordance with
14 the provisions of article three, chapter twenty-nine-a of this
15 code;
 - 16 (5) Establish and promulgate, as a part of the rules and
17 regulations, reasonable standards of conduct and ethics for
18 professional engineers in keeping with the purposes and intent
19 of this article;
 - 20 (6) Issue, renew, deny, suspend or revoke a certificate of
21 registration in accordance with the provisions of this article

22 and, in accordance with the administrative procedures herein-
23 after provided, may review, affirm, reverse or modify its order
24 with respect to any such issuance, renewal, denial, suspension
25 or revocation;

26 (7) Investigate alleged violations of the provisions of this
27 article, reasonable rules and regulations promulgated here-
28 under and final decisions of the board and take appropriate
29 disciplinary action, including a written public or private reprimand,
30 against any registrant for the violation thereof or institute
31 appropriate legal action for the enforcement of the provisions
32 of this article, reasonable rules and regulations promulgated
33 hereunder and orders and final decisions of the board
34 or take such disciplinary action and institute such legal action;

35 (8) Purchase or rent necessary office space, equipment and
36 supplies and employ, direct, discharge and define the duties
37 of full-time or part-time professional, clerical or other personnel
38 as may be necessary to effectuate the provisions of this
39 article;

40 (9) Keep accurate and complete records of its proceedings,
41 certify the same as may be appropriate, prepare from time to
42 time, a list showing the names and addresses of all registrants,
43 and submit to the governor a report on the transactions of the
44 board, including an accounting of all moneys received and
45 disbursed;

46 (10) Take such other action as may be reasonably necessary
47 or appropriate to effectuate the provisions of this article.

48 (b) All moneys paid to the board shall be accepted by a
49 person designated by the board and deposited by him with the
50 treasurer of the state and credited to an account to be known
51 as the "board of professional engineers." The compensation of
52 and the reimbursement of all reasonable and necessary expenses
53 actually incurred by the members of the board and all
54 other costs and expenses incurred by the board in the administration
55 of this article shall be paid from such fund, and
56 no part of the state's general revenue fund shall be expended
57 for this purpose.

§30-13-6. Qualifications of applicants; reciprocity; applications; fees.

1 (a) To be eligible for registration as a professional engineer,
2 the applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Not have been convicted of a felony in any court in this
6 state or any federal court in this or any other state within ten
7 years preceding the date of application for registration, which
8 conviction remains unreversed; and not have been convicted of
9 a felony in any court in this state or any federal court in this
10 or any other state at any time if the offense for which he was
11 convicted related to the practice of professional engineering,
12 which conviction remains unreversed;

13 (4) Either (i) be a graduate of a school or college in an
14 engineering curriculum approved by the board and have a
15 specific record of an additional four years or more of experi-
16 ence in engineering work of a character satisfactory to the
17 board indicating that the applicant is competent to practice
18 engineering; or (ii) be a graduate of a school or college in a
19 science curriculum approved by the board and have a specific
20 record of an additional six years or more of experience in
21 engineering work of a character satisfactory to the board in-
22 dicating that the applicant is competent to practice engineer-
23 ing; or (iii) have a record of at least ten years of education and
24 experience in engineering which in the opinion of the board is
25 substantially equivalent to (i) or (ii) as set forth hereinabove;
26 and

27 (5) Have passed the examination prescribed and adminis-
28 tered by the board in accordance with the provisions of this
29 article.

30 (b) The board may issue a certificate of registration as a
31 professional engineer to any person who holds an unrevoked
32 license or a certificate of registration issued to him by any
33 state, territory, or possession of the United States: *Provided,*
34 That the applicant's qualifications are in the opinion of the
35 board equal to or greater than the requirements of this article
36 and the rules and regulations established by the board.

37 (c) Any applicant for registration under the provisions of
38 subsection (a) or (b) of this section shall submit an appli-
39 cation therefor at such time, in such manner, on such forms
40 and containing such information as the board may from time
41 to time by reasonable rule and regulation prescribe. The regis-
42 tration fee for professional engineers shall be fifty dollars,
43 twenty-five dollars of which shall accompany the application,
44 the remaining twenty-five dollars to be paid upon issuance of
45 certificate. Should the board deny the issuance of a certificate
46 to any applicant, the initial fee deposited shall be retained.
47 Applicants failing any portion of the examinations will be re-
48 quired to pay a fee not to exceed twenty-five dollars for each
49 subsequent examination period for which he must appear.

**§30-13-7. Registration; certificate of registration; renewal; renewal
fee; expiration; seal.**

1 Whenever the board finds that an applicant is eligible
2 for registration under the requirements of this article, it
3 shall forthwith issue to him a certificate of registration; and
4 otherwise the board shall deny the same. The board shall
5 prescribe the form of the certificate of registration. Certifi-
6 cates of registration shall expire on the thirtieth day of June
7 of each year, but shall be renewable each year without
8 examination upon application for renewal on a form prescribed
9 by and filed with the board and payment to the board of an
10 annual renewal fee in such amount as may be prescribed
11 by the board not to exceed thirty dollars. The secretary of
12 the board shall notify every registrant of the expiration
13 date and the amount of the renewal fee for one year.

14 All certificates of registration not renewed are null and
15 void but may be renewed within two years after expiration
16 date for a maximum fee of fifty dollars. Any person who
17 does not renew his certificate of registration during the two
18 years after its expiration date shall not be eligible for renewal
19 as provided in this section but may submit an original appli-
20 cation to the board as provided in this article.

21 Each registrant shall obtain a seal or stamp of a design
22 authorized by the board, bearing his name and the legend
23 "registered professional engineer, state of West Virginia,"
24 and such other words or figures as the board may prescribe.

25 Plans, specifications, plats and reports issued by a registrant
26 shall be stamped or sealed. It shall be unlawful for anyone to
27 stamp or seal any document unless the registrant named
28 thereon holds a current certificate of registration.

§30-13-8. Exemptions.

1 (a) The following persons shall be exempt from registra-
2 tion under the provisions of this article:

3 (1) Any employee of a person, partnership, corporation
4 or other business entity which is engaged in the practice of pro-
5 fessional engineering in conformity with the provisions of this
6 article and any employee of a person exempted from registra-
7 tion by subsection (b) of this section: *Provided*, That such em-
8 ployee does not have final authority for the approval of, and the
9 ultimate responsibility for, engineering designs, plans or
10 specifications.

11 (2) Any regular full-time employee of a person, partner-
12 ship, corporation or other business entity who is engaged
13 solely and exclusively in performing services for such person,
14 partnership, corporation, or other business entity, who is
15 not required by any provision of law other than this article
16 thirteen to be a registered professional engineer and whose
17 services are performed on, or in connection with, property
18 owned or leased by such person, partnership, corporation or
19 other business entity, or in which such person, partnership,
20 corporation or other business entity has an interest, estate or
21 possessory right, and are not offered or made available to
22 the public. This exemption includes the use of job title and
23 personnel classifications by such persons, but no name, title
24 or words may be used which tend to convey the impression
25 that an unlicensed person is offering professional engineering
26 services to the public.

27 (3) Officers and employees of the government of the
28 United States while engaged within this state in the practice
29 of professional engineering for such government.

30 (4) Any regular full-time employee of any investor-owned
31 public utility, its affiliates or associated companies, while
32 engaged solely in performing services which are not offered

33 directly to the public, and which are performed in connection
34 with or incidental to the products, systems or services of such
35 investor-owned public utility, its affiliates or associated com-
36 panies.

37 (b) A person who is not a resident of this state or who
38 does not have an established place of business in this state
39 and is currently registered or licensed as a professional
40 engineer in his state of residency or in the state of his principal
41 place of practice, may, without registration in this state, be
42 granted permission by the board to practice professional
43 engineering in this state on a specific project for the dura-
44 tion of such specific project. Such person seeking per-
45 mission shall apply to the board in writing and pay a
46 fee of fifty dollars: *Provided*, That such privilege to practice
47 professional engineering in this state shall be confined to
48 the terms of the written permit granted by the board and no
49 other practice of professional engineering shall be allowed.

§30-13-9. Application of article to partnerships, corporations and other business entities.

1 Partnerships, corporations or other business entities may
2 engage in the practice of professional engineering in this state
3 provided such practice is carried on by professional engineers
4 registered in accordance with this article.

§30-13-10. Suspension or revocation of certificate of registration; resignation.

1 (a) The board may at any time upon its own motion, and
2 shall upon the verified written complaint of any person filed
3 with the board, conduct an investigation to determine whether
4 there are any grounds for the suspension or revocation of a
5 certificate of registration issued under the provisions of this
6 article or under the prior provisions of this article.

7 (b) The board may suspend or revoke any certificate of
8 registration when it finds that the registrant has:

9 (1) Been convicted of a felony in any court in this state or
10 any federal court in this or any other state within ten years pre-
11 ceding the effective date of such suspension or revocation,
12 which conviction remains unreversed; or been convicted of a

13 felony in any court in this state or any federal court in this or
14 any other state at any time if the offense for which he was con-
15 victed related to the practice of professional engineering, which
16 conviction remains unreversed;

17 (2) Obtained such certificate of registration by means of
18 fraud or deceit;

19 (3) Been incompetent, grossly negligent or guilty of other
20 malpractice or misconduct as defined by the board by reason-
21 able rules and regulations;

22 (4) Failed or refused to comply with any provision of this
23 article or any reasonable rule or regulation promulgated by the
24 board hereunder or any order or final decision of the board;
25 or

26 (5) Affixed his seal or stamp to any plans, plats, drawings,
27 specifications, reports or other instruments of service which
28 were not prepared by him or under his immediate and re-
29 sponsible supervision, or permitted his name to be used for the
30 purpose of assisting any person to evade the provisions of
31 this article.

32 (c) The board may also suspend or revoke any certificate
33 of registration if it finds the existence of any grounds which
34 would have justified the denial of the application for such
35 certificate of registration at the time the original certificate
36 of registration was granted.

37 (d) Any such suspension or revocation of a certificate of
38 registration shall be for the period prescribed by the board in
39 a written order of suspension or revocation.

40 (e) A person holding a certificate of registration issued by
41 the board may voluntarily resign his registration by filing a
42 verified petition with the board stating his desire to do so, and
43 by surrendering therewith his certificate of registration; where-
44 upon his name shall be deleted from the official roster.

**§30-13-11. Order denying application or suspending or revoking
certificate; procedures for hearing.**

1 (a) Whenever the board shall deny an application for any
2 original or renewal certificate of registration or shall suspend
3 or revoke any such certificate of registration, it shall make and

4 enter an order to that effect and serve a copy thereof on the
5 applicant or registrant, as the case may be, by certified mail,
6 return receipt requested. Such order shall state the grounds for
7 the action taken and shall require that any certificate of regis-
8 tration suspended or revoked thereby shall be returned to the
9 board by the holder thereof within twenty days after receipt
10 of said copy of said order.

11 (b) Any person adversely affected by any such order shall
12 be entitled to a hearing thereon (as to all issues not excluded
13 from the definition of a "contested case" as set forth in article
14 one, chapter twenty-nine-a of this code) if, within twenty days
15 after receipt of a copy thereof, he files with the board a written
16 demand for such hearing. A demand for hearing shall operate
17 automatically to stay or suspend the execution of any order
18 suspending or revoking a certificate of registration or denying
19 an application for a renewal certificate of registration. The
20 board may require the person demanding such hearing to give
21 reasonable security for the costs thereof and if such person
22 does not substantially prevail at such hearing such costs shall
23 be assessed against him and may be collected by a civil action
24 or other proper remedy.

25 (c) Upon receipt of a written demand for such hearing,
26 the board shall set a time and place therefor not less than
27 ten and not more than thirty days thereafter. Any scheduled
28 hearing may be continued by the board upon its own motion or
29 for good cause shown by the person demanding the hearing.

30 (d) All of the pertinent provisions of article five, chapter
31 twenty-nine-a of this code shall apply to and govern the hearing
32 and the administrative procedures in connection with and fol-
33 lowing such hearing, with like effect as if the provisions of
34 said article five were set forth in this subsection.

35 (e) Any such hearing shall be conducted by a quorum of the
36 board. For the purpose of conducting any such hearing, any
37 member of the board shall have the power and authority to
38 issue subpoenas and subpoenas duces tecum which shall be
39 issued and served within the time, for the fees and shall be
40 enforced, as specified in section one, article five of said chap-
41 ter twenty-nine-a, and all of the said section one provisions
42 dealing with subpoenas and subpoenas duces tecum shall ap-

43 ply to subpoenas and subpoenas duces tecum issued for the
44 purpose of a hearing hereunder.

45 (f) At any such hearing the person who demanded the same
46 may represent himself or be represented by an attorney at law
47 admitted to practice before any circuit court of this state.
48 Upon request by the board, it shall be represented at any such
49 hearing by the attorney general or his assistants without addi-
50 tional compensation.

51 (g) After any such hearing and consideration of all of the
52 testimony, evidence and record in the case, the board shall
53 render its decision in writing. The written decision of the
54 board shall be accompanied by findings of fact and conclusions
55 of law as specified in section three, article five, chapter twenty-
56 nine-a of this code, and a copy of such decision and accom-
57 panying findings and conclusions shall be served by certified
58 mail, return receipt requested, upon the person demanding such
59 hearing, and his attorney of record, if any.

60 (h) The decision of the board shall be final unless reversed,
61 vacated or modified upon judicial review thereof in accordance
62 with the provisions of section twelve of this article.

**§30-13-12. Judicial review; appeal to supreme court of appeals;
legal representation for board.**

1 Any person adversely affected by a decision of the board
2 rendered after a hearing held in accordance with the pro-
3 visions of section eleven of this article shall be entitled to
4 judicial review thereof. All of the pertinent provisions of
5 section four, article five, chapter twenty-nine-a of this code
6 shall apply to and govern such judicial review with like
7 effect as if the provisions of said section four were set forth
8 in this section.

9 The judgment of the circuit court shall be final unless
10 reversed, vacated or modified on appeal to the supreme court
11 of appeals in accordance with the provisions of section one,
12 article six, chapter twenty-nine-a of this code.

13 Legal counsel and services for the board in all appeal pro-
14 ceedings in any circuit court and the supreme court of appeals
15 shall be provided by the attorney general or his assistants

16 and in any circuit court by the prosecuting attorney of the
17 county as well, all without additional compensation.

§30-13-13. Actions to enjoin violations.

1 Whenever it appears to the board that any person has
2 been or is violating or is about to violate any provision of
3 this article, any reasonable rule and regulation promulgated
4 hereunder or any order or final decision of the board, the
5 board may apply in the name of the state to the circuit
6 court of the county in which the violation or violations or
7 any part thereof has occurred, is occurring or is about to
8 occur, or the judge thereof in vacation, for an injunction
9 against such person and any other persons who have been, are
10 or are about to be, involved in any practices, acts or
11 omissions, so in violation, enjoining such person or persons
12 from any such violation or violations. Such application may
13 be made and prosecuted to conclusion whether or not any
14 such violation or violations have resulted or shall result in
15 prosecution or conviction under the provisions of section
16 fourteen of this article.

17 Upon application by the board, the circuit courts of this
18 state may by mandatory or prohibitory injunction compel
19 compliance with the provisions of this article, the reasonable
20 rules and regulations promulgated hereunder and all orders
21 and final decisions of the board. The court may issue a
22 preliminary injunction in any case pending a decision on the
23 merits of any application filed.

24 The judgment of the circuit court upon any application
25 permitted by the provisions of this section shall be final
26 unless reversed, vacated or modified on appeal to the supreme
27 court of appeals. Any such appeal shall be sought in the
28 manner and within the time provided by law for appeals
29 from circuit courts in other civil actions.

30 The board shall be represented in all such proceedings
31 by the attorney general or his assistants and in such pro-
32 ceedings in the circuit court by the prosecuting attorneys of
33 the several counties as well, all without additional compensa-
34 tion.

§30-13-14. Offenses and penalties.

1 Any person who violates any provision of this article, any
2 of the reasonable rules and regulations promulgated hereunder
3 or any order or any final decision of the board shall be
4 guilty of a misdemeanor, and, upon conviction thereof, shall
5 be fined not less than one hundred nor more than five
6 hundred dollars, or imprisoned in the county jail not more
7 than three months, or both fined and imprisoned.

CHAPTER 185

(H. B. 738—By Mrs. Withrow and Mr. Harman)

[Passed February 4, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one; and sections two, three, four, five, seven, eight, nine, ten, eleven and twelve, article four, all of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and six-a, article thirteen, chapter sixty-two of said code, all relating to changing the name of the West Virginia forestry camp for boys at Davis, West Virginia, to Davis center; changing the name of the West Virginia forestry camp for boys at Lockie, West Virginia, to Leckie center and changing the name of Anthony correctional center to Anthony center.

Be it enacted by the Legislature of West Virginia:

That section three, article one; and sections two, three, four, five, seven, eight, nine, ten, eleven and twelve, article four, all of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two and six-a, article thirteen, chapter sixty-two of said code be amended and reenacted, all to read as follows:

Chapter

25. Commissioner of Public Institutions.

62. Criminal Procedure.

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.**Article**

1. **Supervision and Control of State Institutions.**
4. **Centers for Housing Youthful Male Law Offenders.**

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.**§25-1-3. Institutions managed by commissioner of public institutions.**

1 The state commissioner of public institutions shall manage,
 2 direct, control and govern the West Virginia penitentiary, Hut-
 3 tonsville correctional center, West Virginia state prison for
 4 women, West Virginia industrial home for girls, West Virginia
 5 Industrial school for boys, the correctional institution hereto-
 6 fore established as the West Virginia forestry camp for boys
 7 at Davis which is hereby continued as "Davis center," the cor-
 8 rectional institution heretofore established as the West Virginia
 9 forestry camp for boys at Leckie which is hereby continued
 10 as "Leckie center," the correctional institution heretofore es-
 11 tablished as Anthony correctional center which is hereby con-
 12 tinued as "Anthony center," Andrew S. Rowan memorial
 13 home, West Virginia children's home, Denmar state hospital,
 14 Hopemont state hospital, Pinecrest hospital, Fairmont emer-
 15 gency hospital, Welch emergency hospital and such other state
 16 institutions, other than mental or educational, as now are or
 17 may hereafter be created by law.

18 The commissioner is hereby authorized to establish work
 19 and study release units as extensions and subsidiaries of those
 20 state institutions under his control and authority. Such work
 21 and study release units shall be managed, directed and con-
 22 trolled as provided for in this article.

**ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OF-
FENDERS.**

- §25-4-2. Establishment of centers.
 §25-4-3. Authority of commissioner of public institutions.
 §25-4-4. Superintendent.
 §25-4-5. Education instructor; physical education director; probation of-
 ficer; compensation.
 §25-4-7. Physical and mental examination of offenders.
 §25-4-8. Labor, study or activities may be required.
 §25-4-9. Wages of offenders.

§25-4-10. Authority to arrest inmates.

§25-4-11. Escape; aiding escape.

§25-4-12. Independent or cooperative establishment of centers.

§25-4-2. Establishment of centers.

1 The West Virginia commissioner of public institutions is
2 authorized to establish, operate and maintain centers to be
3 operated in connection with the state penal system as herein
4 provided.

§25-4-3. Authority of commissioner of public institutions.

1 The West Virginia commissioner of public institutions is
2 hereby given authority to acquire land and other property by
3 purchase, grant, gift or otherwise in connection with the es-
4 tablishment of centers and to construct such buildings, fences
5 and other facilities, and to acquire such personal property as
6 is necessary for the maintenance and operation of such centers;
7 to direct all needed improvements and repairs necessary for
8 the proper upkeep of such centers, and to provide for the neces-
9 sary food, medical treatment and safekeeping of persons con-
10 fined therein; to employ personnel to operate the centers and to
11 provide the necessary work and other programs for the of-
12 fenders assigned to the centers.

§25-4-4. Superintendent.

1 Each center shall be under the direction of a superintendent,
2 who shall have the minimum qualification of a college degree
3 with a major in sociology or a kindred field and be trained and
4 experienced in dealing with youths. He shall be paid an an-
5 nual salary to be fixed by the commissioner of public insti-
6 tutions.

7 The superintendent shall provide a training program which
8 shall include four separate, yet well-integrated, sections, em-
9 bracing the following: (1) Work program; (2) educational pro-
10 gram; (3) recreational program; and (4) individual and group
11 counseling.

**§25-4-5. Education instructor; physical education director; pro-
bation officer; compensation.**

1 In addition to the superintendents and other employees who
2 may be needed, the center staff shall include a minimum of one

3 education instructor qualified to teach in the secondary schools
4 of this state, one physical education director qualified to
5 teach in the secondary schools of this state, one trained pro-
6 bation officer who has the minimum qualification of a college
7 degree with a major in sociology or a kindred field.

8 The annual salaries of the education instructor, the physical
9 director and the probation officer shall be fixed by the com-
10 missioner of public institutions.

§25-4-7. Physical and mental examination of offenders.

1 Before the judge of any court of original or competent
2 jurisdiction can transfer a youthful offender to the custody of
3 the commissioner of public institutions to be assigned to a cen-
4 ter, such offender shall be given a complete medical examina-
5 tion by a doctor designated by the commissioner of public insti-
6 tutions, and the offender must be free of any communicable
7 disease or other physical defects which would prohibit him
8 from participating in the program of the center. In the event
9 there is a question concerning the mental status of an offender,
10 he shall be given an examination by a competent psychiatrist
11 designated by the commissioner of public institutions to deter-
12 mine whether he is fit to participate in the program of the
13 center.

14 Any offender who is found to have a communicable di-
15 sease, is feeble-minded, psychotic, mentally ill, or has a history
16 of homosexual activities or arsonist tendencies, shall not be
17 eligible for assignment to a center.

18 Nothing contained in this section shall prohibit the free
19 transfer of any male youth from one youth facility to another
20 youth facility in the manner provided in article one, chapter
21 twenty-eight of this code.

§25-4-8. Labor, study or activities may be required.

1 Offenders assigned to centers may be required to labor on
2 the buildings and grounds of the center, in the making of for-
3 est roads, for fire prevention and fire fighting, on forestation
4 and reforestation of public lands, on the making of fire trails
5 and firebreaks, on fire suppression, on building or improving
6 public parks or lands, or engage in any studies or activities

- 7 prescribed or permitted by the superintendent, subject to the
- 8 approval of the commissioner of public institutions.

§25-4-9. Wages of offenders.

- 1 The West Virginia commissioner of public institutions may
- 2 provide for the payment of wages to the offenders assigned to
- 3 centers for the work they perform, which amounts shall not
- 4 exceed fifty cents for each day's work performed, the sums
- 5 earned to be paid to the parents or dependents of the offend-
- 6 er, or to the offender himself, in such manner and in such
- 7 proportions as the superintendent directs.

§25-4-10. Authority to arrest inmates.

- 1 All officers and employees of a center shall have the power
- 2 of peace officers so far as necessary to arrest center inmates.

§25-4-11. Escape; aiding escape.

- 1 Should any inmate of a center escape therefrom or from the
- 2 custody of an officer or employee of the center, he shall be
- 3 guilty of a misdemeanor, and, upon conviction thereof, shall
- 4 be fined not more than five hundred dollars, or imprisoned
- 5 in the county jail for not more than six months, or by both
- 6 such fine and imprisonment. Any person who knowingly per-
- 7 mits or aids any inmate of such center to escape therefrom
- 8 or conceals him with the intent of enabling him to elude pur-
- 9 suit is guilty of a misdemeanor, and, on conviction, shall be
- 10 punished in a like manner as provided in this section for an
- 11 inmate who escapes.

§25-4-12. Independent or cooperative establishment of centers.

- 1 The West Virginia commissioner of public institutions may
- 2 establish centers independently or in cooperation with the na-
- 3 tural resources commission of West Virginia on such terms as
- 4 may be agreed upon by the commissioner of public institutions
- 5 and the director of the department of natural resources.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 13. DIVISION OF CORRECTION.

- §62-13-2.** Establishment of division; responsibility for correctional institutions; appointment of wardens; supervision of probationers and parolees; final determinations remaining with board of probation and parole.
- §62-13-6a.** Payment of jail fees to county courts.

§62-13-2. Establishment of division; responsibility for correctional institutions; appointment of wardens; supervision of probationers and parolees; final determinations remaining with board of probation and parole.

1 The commissioner of public institutions is hereby directed
2 to establish within his department a separate division of cor-
3 rection, which shall consist of a director of correction, such
4 deputy directors as herein provided, and the officers, em-
5 ployees and institutions of such division.

6 a. The director of the division of correction shall be di-
7 rectly responsible to the commissioner of public institutions for
8 the custody and care of all persons committed for the con-
9 viction of a felony and such other persons as may be com-
10 mitted to the commissioner of public institutions or penal or
11 correctional institutions under his jurisdiction and control in-
12 cluding the following institutions, and such other institutions
13 as now or may hereafter be established by law:

14 West Virginia penitentiary at Moundsville, West Virginia;

15 West Virginia state prison for women at Pence Springs,
16 West Virginia;

17 West Virginia medium security prison, Huttonsville, West
18 Virginia;

19 West Virginia industrial home for girls, Salem, West Vir-
20 ginia;

21 West Virginia industrial home for boys, Grafton, West Vir-
22 ginia;

23 The correctional institution heretofore established as the
24 West Virginia forestry camp for boys at Davis which is hereby
25 continued as "Davis center";

26 The correctional institution heretofore established as the
27 West Virginia forestry camp for boys at Leckie which is hereby
28 continued as "Leckie center"; and

29 The correctional institution heretofore established as An-
30 thony correctional center which is hereby continued as "An-
31 thony center."

32 The warden or superintendent of each of the aforementioned

33 institutions shall be appointed by the governor by and with
34 the advice and consent of the Senate.

35 b. The director of the division of correction shall also be
36 charged with the duty of supervising all persons released on
37 probation and placed in the charge of a state probation and
38 parole officer and all persons released on parole under any
39 law of this state. He shall also be charged with the duty of
40 supervising all probationers and parolees whose supervision
41 may have been undertaken by this state by reason of any in-
42 terstate compact entered into pursuant to the uniform act for
43 out-of-state parolee supervision. The director of the division
44 of correction shall prescribe rules and regulations for the su-
45 pervision of probationers and parolees under his supervision
46 and control. The director of the division of correction shall
47 succeed to all administrative and supervisory powers of the
48 board of probation and parole and the authority of said board
49 of probation and parole in such matters only.

50 c. The director of the division of correction, with the ap-
51 proval and consent of the commissioner of public institutions,
52 shall administer all other laws affecting the custody, control,
53 treatment and employment of persons sentenced or committed
54 to institutions under the supervision of the commissioner of
55 public institutions or affecting the operation and administration
56 of institutions or functions of the division of correction or ac-
57 tivities therein.

58 d. The final determination regarding the release of in-
59 mates from penal institutions and the final determination re-
60 garding the revocation of paroles from such institutions pur-
61 suant to the provisions of article twelve, chapter sixty-two of
62 the code of West Virginia, one thousand nine hundred thirty-
63 one, as amended, shall remain within the exclusive jurisdiction
64 of the board of probation and parole.

§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 center for boys, the
4 West Virginia industrial home for girls or the West Virginia

5 industrial school for boys when said escapees are confined in
 6 said county jails. Said jail fee shall not exceed the sum of four
 7 dollars per diem per prisoner.

⋄

CHAPTER 186

(Com. Sub. for H. B. 739—By Mrs. Withrow and Mr. Seibert)

[Passed March 5, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to centers for housing youthful male law offenders; relating to the assignment of such offenders to such a center; providing minimum and maximum terms of confinement in such a center; relating to the return of any such youth from such a center to the court and disposition of such offender thereafter; relating to satisfactory completion of center training program and subsequent probation; relating to revocation of probation and consequences thereof; and relating to placement or transfer in, to or from such a center.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-6. Assignment of offenders to center; period of center confinement; return to court; sentence or probation; revocation of probation; transfer of youths by commissioner of public institutions.

1 The judge of any court with original criminal jurisdiction
 2 may suspend the imposition of sentence of any male youth con-
 3 victed of or pleading guilty to a criminal offense, other than

4 an offense punishable by life imprisonment, who has attained
5 his sixteenth birthday but has not reached his twenty-first
6 birthday at the time of the commission of the crime, and com-
7 mit him to the custody of the West Virginia commissioner of
8 public institutions to be assigned to a center. The peri-
9 od of confinement in the center shall be for a period
10 of six months, or longer if it is deemed advisable by the center
11 superintendent, but in any event such period of confinement
12 shall not exceed two years. If, in the opinion of the superin-
13 tendent, such male offender proves to be an unfit person to
14 remain in such a center, he shall be returned to the court
15 which committed him to be dealt with further according to
16 law. In such event, the court may place him on probation or
17 sentence him for the crime for which he has been convicted.
18 In his discretion, the judge may allow the defendant credit on
19 his sentence for time he has spent in the center.

20 When, in the opinion of the superintendent, any boy has
21 satisfactorily completed the center training program, such male
22 offender shall be returned to the jurisdiction of the court which
23 originally committed him. He shall be eligible for probation for
24 the offense with which he is charged, and the judge of the
25 court shall immediately place him on probation. In the event
26 his probation is subsequently revoked by the judge, he shall
27 be given the sentence he would have originally received had
28 he not been committed to the center and subsequently placed
29 on probation. The court shall, however, give the defendant
30 credit on his sentence for the time he spent in the center.

31 Any male youth between the ages of ten and eighteen com-
32 mitted by the judge of any court of competent jurisdiction for
33 any of the causes, and in the manner prescribed in article
34 five, chapter forty-nine of this code, may, if such youth is or
35 has attained the age of sixteen, be placed in a center or
36 transferred from the industrial school or like facility to a center
37 and back to such facility by the commissioner of public in-
38 stitutions, if he deems it proper for the youth's detention and
39 rehabilitation.

CHAPTER 187

(Com. Sub. for H. B. 799—By Mr. Dinsmore and Mrs. Neal)

[Passed March 9, 1975; in effect July 1, 1975. 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 public safety; department of public safety; and increasing the salaries of employees of such department.

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
2 department 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
6 platoon shall be composed of one captain, one lieutenant,
7 one first sergeant, seven sergeants, not more than seventeen
8 corporals and such number of troopers and troopers first
9 class as the superintendent may decide best, but such number
10 of troopers and troopers first class in any company or
11 platoon shall not at any time be less than twenty-five.

12 The superintendent shall provide adequate facilities for
13 the training of all members of the department and shall
14 prescribe 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
19 expenses for food, lodging and school supplies.

20 Members of the department shall receive salaries, as
21 follows:

22 The inspector shall receive an annual salary of fourteen
23 thousand nine hundred sixty-four dollars; the major shall re-
24 ceive an annual salary of thirteen thousand five hundred ninety-
25 one dollars; captains shall each receive an annual salary of
26 twelve thousand three hundred twenty-four dollars; lieutenants
27 shall each receive an annual salary of eleven thousand seven
28 hundred seventeen dollars; the master sergeants and first
29 sergeants shall each receive an annual salary of eleven thousand
30 forty-four dollars; sergeants shall each receive an annual salary
31 of ten thousand seven hundred forty dollars; corporals shall
32 each receive an annual salary of ten thousand three hundred
33 thirty-one dollars; troopers first class shall each receive an an-
34 nual salary of ten thousand forty dollars; and each newly
35 enlisted trooper shall receive a salary of seven hundred twelve
36 dollars during the period of his basic training, and upon the
37 satisfactory completion of such training and assignment to
38 active duty each trooper shall receive, during the remainder of
39 his first year's service, a salary of seven hundred eighty-three
40 dollars monthly. During the second year of his service in the
41 department each trooper shall receive an annual salary of nine
42 thousand five hundred sixty-five dollars; during the third
43 year of his service each trooper shall receive an annual salary
44 of nine thousand seven hundred thirty-seven dollars; and
45 during the fourth year and fifth year of his service and
46 for each year thereafter each trooper shall receive an an-
47 nual salary of nine thousand eight hundred ninety-five dol-
48 lars. Each member of the department entitled thereto by
49 the provisions hereof shall receive an increase in salary
50 over that hereinbefore set forth in this section, for grade
51 and rank, based on length of service, including that here-
52 tofore and hereafter served, with the department, as fol-
53 lows: At the end of five years of service with the de-
54 partment, such member of the department shall receive a
55 salary increase of three hundred dollars per year to be
56 effective during his next three years of service and like
57 increases at three-year intervals thereafter, until a total of

58 six such increases shall be received and such increases shall
59 be cumulative.

60 In applying the foregoing salary schedule where salary
61 increases are provided for length of service, members of the
62 department in service at the time this article becomes effective
63 shall be given credit for prior service and shall be paid such
64 salaries as the same length of service will entitle them to
65 receive under the provisions hereof.

66 Each member of the department of public safety, except
67 the superintendent and civilian employees, shall, before enter-
68 ing upon the discharge of his duties, execute a bond with
69 security in the sum of three thousand five hundred dollars
70 payable to the state of West Virginia, conditioned for the
71 faithful performance of his duties as such, and such bond
72 shall be approved as to form by the attorney general, and as
73 to sufficiency by the governor, and the same shall be filed
74 with the secretary of state and preserved in his office.

CHAPTER 188

(H. B. 800—By Mr. Dinsmore and Mrs. Neal)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact sections nine and nineteen, article two, chapter fifteen 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 twenty-one, all relating to the department of public safety, and to the uniform, arms and weapons of and equipment for members of such department; relating to group life insurance and medical and hospital services for members of such department; relating to establishment and maintenance of local headquarters of such department; relating to housing and quarters for the accommodation of the members of such department; requiring notice before a member of such department may be transferred, with certain exceptions; authorizing the payment of all reasonable and necessary moving expenses actually in-

curred in the transfer of a member of such department and his family from one station to another; authorizing a certain relocation expense in the event of a transfer; and relating to restriction of a member's residence.

Be it enacted by the Legislature of West Virginia:

That sections nine and nineteen, article two, chapter fifteen 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 twenty-one, all to read as follows:

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-9. Uniforms, equipment and supplies; local headquarters; quarters for members; life insurance; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

§15-2-19. Suspension, demotion or discharge of members.

§15-2-21. Transfer notice required under certain circumstances; relocation expense; regulation of member's residence.

§15-2-9. Uniforms, equipment and supplies; local headquarters; quarters for members; life insurance; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

1 The standard uniform to be used by the department of
2 public safety on and after the first day of July, one thou-
3 sand nine hundred thirty-five, shall be as follows: Forestry
4 green blouse with West Virginia state police emblem on
5 sleeve; black shoulder strap; one-inch black stripe around
6 sleeve, four inches from end of sleeve; forestry green breeches
7 with one-inch black stripe down the side; trousers (slacks)
8 with one-inch black stripe down the side for officers and
9 clerks regularly enlisted in the department; forestry green
10 shirts with West Virginia state police emblem on sleeve;
11 black shoulder straps; forestry green mackinaw with West
12 Virginia state police emblem on sleeve; black shoulder straps;
13 one-inch black stripe around sleeve four inches from end
14 of sleeve; campaign hat of olive drab color; cordovan Sam
15 Browne belt with holster; cordovan leggings and shoes; the
16 officers' uniform will have one and one-quarter inch black
17 stripe around the sleeve of blouse and mackinaw four inches
18 from end of sleeve circumposed with one-half inch gold

19 braid, also black collars on blouse, with two silver shoulder
20 bars for captains, one silver shoulder bar for first lieutenant
21 and one gold shoulder bar for second lieutenant. For non-
22 commissioned officers the uniform blouse and shirt will have
23 thereon black chevrons of the appropriate rank.

24 The superintendent shall provide the members of the de-
25 partment of public safety with suitable arms and weapons,
26 and, when and where he shall deem it necessary, with suitably
27 equipped horses, automobiles, motorcycles, watercraft, air-
28 planes and other means of conveyance, to be used by the de-
29 partment of public safety, the governor, and other officers and
30 executives in the discretion of the governor, in times of flood,
31 disaster, and other emergencies, for traffic study and control,
32 criminal and safety work, and in other matters of official
33 business. He shall also provide the standard uniforms for
34 all members of the department, for officers, noncommissioned
35 officers and troopers herein provided for. All uniforms and
36 all arms, weapons and other property furnished the members
37 of the department of public safety by the state of West Virginia
38 shall be and remain the property of the state.

39 The superintendent is authorized to purchase and maintain
40 on behalf of members group life insurance not to exceed the
41 amount of five thousand dollars on behalf of each of the com-
42 missioned officers and not to exceed four thousand dollars
43 on behalf of each of the noncommissioned officers and
44 troopers.

45 The superintendent is authorized to contract and furnish
46 at department expense medical and hospital services for
47 treatment of illness and/or injury of a member which shall be
48 determined by the superintendent to have been incurred by
49 such member while engaged in the performance of duty and
50 from causes beyond control of such member.

51 The superintendent shall establish and maintain local head-
52 quarters at such places in West Virginia as are in his judg-
53 ment suitable and proper to render the department of public
54 safety most efficient for the purpose of preserving the peace,
55 protecting property, preventing crime, apprehending criminals
56 and carrying into effect all other provisions of this article.
57 The superintendent shall provide, by lease or otherwise, for

58 housing and quarters for the accommodation of the members
59 of the department of public safety, and shall provide all
60 equipment and supplies necessary for them in the performance
61 of the duties of their office.

§15-2-19. Suspension, demotion or discharge of members.

1 The superintendent may suspend, demote in rank or dis-
2 charge from the service any member of the department of
3 public safety for any of the following causes: Refusing to
4 obey the orders of his superior officer, neglect of duty, drunken-
5 ness, immorality, inefficiency, abuse of his authority, inter-
6 ference with the lawful right of any person, participation in
7 political activities, primaries, conventions or elections, or
8 any other cause which may in the opinion of the superintendent
9 be necessary for the good of the service. The superintendent
10 shall cause an investigation to be made when notice of any one
11 or more of such causes is brought to his attention and shall
12 determine whether or not the member should be suspended,
13 demoted in rank or discharged. If the superintendent orders
14 the member suspended, demoted in rank or discharged, a
15 written statement of the charges and a written order of sus-
16 pension, demotion in rank or discharge shall be delivered per-
17 sonally to the member by his commanding officer, or next
18 in command in the absence of his commanding officer. The
19 superintendent shall explicitly set forth in any such written
20 statement of charges the details giving rise to the cause or
21 causes upon which he ordered such suspension, demotion in
22 rank or discharge. The member may appeal the superinten-
23 dent's order to the board of appeals created for such purpose,
24 and all of the original papers in such cases shall be delivered
25 by the superintendent to such board, which shall decide such
26 cases in the manner hereinafter provided.

27 Any person who shall by the superintendent be appointed
28 to membership in said department as a replacement appointee,
29 pursuant to section two, article eleven, chapter six of this
30 code, may at any time be discharged at the will and pleasure
31 of the superintendent without the assignment of cause and with-
32 out right of appeal to the board of appeals.

33 The right of a member to appeal a suspension or discharge

34 shall not apply to members until they have completed their
35 probationary period with said department of public safety.

**§15-2-21. Transfer notice required under certain circumstances;
relocation expense; regulation of member's residence.**

1 Whenever any member of the department is to be trans-
2 ferred from one station to another station, for a period of
3 time in excess of sixty days, the superintendent shall give notice
4 of such proposed transfer to such member at least thirty days
5 in advance of such transfer. The superintendent shall not,
6 however, be required to give such notice in the event the
7 transfer is at the request of the member who is to be trans-
8 ferred.

9 Whenever any member of the department is transferred
10 from one station to another station, for a period of time in
11 excess of sixty days, all reasonable and necessary transportation
12 expenses actually incurred in moving the household furniture
13 and effects of such member and his immediate family from
14 his former station to his new station shall be paid by the
15 department: *Provided*, That if any such member owns and
16 resides in a single width mobile home, the department shall
17 pay all reasonable and necessary transportation expenses
18 actually incurred in moving such mobile home from such
19 member's former station to his new station, but the depart-
20 ment may not pay transportation expenses for moving such
21 mobile home in excess of the amount which would have been
22 paid for moving an equivalent amount of household furniture
23 and effects had such member not owned such mobile home.

24 A member transferred may also be given a relocation
25 expense not to exceed three hundred dollars.

26 The superintendent shall not restrict a member from residing
27 in a county other than that in which the member is stationed,
28 except that the superintendent may promulgate by appropriate
29 written regulation to be applied uniformly throughout the de-
30 partment a restriction as to either: (1) The number of miles
31 distant from his station which a member may reside, or (2)
32 the time necessary under ordinary traffic conditions for a
33 member to travel between his residence and station.

CHAPTER 189

(H. B. 719—By Mr. Kopp and Mr. Harman)

[Passed March 5, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section twenty-two, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the interstate civil defense and disaster compact; amending such compact so as to make the same and the authorizations, entitlements and procedures thereof applicable to searches for and rescue of persons who are lost, marooned or otherwise in danger, action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters, incidents or the imminence thereof which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available, the giving and receiving of aid by subdivisions of party states, and exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any such disaster or other emergency; relating to adoption of amendment; authorizing any agency of a party state, a subdivision of a party state or a joint agency to render aid under such compact or any supplementary agreement and reimbursement for such aid; relating to the rights, authority and immunity of the personnel of a joint agency; and relating to other articles or provisions of compact or supplementary agreements and obligations thereunder.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. EMERGENCY SERVICES.

§15-5-22. Interstate civil defense and disaster 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 enemy
19 action or other emergency and any other resources, including
20 personnel, equipment or supplies, shall be incorporated into
21 a plan or plans of mutual aid to be developed among the civil
22 defense agencies or similar bodies of the states that are par-
23 ties hereto. The directors of civil defense of all party states
24 shall constitute a committee to formulate plans and take all
25 necessary steps for the implementation of this compact.

26 **Article II.**

27 It shall be the duty of each party state to formulate civil
28 defense plans and programs for application within such
29 state. There shall be frequent consultation between the
30 representatives of the states and with the United States
31 government and the free exchange of information and plans,
32 including inventories of any materials and equipment avail-
33 able for civil defense. In carrying out such civil defense
34 plans and programs the party states shall so far as possible
35 provide and follow uniform standards, practices and rules
36 and regulations including:

37 (a) Insignia, armbands and any other distinctive articles
38 to designate and distinguish the different civil defense services;

39 (b) Blackouts and practice blackouts, air raid drills, mo-
40 bilization of civil defense forces and other tests and exercises;

41 (c) Warnings and signals for drills or attacks and the
42 mechanical devices to be used in connection therewith;

43 (d) The effective screening or extinguishing of all lights
44 and lighting devices and appliances;

45 (e) Shutting off water mains, gas mains, electric power
46 connections and the suspension of all other utility services;

47 (f) All materials or equipment used or to be used for
48 civil defense purposes in order to assure that such materials
49 and equipment will be easily and freely interchangeable when
50 used in or by any other party state;

51 (g) The conduct of civilians and the movement and
52 cessation of movement of pedestrians and vehicular traffic,
53 prior, during and subsequent to drills or attacks;

54 (h) The safety of public meetings or gatherings; and

55 (i) Mobile support units.

56 **Article III.**

57 Any party state requested to render mutual aid shall
58 take such action as is necessary to provide and make available
59 the resources covered by this compact in accordance with
60 the terms hereof: *Provided*, That it is understood that the
61 state rendering aid may withhold resources to the extent
62 necessary to provide reasonable protection for such state.
63 Each party state shall extend to the civil defense forces of any
64 other party state, while operating within its state limits under
65 the terms and conditions of this compact, the same powers
66 (except that of arrest unless specifically authorized by the
67 receiving state), duties, rights, privileges and immunities as
68 are extended to the civil defense forces of such state. Civil
69 defense forces will continue under the command and control
70 of their regular leaders but the organizational units will
71 come under the operational control of the civil defense
72 authorities of the state receiving assistance.

73 **Article IV.**

74 Whenever any person holds a license, certificate or other
75 permit issued by any state evidencing the meeting of qualifi-
76 cations for professional, mechanical or other skills, such

77 person may render aid involving such skill in any party
78 state to meet an emergency or disaster and such state shall
79 give due recognition to such license, certificate or other
80 permit as if issued in the state in which aid is rendered.

81

Article V.

82 No party state or its officers or employees rendering
83 aid in another state pursuant to this compact shall be liable
84 on account of any act or omission in good faith on the
85 part of such forces while so engaged or on account of
86 the maintenance or use of any equipment or supplies in
87 connection therewith.

88

Article VI.

89 Inasmuch as it is probable that the pattern and detail of
90 the machinery for mutual aid among two or more states may
91 differ from that appropriate among other states party hereto,
92 this instrument contains elements of a broad base common
93 to all states and nothing herein contained shall preclude any
94 state from entering into supplementary agreements with another
95 state or states. Such supplementary agreements may compre-
96 hend, but shall not be limited to, provisions for evacuation and
97 reception of injured and other persons and the exchange of
98 medical, fire, police, public utility, reconnaissance, welfare,
99 transportation and communications personnel, equipment and
100 supplies.

101

Article VII.

102 Each party state shall provide for the payment of compen-
103 sation and death benefits to injured members of the civil
104 defense forces of that state and the representatives of de-
105 ceased members of such forces in case such members sustain
106 injuries or are killed while rendering aid pursuant to this
107 compact, in the same manner and on the same terms as if
108 the injury or death were sustained within such state.

109

Article VIII.

110 Any party state rendering aid in another state pursuant
111 to this compact shall be reimbursed by the party state re-
112 ceiving such aid for any loss or damage to or expense in-
113 curred in the operation of any equipment answering a request

114 for aid and for the cost incurred in connection with such
115 requests: *Provided*, That any aiding party state may assume
116 in whole or in part such loss, damage, expense or other
117 cost or may loan such equipment or donate such services
118 to the receiving party state without charge or cost: *And*
119 *provided further*, That any two or more party states may
120 enter into supplementary agreements establishing a different
121 allocation of costs among those states. The United States
122 government may relieve the party state receiving aid from
123 any liability and reimburse the party state supplying civil
124 defense forces for the compensation paid to and the trans-
125 portation, subsistence and maintenance expenses of such
126 forces during the time of the rendition of such aid or assistance
127 outside the state and may also pay fair and reasonable com-
128 pensation for the use or utilization of the supplies, materials,
129 equipment or facilities so utilized or consumed.

130

Article IX.

131 Plans for the orderly evacuation and reception of the
132 civilian population as the result of an emergency or disaster
133 shall be worked out from time to time between representa-
134 tives of the party states and the various local civil defense
135 areas thereof. Such plans shall include the manner of trans-
136 porting such evacuees, the number of evacuees to be received
137 in different areas, the manner in which food, clothing, housing
138 and medical care will be provided, the registration of the
139 evacuees, the providing of facilities for the notification of
140 relatives or friends and the forwarding of such evacuees to
141 other areas or the bringing in of additional materials, supplies
142 and all other relevant factors. Such plans shall provide that
143 the party states receiving evacuees shall be reimbursed general-
144 ly for the out-of-pocket expenses incurred in receiving and
145 caring for such evacuees, for expenditures for transportation,
146 food, clothing, medicines and medical care and like items.
147 Such expenditures shall be reimbursed by the party state of
148 which the evacuees are residents or by the United States
149 government under plans approved by it. After the termination
150 of the emergency or disaster the party state of which the
151 evacuees are resident shall assume the responsibility for
152 the ultimate support or repatriation of such evacuees.

153

Article X.

154 This compact shall be available to any state, territory or
155 possession of the United States and the District of Columbia.
156 The term "state" may also include any neighboring foreign
157 country or province or state thereof.

158

Article XI.

159 The committee established pursuant to article one of this
160 compact may request the civil defense agency of the United
161 States government to act as an informational and coordinating
162 body under this compact and representatives of such agency
163 of the United States government may attend meetings of such
164 committee.

165

Article XII.

166 This compact shall become operative immediately upon
167 its ratification by any state as between it and any other state
168 or states so ratifying and shall be subject to approval by
169 Congress unless prior congressional approval has been given.
170 Duly authenticated copies of this compact and of such supple-
171 mentary agreements as may be entered into shall, at the time
172 of their approval, be deposited with each of the party states
173 and with the civil defense agency and other appropriate
174 agencies of the United States government.

175

Article XIII.

176 This compact shall continue in force and remain binding
177 on each party state until the Legislature or the governor of
178 such party state takes action to withdraw therefrom. Such
179 action shall not be effective until thirty days after notice
180 thereof has been sent by the governor of the party state
181 desiring to withdraw to the governors of all other party
182 states.

183

Article XIV.

184 This compact shall be construed to effectuate the purposes
185 stated in article one hereof. If any provision of this compact
186 is declared unconstitutional or the applicability thereof to
187 any person or circumstance is held invalid, the constitutionality
188 of the remainder of this compact and the applicability thereof

189 to other persons and circumstances shall not be affected
190 thereby.

191

Article XV.

192 (a) This article shall be in effect only as among those
193 states which have enacted it into law or in which the governors
194 have adopted it pursuant to constitutional or statutory authority
195 sufficient to give it the force of law as part of this compact.
196 Nothing contained in this article or in any supplementary
197 agreement made in implementation thereof shall be construed
198 to abridge, impair or supersede any other provision of this
199 compact or any obligation undertaken by a state pursuant
200 thereto, except that if its terms so provide, a supplementary
201 agreement in implementation of this article may modify, expand
202 or add to any such obligation as among the parties to the
203 supplementary agreement.

204 (b) In addition to the occurrences, circumstances and
205 subject matters to which preceding articles of this compact
206 make it applicable, this compact and the authorizations, entitle-
207 ments and procedures thereof shall apply to:

208 (1) Searches for and rescue of persons who are lost,
209 marooned or otherwise in danger;

210 (2) Action useful in coping with disasters arising from
211 any cause or designed to increase the capability to cope
212 with any such disasters;

213 (3) Incidents, or the imminence thereof, which endanger
214 the health or safety of the public and which require the use
215 of special equipment, trained personnel or personnel in
216 larger numbers than are locally available in order to reduce,
217 counteract or remove the danger;

218 (4) The giving and receiving of aid by subdivisions of
219 party states; and

220 (5) Exercises, drills or other training or practice activities
221 designed to aid personnel to prepare for, cope with or prevent
222 any disaster or other emergency to which this compact
223 applies.

224 (c) Except as expressly limited by this compact or a
225 supplementary agreement in force pursuant thereto, any aid

226 authorized by this compact or such supplementary agreement
227 may be furnished by any agency of a party state, a subdivision
228 of such state, or by a joint agency: *Provided*, That such agency,
229 subdivision or joint agency providing such aid shall be entitled
230 to reimbursement therefor to the same extent and in the same
231 manner as a state: *Provided, however*, That the personnel of
232 such a joint agency, when rendering aid pursuant to this com-
233 pact, shall have the same rights, authority and immunity as
234 personnel of party states.

235 (d) Nothing in this article shall be construed to exclude
236 from the coverage of articles one through fourteen of this com-
237 pact any matter which, in the absence of this article, could
238 reasonably be construed to be covered thereby.

CHAPTER 190

(Com. Sub. for H. B. 966—By Mr. Shaffer and Mr. Sonis)

[Passed March 8, 1975; in effect from passage. Disapproved by the Governor,
and repassed notwithstanding his objections.]

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 two new sections, designated sections fourteen and fifteen, all relating to the powers and duties of the public service commission; procedures for changing certain electric utility rates and other charges; requiring electric utilities to file with such commission monthly reports as to coal purchases, disclosure of affiliations with or of such electric utilities and certain other information; specifying the contents of such reports; relating to commission's duties with respect to coal purchases, and authorizing release of such reports to the public; authorizing the commission to obtain certain information outside the state in certain instances; requiring the commission, in certain cases, to hold a full public hearing before allowing an electric utility to increase, directly or indirectly, the price charged for electricity due to certain increased fuel costs; limiting the application of such requirement to the happening of certain contingencies;

authorizing the commission to permit such increases in the cost of electric energy because of an increase in the fuel costs only after making a written determination that such increases are fair, just and reasonable and reflect certain good faith management and certain sound business policy decisions; limiting such increases in certain instances; permitting certain requested increases to go into effect under bond pending a certain hearing and decision; giving certain criteria and rules which the commission must apply in determining whether certain requested increases in allowable fuel costs are fair, just and reasonable; providing for a certain notice of hearing to the general public; defining certain terms; requiring the commission to conduct annual audits of such utilities and to obtain and use certain information on fuel and fuel costs; limiting effect of section in certain cases; rendering the section inoperative in certain cases; and providing for the severability of its provisions.

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 two new sections, designated sections fourteen and fifteen, all to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-14. Reports required to be filed by generating electric utilities; contents; powers of commission to obtain information; availability to the public; certain studies required.

§24-2-15. Hearings required for certain fuel cost adjustments; notice and conduct of hearings; criteria for decision; certain information to be obtained and used by public service commission; public information; limitation and expiration of section.

§24-2-14. Reports required to be filed by generating electric utilities; contents; powers of commission to obtain information; availability to the public; certain studies required.

- 1 (a) On a monthly basis and within thirty days of the last
- 2 day of the month for which the information is required, each
- 3 electric utility shall submit to the commission, on an individual
- 4 basis for each power plant it owns or operates, a list of each
- 5 purchase or other acquisition of coal or other fuel at the
- 6 plant, the tonnage or other amount of each purchase or acqui-

7 tion, the fuel's cost at the mine or other source, fuel handling
8 costs (including but not limited to costs of loading and un-
9 loading such fuel and the cost of storage thereof), fuel
10 transportation costs and the method or mode of such trans-
11 portation, the name of the person, firm or corporation from
12 which the fuel was purchased or otherwise acquired, the
13 mine or other source of the fuel, the heat value of the fuel
14 expressed in British Thermal Units, the sulfur and ash content
15 of the fuel, the fuel's actual cost per one million British Ther-
16 mal Units; the terms of purchase of such fuel; whether the
17 fuel was purchased under a long-term or short-term agree-
18 ment or was a spot market purchase; the terms of purchase
19 of such fuel; the date of execution of any contract pertaining
20 to the purchase of such fuel and the expiration date of such
21 contract; if the fuel is coal, the amount mined underground
22 and on the surface; and whether the source of the fuel was an
23 affiliated or nonaffiliated person, firm or corporation.

24 In addition, at the same time and on a similar basis, such
25 electric utility shall submit to the commission a list of all
26 persons, firms and corporations in this state with which it or
27 its parent corporation is affiliated and which produce coal
28 or some other fuel which can be used at a power plant. Such
29 list shall state the name of each affiliate, its principal place of
30 business, the nature of the affiliation; each mine or other source
31 of fuel which the affiliate owns or operates, whether within or
32 outside the state; the amount of fuel produced each month at
33 each mine or other source of fuel; the name of each person,
34 firm or corporation to whom the fuel is sold or otherwise
35 disposed of, a breakdown of the amount of fuel sold or other-
36 wise disposed of under long-term or short-term agreements,
37 the final location at which the fuel will actually be used and
38 a breakdown of related handling costs and transportation costs,
39 the heat value of the fuel expressed in British Thermal Units,
40 the sulfur and ash content of the fuel; if the fuel is coal, the
41 amount mined underground and on the surface; and the fuel's
42 cost per one million British Thermal Units.

43 The commission shall require the electric utility to submit a
44 list of all persons, firms and corporations, within and outside
45 this state, with which it or its parent corporation is affiliated
46 and which provide transportation or are a part of a network

47 providing transportation of fuel to a power plant. It shall
48 obtain and use all available pertinent information on trans-
49 portation and transportation costs from each such electric
50 utility and its affiliated persons, firms and corporations, in-
51 cluding its parent corporation. The commission may require
52 the electric utility or any affiliated person, firm or corporation,
53 including its parent corporation, to submit such other informa-
54 tion as it considers necessary or advisable.

55 (b) If any information required under any provision of this
56 section is located outside this state, the electric utility shall,
57 at the option of the commission, either make the information
58 available to the commission at the commission's offices or pay
59 all reasonable and necessary expenses actually incurred by the
60 commission or its designated representative in obtaining the
61 information at the place where such information is maintained.
62 The commission may designate representatives, including com-
63 parable officials of the state in which the information is located,
64 to obtain such information on its behalf.

65 (c) If he makes a written request therefor and pays the
66 actual cost thereof, any member of the general public shall
67 receive a copy of any information obtained by the commission
68 under any provision of this section. Upon request, the Legisla-
69 ture or its designated staff shall receive any such information
70 without delay and at no cost.

71 (d) The commission is hereby directed from time to time
72 to investigate, study, and if necessary, conduct public hearings
73 with respect to, new systems and policies for the pricing of
74 electrical power to consumers taking into consideration the
75 following: (1) Daily peak load pricing; (2) time of day
76 metering system; (3) the lifeline service rate system; (4) the
77 progressive or inverted rate system; (5) any other rate system
78 designed or which may be designed to save energy and
79 to lower consumer charges and in addition thereto the
80 commission shall investigate and study with respect to
81 the propriety and feasibility of including automatic adjust-
82 ment clauses or fuel adjustment clauses in any electric utility
83 tariff, rate, joint rate, charge, toll or schedule.

84 The commission, no later than January first, one thousand
85 nine hundred seventy-six, shall prepare its first report with

86 recommendations and shall submit the same to the governor
87 and both houses of the Legislature, and shall thereafter, from
88 time to time, submit such updates and periodic reports as may
89 be deemed appropriate to keep the governor and the Legislature
90 fully advised of systems and policies for the pricing of electrical
91 power.

**§24-2-15. Hearings required for certain fuel cost adjustments;
notice and conduct of hearings; criteria for decision;
certain information to be obtained and used by public
service commission; public information; limitation and
expiration of section.**

1 (a) The commission shall not enforce, originate, continue,
2 establish, change or otherwise authorize or permit an increase
3 in the charge or charges for electric energy over and above the
4 established and published tariff, rate, joint rate, charge, toll or
5 schedule through any automatic adjustment clause or fuel adjust-
6 ment clause contained in any such tariff, rate, joint rate, charge,
7 toll or schedule, or through any other automatic device or
8 practice until it has held a full public hearing on the propriety
9 of such increase.

10 Any such hearing shall be held within thirty days of a request
11 therefor by the concerned public utility. Within ten days after
12 receiving such request, the same shall be filed and the commis-
13 sion shall give the general public notice of the hearing date, time
14 and place and other necessary details pertaining thereto by
15 causing the notice to be published as a Class II-0 legal adver-
16 tisement in accordance with the provisions of article three,
17 chapter fifty-nine of this code. The publication area for the
18 notice shall be the county or counties in which the public
19 utility requesting the increase provides electric energy.

20 When a hearing has been requested, the commission shall, by
21 order duly entered, allow the proposed increase to go into effect
22 under bond and subject to refund in a manner consistent with
23 the provisions of section four of this article, except that the pro-
24 posed increase shall go into effect immediately and shall con-
25 tinue until the commission renders its final decision on the
26 propriety of the increase.

27 In conducting the hearing, the commission may exercise any
28 power given to it under the provisions of section ten of this

29 article. Any member of the general public affected by such re-
30 quested increase shall have the right to participate in the hear-
31 ing as a proponent or opponent of the requested increase. With-
32 in fifteen days after completion of the hearing, the commission
33 shall render a final written decision on whether or not the re-
34 quested increase will be permitted or modified, but in no event
35 and irrespective of any continuances shall the final decision of
36 the commission with respect to such requested increase be ren-
37 dered later than sixty days from the date of the filing of such re-
38 quested increase. After such sixty-day period, any electric util-
39 ity or user of electric energy affected by a proposed increase
40 may petition any circuit court in the area served by such electric
41 utility to require the commission to render its final decision.

42 The increase shall be approved only to the extent that such
43 increase does not violate subsection (b) of this section and only
44 if the commission makes a written determination that the in-
45 crease is fair, just and reasonable and reflects good-faith man-
46 agement and sound business policy decisions by the public util-
47 ity. The commission shall specify in sufficient detail the reasons
48 for its decision.

49 (b) In determining whether a request made pursuant to this
50 section for an increase is fair, just and reasonable, the following
51 rules shall apply:

52 (1) For the purpose of determining fuel costs, the price paid
53 for the fuel shall be computed at the actual cost of fuel pur-
54 chased from nonaffiliated persons, firms and corporations and
55 the actual cost of the production of fuel received from affiliated
56 persons, firms and corporations and, in no event, shall the cost
57 of fuel purchased through short-term contract purchases or
58 spot market purchases be permitted to exceed by fifteen percent
59 the average cost of fuel purchased from nonaffiliated persons
60 under long-term contracts for similar quality fuel for the twelve
61 months period next preceding the filing of the requested in-
62 crease.

63 (2) The cost of fuel shall be considered as purchased free-
64 on-board at its site of production and such requested increase
65 shall not include the cost of transportation of fuel beyond its
66 site of production.

67 (3) For the purpose of determining the propriety of the re-
68 quested increase, only a variable efficiency formula shall be
69 used. Such formula shall, in addition to other factors permitted
70 by the commission, be computed on the basis of the average
71 heat rate and the average losses in the delivery system of such
72 utility of all fossil fuel steam generating plants of the utility re-
73 questing the increase computed for the six-months' period next
74 preceding the period for which the requested increase is made.
75 The same variable efficiency formula shall be used by and
76 applied to all steam generating electric utilities.

77 (4) The amount of electric energy produced by hydro-
78 electric or other nonfossil fuel steam generating plants of the
79 public utility requesting the increase shall be deducted from the
80 amount of electric energy to which any fuel cost applies.

81 (5) Such increase shall not include, directly or indirectly,
82 taxes imposed against or paid by the utility pursuant to the pro-
83 visions of article thirteen, chapter eleven of this code.

84 (c) The commission shall, on its own initiative hold a
85 hearing in the same manner as provided in subsection (a) of
86 this section, and may order a decrease in any tariff, rate, joint
87 rate, charge, toll or schedule when it believes such action to be
88 appropriate based upon the information obtained by the com-
89 mission pursuant to section fourteen of this article and pursuant
90 to subsections (d) and (e) of this section.

91 (d) In order to have the information necessary to make a
92 fair determination in any hearing which is held under the pro-
93 visions of this section or in determining whether to permit an
94 increase or a decrease in any tariff, rate, joint rate, charge, toll
95 or schedule, the commisison shall obtain and use all available
96 pertinent information on fuel and fuel costs. Such information
97 shall include, but not be limited to, the information required to
98 be reported pursuant to section fourteen of this article, data
99 contained in forms, reports and other documents required by
100 the Federal Power Commission, Securities and Exchange Com-
101 mission and other federal agencies, publications by other
102 agencies of this state and private publications relating to
103 the coal industry and the electric power industry. The
104 commission shall make a special effort to obtain all avail-
105 able information on coal costs, coal contract terms and

106 conditions, coal quality, coal availability and coal purchases
107 and production.

108 (e) It shall be the duty of the commission to conduct
109 annual audits of all books, records and accounts of all utilities
110 whose tariffs, rates, joint rates, charges, tolls or schedules have
111 been increased or decreased pursuant to this section or
112 pursuant to any automatic adjustment clause or fuel adjustment
113 clause prior to the effective date of this section.

114 (f) Any costs which are excluded from an increase re-
115 quested pursuant to this section may be included by the utility
116 as a cost of operation in an application for a rate order there-
117 after made and the commission may allow all or any part of
118 such excluded costs as costs of operation if and only to the ex-
119 tent that the commission finds in its hearings on such later
120 application on the record made therein that such costs are
121 fair, just, reasonable and necessary and arrived at by bona fide
122 negotiations in accord with sound management and business
123 practices.

124 (g) No increase in charges for electric energy granted
125 pursuant to this section shall become thereby a part of or
126 considered to be an amendment to such charges permitted by
127 the last rates or tariffs filed with or established by order of
128 the commission with respect to the applicant for such in-
129 crease.

130 (h) No public utility shall have pending before the com-
131 mission more than one application for increase pursuant to this
132 section at any one time, except that if the commission has
133 not made a final decision within the sixty-day period required
134 under the provisions of subsection (a) of this section or if,
135 having made such decision, the same is appealed to any
136 court of competent jurisdiction, then, and in either event, such
137 electric utility may apply for an additional increase pursuant to
138 this section.

139 (i) As used in this section the term:

140 (1) "Long term contract" shall mean any contract or agree-
141 ment of more than twenty-four months duration by which
142 agreed quantities of fuel is purchased at an agreed price in-
143 volving more than one delivery of such fuel.

144 (2) "Short term contract" shall mean any contract or
145 agreement of less than twenty-four months duration by which
146 agreed quantities of fuel is purchased at an agreed price in-
147 volving more than one delivery of such fuel.

148 (3) "Spot market purchases" shall mean all purchases of
149 fuel not made pursuant to either a long term contract or a short
150 term contract nor shall the term include purchases of fuel from
151 an affiliate.

152 (j) The Legislature recognizes that on the effective date
153 of this section that the commission has, by order entered the
154 twentieth day of February, in the year one thousand nine
155 hundred seventy-five, declared automatic adjustment clauses
156 or fuel adjustment clauses contained in tariffs, rates, joint rates,
157 charges, tolls or schedules to be canceled and stricken and that
158 such clauses are of no further force and effect. To the extent
159 that such order remains in effect the provisions of this section
160 shall be inoperative. To the extent that such order of the
161 commission is changed, modified or reversed whereby such
162 automatic adjustment clauses or fuel adjustment clauses are
163 reinstated, in whole or in part, the provisions of this section
164 are hereby declared to be operable. Nothing contained in this
165 section shall be construed as authorization for the inclusion in
166 any tariff, rate, joint rate, charge, toll or schedule of any
167 automatic adjustment clause or fuel adjustment clause.

168 (k) The provisions of this section shall apply only to
169 electric utilities.

170 (l) Unless hereafter extended by the Legislature, the pro-
171 visions of this section shall expire on and be of no further
172 force and effect on and after the first day of July, one thousand
173 nine hundred seventy-six.

174 (m) If any subsection, subdivision, provision, clause or
175 phrase of this section or the application thereof to any person
176 or circumstance is held unconstitutional or invalid, such
177 unconstitutionality or invalidity shall not affect other subsec-
178 tions, subdivisions, provisions, clauses or phrases or applications
179 of the article, and to this end each and every subsection, sub-
180 division, provision, clause and phrase of this article are de-
181 clared to be severable. The Legislature hereby declares that

182 it would have enacted the remaining subsections, subdivisions,
 183 provisions, clauses and phrases of this section even if it had
 184 known that any subsections, subdivisions, provisions, clauses
 185 and phrases thereof would be declared to be unconstitutional
 186 or invalid.

CHAPTER 191

(Com. Sub. for S. B. 388—By Mr. Hatfield and Mr. Jones)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eighteen, relating to creating a West Virginia railroad maintenance authority; setting forth purpose and duty of the authority, membership and term of authority members; granting power to issue bonds; prescribing function, duty, power and obligation of authority; establishment of railroad maintenance authority fund; authorizing collection of rates and rentals from railroad projects; setting forth unlawful acts and penalty.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 18. WEST VIRGINIA RAILROAD MAINTENANCE AUTHORITY.

- \$29-18-1. Short title.
- \$29-18-2. Declaration of policy and responsibility; purpose and intent of article; findings.
- \$29-18-3. Definitions.
- \$29-18-4. West Virginia railroad maintenance authority created; organization of authority; appointment of members; term of office, compensation and expenses; director of authority.
- \$29-18-5. Authority may construct, maintain, etc., railroad maintenance projects.
- \$29-18-6. Powers, duties and responsibilities of authority generally.

- §29-18-7. Operations; purchases.
- §29-18-8. Creation of railroad maintenance authority fund.
- §29-18-9. Expenditure of funds for study and engineering of proposed projects.
- §29-18-10. Authority empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
- §29-18-11. Trustee for bondholders; contents of trust agreement.
- §29-18-12. Legal remedies of bondholders and trustees.
- §29-18-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
- §29-18-14. Use of funds by authority; restrictions thereon.
- §29-18-15. Investment of funds by authority.
- §29-18-16. Rentals and other revenues from railroad projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.
- §29-18-17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.
- §29-18-18. Railroad maintenance bonds lawful investments.
- §29-18-19. Exemption from taxation.
- §29-18-20. Acquisition of property by authority; governmental agencies authorized to convey, etc., property.
- §29-18-21. Property of public utilities and common carriers.
- §29-18-22. Financial interest in contracts prohibited; penalty.
- §29-18-23. Meetings and records of authority to be kept public.
- §29-18-24. Liberal construction of article.

§29-18-1. Short title.

- 1 This article shall be known and cited as the “West Vir-
- 2 ginia Railroad Maintenance Authority Act.”

§29-18-2. Declaration of policy and responsibility; purpose and intent of article; findings.

- 1 It is hereby declared to be the public policy of the
- 2 state of West Virginia and a responsibility of the state of
- 3 West Virginia, to facilitate railroad transportation and
- 4 commerce within the state by exercising those powers
- 5 of the state necessary to qualify for rail services continua-
- 6 tion subsidies pursuant to the provisions of the federal
- 7 Regional Rail Reorganization Act of one thousand nine
- 8 hundred seventy-three and any amendment thereto and
- 9 any rules or regulations promulgated thereunder.

- 10 The Legislature finds and hereby declares that this
- 11 responsibility of the state cannot be effectively met with-
- 12 out the establishment, funding, construction, reconstruc-
- 13 tion, acquisition, repair, replacement, operation and
- 14 maintenance of railroads and railroad projects.

§29-18-3. Definitions.

1 As used in this article unless the context clearly re-
2 quires a different meaning:

3 (1) "Authority" means the West Virginia railroad
4 maintenance authority created by this article, the duties,
5 powers, responsibilities and functions of which are speci-
6 fied in this article.

7 (2) "Bond" or "railroad maintenance authority bond"
8 means a revenue bond or rate issued by the railroad
9 maintenance authority to effectuate the intents and pur-
10 poses of this article.

11 (3) "Railroad" means a common carrier by railroad as
12 defined in section 1 (3) of Part I of the Interstate Com-
13 merce Act (49 U.S.C. [1] 3).

14 (4) "Owner" means and includes all individuals, co-
15 partnerships, associations, corporations, companies, trans-
16 portation companies, public service corporations, the
17 United States or any agency or instrumentality thereof,
18 common carriers by rail and railroad companies having
19 any title or interest in any rail properties authorized to
20 be acquired, leased or used by this article.

21 (5) "Income" means and includes all money accruing
22 to the authority from any source.

23 (6) "Person" means individuals, corporations, part-
24 nerships or foreign and domestic associations, inclu-
25 ding railroads.

26 (7) "Rail properties" means assets or rights owned,
27 leased, or otherwise controlled by a railroad or other per-
28 son which are used, or useful, in rail transportation ser-
29 vice: *Provided*, That rail properties does not include any
30 properties owned, leased, or otherwise controlled by a
31 railroad not in reorganization, unless it consents to such
32 properties' inclusion in the particular transaction.

33 (8) "Rail service" means both freight and passenger
34 service.

35 (9) "Railroad project" means the initiation, acquisi-

36 tion, construction, maintenance, repair, equipping or op-
37 eration of rail properties or rail service, or the provi-
38 sions of loans or grants to or with government agencies,
39 or to persons for such purposes, by the authority.

**§29-18-4. West Virginia railroad maintenance authority cre-
ated; organization of authority; appointment of
members; term of office, compensation and ex-
penses; director of authority.**

1 There is hereby created the West Virginia railroad
2 maintenance authority. The authority is a governmental
3 instrumentality of the state and a body corporate. The
4 exercise by the authority of the powers conferred by this
5 article and the carrying out of its purposes and duties
6 shall be deemed and held to be, and are hereby deter-
7 mined to be, essential governmental functions and for a
8 public purpose.

9 The authority shall consist of seven members. The
10 governor shall be a member ex officio. The other six
11 members shall be appointed by the governor, by and with
12 the advice and consent of the Senate, for a term of six
13 years. Of the members of the authority first appointed, two
14 shall be appointed for a term ending on the thirtieth day of
15 June, one thousand nine hundred seventy-seven, two shall
16 be appointed for a term ending two years thereafter and
17 two shall be appointed for a term ending four years there-
18 after. A person appointed to fill a vacancy occurring
19 prior to the expiration of the term for which his prede-
20 cessor was appointed shall be appointed only for the
21 remainder of such term. Each authority member shall
22 serve until the appointment and qualification of his
23 successor. No more than three of the appointed authority
24 members shall at any one time belong to the same politi-
25 cal party. Appointed authority members may be reap-
26 pointed to serve additional terms.

27 All members of the authority shall be citizens of the
28 state. Each appointed member of the board, before enter-
29 ing upon his duties, shall comply with the requirements
30 of article one, chapter six of this code and give bond in
31 the sum of twenty-five thousand dollars in the manner

32 provided in article two, chapter six of this code. The gov-
33 ernor may remove any authority member for cause as
34 provided in article six, chapter six of this code.

35 Annually the authority shall elect one of its appointed
36 members as chairman and another as vice chairman, and
37 shall appoint a secretary-treasurer, who need not be a
38 member of the authority. Four members of the authority
39 shall constitute a quorum and the affirmative vote of four
40 members shall be necessary for any action taken by vote
41 of the authority. No vacancy in the membership of the
42 authority shall impair the rights of a quorum by such
43 vote to exercise all the rights and perform all the duties
44 of the authority. The person appointed as secretary-
45 treasurer, including an authority member if he is so
46 appointed, shall give bond in the sum of fifty thousand
47 dollars in the manner provided in article two, chapter
48 six of this code.

49 The governor shall not receive any compensation for
50 serving as an authority member. Each of the six ap-
51 pointed members of the authority shall receive fifty dol-
52 lars for each day or substantial part thereof actually
53 spent in attending meetings of the board or in discharging
54 or carrying out his duties and work as a member of the
55 board. Each of the six appointed members shall be re-
56 imbursed for all reasonable and necessary expenses ac-
57 tually incurred in the performance of his duties as a
58 member of such authority. All such compensation and
59 expenses incurred shall be payable solely from funds of
60 the authority or from funds appropriated for such pur-
61 pose by the Legislature and no liability or obligation
62 shall be incurred by the authority beyond the extent to
63 which moneys are available from funds of the authority
64 or from such appropriations.

65 There shall also be a director of the authority appointed
66 by the authority.

**§29-18-5. Authority may construct, maintain, etc., railroad
maintenance projects.**

1 To accomplish the public policies and purposes and to
2 meet the responsibility of the state as set forth in this

3 article, the West Virginia railroad maintenance authority
4 may carry out railroad projects or cause railroad projects
5 to be carried out pursuant to a lease, sublease or agree-
6 ment with any person or governmental agency; may
7 make loans and grants to or with governmental agencies
8 or to persons for railroad projects; and may issue railroad
9 authority bonds of this state; payable solely from reve-
10 nues, to pay the cost of such projects. A railroad project
11 shall not be undertaken unless it has been determined
12 by the authority to be consistent with any applicable
13 comprehensive plan for railroad projects approved by the
14 authority. Any resolution of the authority authorizing
15 a railroad project shall include a finding by the authority
16 that such determinations have been made.

§29-18-6. Powers, duties and responsibilities of authority generally.

1 The West Virginia railroad maintenance authority is
2 hereby granted, has and may exercise all powers neces-
3 sary or appropriate to carry out and effectuate its cor-
4 porate purpose.

5 (a) The authority shall have the power and capacity
6 to:

7 (1) Adopt, and from time to time, amend and repeal
8 bylaws necessary and proper for the regulation of its
9 affairs and the conduct of its business and rules and
10 regulations to implement and make effective its powers
11 and duties, such rules and regulations to be promulgated
12 in accordance with the provisions of chapter twenty-
13 nine-a of this code.

14 (2) Adopt an official seal.

15 (3) Maintain a principal office and, if necessary, re-
16 gional suboffices at locations properly designated or pro-
17 vided.

18 (4) Sue and be sued in its own name and plead and
19 be impleaded in its own name, and particularly to en-
20 force the obligations and covenants made under sec-
21 tions ten, eleven and sixteen of this article. Any actions
22 against the authority shall be brought in the circuit

23 court of Kanawha County in which the principal office
24 of the authority shall be located.

25 (5) Make loans and grants to governmental agencies
26 and persons for carrying out railroad projects by
27 any such governmental agency or person and, in ac-
28 cordance with chapter twenty-nine-a of this code, adopt
29 rules and procedures for making such loans and
30 grants.

31 (6) Acquire, construct, reconstruct, enlarge, improve,
32 furnish, equip, maintain, repair, operate, lease or rent
33 to, or contract for operation by a governmental agency
34 or person, railroad projects, and, in accordance with
35 chapter twenty-nine-a of this code, adopt rules and reg-
36 ulations for the use of such projects.

37 (7) Make available the use or services of any rail-
38 road project to one or more persons, one or more gov-
39 ernmental agencies, or any combination thereof.

40 (8) Issue railroad maintenance authority bonds and
41 notes and refunding bonds of the state, payable solely
42 from revenues as provided in section ten of this article
43 unless the bonds are refunded by refunding bonds,
44 for the purpose of paying any part of the cost of
45 one or more railroad projects or parts thereof.

46 (9) Acquire by gift or purchase, hold and dispose
47 of real and personal property in the exercise of its
48 powers and the performance of its duties as set forth
49 in this article.

50 (10) Acquire in the name of the state, by purchase or
51 otherwise, on such terms and in such manner as it deems
52 proper, or by the exercise of the right of eminent do-
53 main in the manner provided in chapter fifty-four of
54 this code, rail properties and appurtenant rights and
55 interests necessary for carrying out railroad projects.

56 (11) Make and enter into all contracts and agree-
57 ments and execute all instruments necessary or inci-
58 dental to the performance of its duties and the execution
59 of its powers. When the cost under any such contract
60 or agreement, other than compensation for personal ser-
61 vices, involves an expenditure of more than two thousand

62 dollars, the authority shall make a written contract
63 with the lowest responsible bidder after public notice
64 published as a Class II legal advertisement in compli-
65 ance with the provisions of article three, chapter fifty-
66 nine of this code, the publication area for such pub-
67 lication to be the county wherein the work is to be per-
68 formed or which is affected by the contract, which notice
69 shall state the general character of the work and the
70 general character of the materials to be furnished, the
71 place where plans and specifications therefor may be
72 examined and the time and place of receiving bids, but
73 a contract or lease for the operation of a railroad project
74 constructed and owned by the authority or an agree-
75 ment for cooperation in the acquisition or construction of
76 a railroad project pursuant to section sixteen of this
77 article is not subject to the foregoing requirements and
78 the authority may enter into such contract or lease or
79 such agreement pursuant to negotiation and upon such
80 terms and conditions and for such period as it finds
81 to be reasonable and proper under the circumstances
82 and in the best interests of proper operation or of
83 efficient acquisition or construction of such railroad
84 project. The authority may reject any and all bids. A
85 bond with good and sufficient surety, approved by the
86 authority, shall be required of all contractors in an
87 amount equal to at least fifty percent of the contract
88 price, conditioned upon the faithful performance of the
89 contract.

90 (12) Appoint a director and employ managers, super-
91 intendants and other employees and retain or contract
92 with consulting engineers, financial consultants, accoun-
93 tants, attorneys and such other consultants and inde-
94 pendent contractors as are necessary in its judgment to
95 carry out the provisions of this article, and fix the com-
96 pensation or fees thereof. All expenses thereof shall
97 be payable from the proceeds of railroad maintenance
98 authority revenue bonds or notes issued by the authority,
99 from revenues and funds appropriated for such purpose
100 by the Legislature or from grants from the federal gov-
101 ernment which may be used for such purpose.

102 (13) Receive and accept from any state or federal

103 agency, grants for or in aid of the construction of any
104 railroad project or for research and development with
105 respect to railroads and receive and accept aid or con-
106 tributions from any source of money, property, labor
107 or other things of value, to be held, used and applied
108 only for the purposes for which such grants and contri-
109 butions are made.

110 (14) Engage in research and development with respect
111 to railroads.

112 (15) Purchase fire and extended coverage and lia-
113 bility insurance for any railroad project and for the
114 principal office and suboffices of the authority, insurance
115 protecting the authority and its officers and employees
116 against liability, if any, for damage to property or in-
117 jury to or death of persons arising from its operations
118 and be a member of, and to participate in, the state
119 workmen's compensation program.

120 (16) Charge, alter and collect rates, rentals and other
121 charges for the use or services of any railroad project as
122 provided in this article.

123 (17) Do all acts necessary and proper to carry out
124 the powers expressly granted to the authority in this
125 article.

126 (b) In addition, the authority shall have the power
127 to:

128 (1) Acquire rail properties both within and not with-
129 in the jurisdiction of the interstate commerce com-
130 mission and rail properties within the purview of the
131 federal Regional Rail Reorganization Act of 1973, any
132 amendments to it and any other relevant federal legis-
133 lation.

134 (2) Enter into agreements with owners of rail prop-
135 erties for the acquisition of rail properties or use or both
136 of rail properties upon such terms, conditions, rates or
137 rentals as can best effectuate the purposes of this ar-
138 ticle.

139 (3) Acquire rail properties and other property of a
140 railroad in concert with another state or states as is
141 necessary to insure continued rail service in this state.

- 142 (4) Establish a state plan for rail transportation and
143 local rail services.
- 144 (5) Administer and coordinate such state plan.
- 145 (6) Provide in such state plan for the equitable dis-
146 tribution of federal rail service continuation subsidies
147 among state, local and regional transportation authorities.
- 148 (7) Promote, supervise and support safe, adequate and
149 efficient rail services.
- 150 (8) Employ sufficient trained and qualified personnel
151 for these purposes.
- 152 (9) Maintain adequate programs of investigation,
153 research, promotion and development in connection with
154 such purposes and to provide for public participation
155 therein.
- 156 (10) Provide satisfactory assurances on behalf of the
157 state that fiscal control and fund accounting procedures
158 will be adopted by the state necessary to assure proper
159 disbursement of and accounting for federal funds paid
160 to the state as rail service continuation subsidies.
- 161 (11) Comply with the regulations of the secretary of
162 transportation of the United States department of trans-
163 portation affecting federal rail service continuation pro-
164 grams.
- 165 (12) Do all things otherwise necessary to maximize
166 federal assistance to the state under Title IV of the
167 federal Regional Rail Reorganization Act of 1973 and
168 to qualify for rail service continuation subsidies pursuant
169 to the federal Regional Rail Reorganization Act of 1973.

§29-18-7. Operations; purchases.

- 1 (a) The authority may sell, transfer or lease all, or
2 any part, of the rail properties and other property ac-
3 quired under the provisions of this article to any responsi-
4 ble person, firm or corporation for continued operation
5 of a railroad or other public purpose: *Provided*, That
6 approval for the continued operation or other public pur-
7 pose, is granted by the interstate commerce commission
8 of the United States, whenever approval is required.
9 The sale, transfer or lease shall be for a price and subject

10 to any further terms and conditions which the authority
11 feels are necessary and appropriate to effectuate the pur-
12 poses of this article.

13 (b) After acquiring any railroad lines within the state,
14 the authority shall assist any responsible person, firm or
15 corporation to secure, as promptly as possible, any order
16 or certificate required by the interstate commerce com-
17 mission for the performance of railroad service. The
18 authority shall also give any assurances or guarantees
19 which are necessary or desirable to carry out the purposes
20 of this article.

21 (c) The authority may take whatever steps are neces-
22 sary in order to determine the absolute fee simple title
23 ownership of all rail properties of any railroad within
24 the state. The determination may include the status of
25 the rail properties with respect to easements, rights-
26 of-way, leases, reversionary rights, fee simple title own-
27 ership and any and all related title matters. The authority
28 may retain attorneys, experts or other assistants, and
29 issue any contracts as are necessary to make the title
30 determination.

31 (d) All rail properties within the state offered for
32 sale by any railway corporation after the date of enact-
33 ment of this article shall be offered for sale to the state
34 in the first instance.

35 (e) The authority may cooperate with other states
36 in connection with the purchase of any rail properties
37 within this state. The authority may also acquire rail-
38 road rights in other states and rail properties lying in
39 other states in order to carry out the intentions and pur-
40 poses of this article. In carrying out the powers and
41 duties conferred by this article, the authority may enter
42 into general contractual arrangements, including joint
43 purchasing and leasing of rail properties with other states.

44 (f) In weighing the varied interests of the residents
45 of this state, the authority shall give consideration to
46 the individual interest of any county or municipality
47 expressing a desire to acquire a portion, or all, of the
48 abandoned real estate located within its jurisdiction. The
49 authority may exercise its powers under this article to

50 acquire the abandoned property for subsequent convey-
51 ance to the county or municipality.

52 (g) The authority may utilize federal funds, grants,
53 gifts or donations which are available and any sums
54 that are appropriated in carrying out the purposes of
55 this article. The authority may also apply for discre-
56 tionary or other funds available under the provisions of
57 the federal Regional Rail Reorganization Act of 1973 or
58 other federal programs.

59 (h) The authority may apply for an acquisition and
60 modernization loan, or a guarantee of a loan, pursuant
61 to Section 403 of the federal Regional Rail Reorganiza-
62 tion Act of 1973 or any other federal programs, within
63 the limit of funds appropriated for those purposes.

64 (i) The authority is authorized to purchase any rail-
65 road rolling stock, equipment and machinery necessary
66 for the operation and maintenance of any rail properties
67 purchased by it on behalf of the state, with any funds
68 made available for this purpose. The authority may also
69 acquire and have available, a pool of equipment and
70 machinery which may be utilized by the operators of
71 the rail properties for the purpose of track maintenance
72 and other related railroad activities, upon terms and
73 conditions determined by the authority.

74 (j) The authority may contract for the rebuilding
75 or relocation of any rail properties acquired pursuant
76 to this article, within the provisions of the federal Re-
77 gional Rail Reorganization Act of 1973 or any other
78 applicable legislation. The authority may also spend
79 any sums appropriated, as well as any other available
80 funds, for the modernization, rebuilding and relocation
81 of any rail properties owned by the state or by a private
82 carrier. The authority may do any maintenance on any
83 rail properties owned by the state as is necessary in the
84 public interest.

85 (k) The authority may contract with any domestic
86 or foreign person, firm, corporation, agency or govern-
87 ment to provide, maintain or improve rail transportation
88 service on the rail properties acquired by the state under
89 this article.

90 (1) Whenever the authority determines that any rail
91 properties acquired by the state are no longer needed
92 for railroad purposes, it may, with the permission of
93 the governor, permanently or temporarily transfer the
94 rail properties to any other state department or agency
95 or political subdivision of the state, which shall utilize
96 the properties for a public purpose. Whenever more
97 than one department or agency or political subdivision
98 wishes to utilize the property, the authority shall resolve
99 such a conflict and make a prompt determination of the
100 reasonable and proper order of priority, taking into con-
101 sideration any applicable state plans, policies or objec-
102 tives. If no state department or agency or political sub-
103 division wants the properties, the authority may sell
104 them, with the proceeds deposited to the special rail-
105 road fund established by this article. A public hearing
106 is required prior to the transfer or sale of any rail prop-
107 erties by the authority.

§29-18-8. Creation of railroad maintenance authority fund.

1 There is hereby created in the state treasury a West
2 Virginia railroad maintenance authority fund. The au-
3 thority shall deposit proceeds derived from action taken
4 pursuant to this article and shall be the authority to use
5 moneys in such fund to effectuate the provisions and
6 purposes of this article.

§29-18-9. Expenditure of funds for study and engineering of proposed projects.

1 The authority may expend, out of any funds available
2 for the purpose, such moneys as are necessary for the
3 study of any proposed railroad project and may use its
4 engineering and other forces, including consulting engi-
5 neers for the purpose of effecting such study. All such
6 expenses incurred by such study and engineering shall
7 be paid from the funds established in section eight of this
8 article.

§29-18-10. Authority empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

1 The authority is hereby empowered to raise the cost of

2 one or more railroad projects or parts thereof by the
3 issuance from time to time of railroad maintenance rev-
4 enue bonds and notes of the state in such principal
5 amount as the authority deems necessary, but the aggre-
6 gate amount of all issues of bonds and notes outstanding
7 at one time for all projects authorized hereunder shall not
8 exceed that amount capable of being serviced by revenues
9 received from such projects.

10 The authority may, from time to time, issue renewal
11 notes, issue bonds to pay such notes and whenever it
12 deems refunding expedient, refund any bonds by the
13 issuance of railroad maintenance revenue refunding bonds
14 of the state, whether the bonds to be refunded have or
15 have not matured, and issue bonds partly to refund bonds
16 then outstanding and partly for any other authorized
17 purpose. The refunding bonds shall be sold and the pro-
18 ceeds applied to the purchase, redemption or payment of
19 the bonds to be refunded. Except as may otherwise be
20 expressly provided by the authority, every issue of its
21 bonds or notes shall be obligations of the authority pay-
22 able out of the revenues of the authority, which are
23 pledged for such payment, without preference or priority
24 of the first bonds issued, subject only to any agreements
25 with the holders of particular bonds or notes pledging
26 any particular revenues. Such pledge shall be valid and
27 binding from the time the pledge is made and the revenue
28 so pledged and thereafter received by the authority
29 shall immediately be subject to the lien of such pledge
30 without any physical delivery thereof or further act and
31 the lien of any such pledge shall be valid and binding
32 as against all parties having claims of any kind in tort,
33 contract or otherwise against the authority irrespective
34 of whether such parties have notice thereof.

35 All such bonds and notes shall have and are hereby
36 declared to have all the qualities of negotiable instru-
37 ments.

38 The bonds and notes shall be authorized by resolution
39 of the authority, shall bear such date and shall mature at
40 such time, in the case of any such note or any renewals
41 thereof not exceeding five years from the date of issue of

42 such original note, and in the case of any such bond not
43 exceeding fifty years from the date of issue, as such reso-
44 lution may provide. The bonds and notes shall bear in-
45 terest at such rate, be in such denominations, be in such
46 form, either coupon or registered, carry such registration
47 privileges, be payable in such medium of payment, at such
48 place and be subject to such terms of redemption as the
49 authority may authorize. The bonds and notes of the
50 authority may be sold by the authority, at public or pri-
51 vate sale, at or not less than the price the authority
52 determines. The bonds and notes shall be executed by the
53 chairman and vice chairman of the authority, both of
54 whom may use facsimile signatures. The official seal of
55 the authority or a facsimile thereof shall be affixed there-
56 to or printed thereon and attested, manually or by fac-
57 simile signature, by the secretary-treasurer of the au-
58 thority, and any coupons attached thereto shall bear the
59 signature or facsimile signature of the chairman of the
60 authority. In case any officer whose signature, or a fac-
61 simile of whose signature, appears on any bonds, notes
62 or coupons ceases to be such officer before delivery of such
63 bonds or notes, such signature or facsimile is neverthe-
64 less sufficient for all purposes the same as if he had re-
65 mained in office until such delivery and in case the seal
66 of the authority has been changed after a facsimile has
67 been imprinted on such bonds or notes such facsimile
68 seal will continue to be sufficient for all purposes.

69 Any resolution authorizing any bonds or notes or any
70 issue thereof may contain provisions, subject to such
71 agreements with bondholders or noteholders as may then
72 exist, which provisions shall be a part of the contract with
73 the holders thereof, as to pledging all or any part of the
74 revenues of the authority to secure the payment of the
75 bonds or notes or of any issue thereof; the use and dis-
76 position of revenues of the authority; a covenant to fix,
77 alter and collect rates, rentals and other charges so that
78 pledged revenues will be sufficient to pay the costs of
79 operation, maintenance and repairs, pay principal of and
80 interest on bonds or notes secured by the pledge of such
81 revenues and provide such reserves as may be required
82 by the applicable resolution or trust agreement; the set-

83 ting aside of reserve funds, sinking funds or replacement
84 and improvement funds and the regulation and disposition
85 thereof; the crediting of the proceeds of the sale of bonds
86 or notes to and among the funds referred to or provided
87 for in the resolution authorizing the issuance of the bonds
88 or notes; the use, lease, sale or other disposition of any
89 railroad project or any other assets of the authority;
90 limitations on the purpose to which the proceeds of sale
91 of bonds or notes may be applied and pledging such pro-
92 ceeds to secure the payment of the bonds or notes or of
93 any issue thereof; notes issued in anticipation of the
94 issuance of bonds, the agreement of the authority to do
95 all things necessary for the authorization, issuance and
96 sale of such bonds in such amounts as may be necessary
97 for the timely retirement of such notes; limitations on
98 the issuance of additional bonds or notes; the terms upon
99 which additional bonds or notes may be issued and se-
100 cured; the refunding of outstanding bonds or notes; the
101 procedure, if any, by which the terms of any contract
102 with bondholders or noteholders may be amended or
103 abrogated, the amount of bonds or notes the holders of
104 which must consent thereto and the manner in which
105 such consent may be given; limitations on the amount of
106 moneys to be expended by the authority for operating,
107 administrative or other expenses of the authority; secur-
108 ing any bonds or notes by a trust agreement; and any
109 other matters, of like or different character, which in any
110 way affect the security or protection of the bonds or notes.

111 Neither the members of the authority nor any person
112 executing the bonds or notes shall be liable personally on
113 the bonds or notes or be subject to any personal liability
114 or accountability by reason of the issuance thereof.

**§29-18-11. Trustee for bondholders; contents of trust agree-
ment.**

1 In the discretion of the authority, any railroad mainte-
2 nance bonds or notes or railroad maintenance refunding
3 bonds issued by the authority under this article may
4 be secured by a trust agreement between the authority
5 and a corporate trustee, which trustee may be any trust

6 company or banking institution having the powers of
7 a trust company within or without this state.

8 Any such trust agreement may pledge or assign reve-
9 nues of the authority to be received, but shall not convey
10 or mortgage any railroad project or any part thereof.
11 Any such trust agreement or any resolution providing
12 for the issuance of such bonds or notes may contain such
13 provisions for protecting and enforcing the rights and
14 remedies of the bondholders or noteholders as are reason-
15 able and proper and not in violation of law, including
16 covenants setting forth the duties of the authority in
17 relation to the acquisition of property, the construction,
18 improvement, maintenance, repair, operation and insur-
19 ance of the railroad project in connection with which
20 such bonds or notes are authorized, the rentals or other
21 charges to be imposed for the use or services of any
22 railroad project, the custody, safeguarding, and applica-
23 tion of all moneys and provisions for the employment
24 of consulting engineers in connection with the construc-
25 tion or operation of such railroad project. Any banking
26 institution or trust company incorporated under the laws
27 of this state which may act as depository of the proceeds
28 of bonds or notes or of revenues shall furnish such
29 indemnifying bonds or pledge such securities as are re-
30 quired by the authority. Any such trust agreement may
31 set forth the rights and remedies of the bondholders
32 and noteholders and of the trustee and may restrict in-
33 dividual rights of action by bondholders and noteholders
34 as customarily provided in trust agreements or trust
35 indentures securing similar bonds. Such trust agreement
36 may contain such other provisions as the authority deems
37 reasonable and proper for the security of the bondholders
38 or noteholders. All expenses incurred in carrying out
39 the provisions of any such trust agreement may be treated
40 as a part of the cost of the operation of the railroad
41 project. Any such trust agreement or resolution au-
42 thORIZING the issuance of railroad maintenance revenue
43 bonds may provide the method whereby the general
44 administrative overhead expenses of the authority shall
45 be allocated among the several projects acquired or con-
46 structed by it as a factor of the operating expenses of
47 each such project.

§29-18-12. Legal remedies of bondholders and trustees.

1 Any holder of railroad maintenance revenue bonds
2 issued under the authority of this article or any of the
3 coupons appertaining thereto and the trustee under any
4 trust agreement, except to the extent the rights given
5 by this article may be restricted by the applicable resolu-
6 tion or such trust agreement, may by civil action,
7 mandamus or other proceedings, protect and enforce any
8 rights granted under the laws of this state or granted
9 under this article, by the trust agreement or by the
10 resolution authorizing the issuance of such bonds, and
11 may enforce and compel the performance of all duties
12 required by this article, or by the trust agreement or
13 resolution, to be performed by the authority or any
14 officer thereof, including the fixing, charging and collect-
15 ing of sufficient rentals or other charges.

**§29-18-13. Bonds and notes not debt of state, county, municipi-
pality or of any political subdivision; expenses
incurred pursuant to article.**

1 Railroad maintenance revenue bonds and notes and
2 railroad maintenance revenue refunding bonds issued
3 under authority of this article and any coupons in con-
4 nection therewith shall not constitute a debt or a pledge
5 of the faith and credit or taxing power of this state or
6 of any county, municipality or any other political sub-
7 division of this state, and the holders or owners thereof
8 shall have no right to have taxes levied by the Legisla-
9 ture or taxing authority of any county, municipality or
10 any other political subdivision of this state for the pay-
11 ment of the principal thereof or interest thereon, but
12 such bonds and notes shall be payable solely from the
13 revenues and funds pledged for their payment as au-
14 thorized by this article unless the notes are issued in
15 anticipation of the issuance of bonds or the bonds are
16 refunded by refunding bonds issued under authority of
17 this article, which bonds or refunding bonds shall be
18 payable solely from revenues and funds pledged for their
19 payment as authorized by this article. All such bonds
20 and notes shall contain on the face thereof a statement
21 to the effect that the bonds or notes, as to both principal
22 and interest, are not debts of the state or any county,

23 municipality or political subdivision thereof, but are pay-
24 able solely from revenues and funds pledged for their
25 payment.

26 All expenses incurred in carrying out the provisions
27 of this article shall be payable solely from funds provided
28 under authority of this article. Such article does not
29 authorize the authority to incur indebtedness or liability
30 on behalf of or payable by the state or any county, munic-
31 ipality or political subdivision thereof.

§29-18-14. Use of funds by authority; restrictions thereon.

1 All moneys, properties and assets acquired by the
2 authority, whether as proceeds from the sale of railroad
3 maintenance revenue bonds or as revenues or otherwise,
4 shall be held by it in trust for the purposes of carrying
5 out its powers and duties, and shall be used and reused
6 in accordance with the purposes and provisions of this
7 article. Such moneys shall at no time be commingled
8 with other public funds. Such moneys, except as other-
9 wise provided in any resolution authorizing the issuance
10 of railroad maintenance revenue bonds or in any trust
11 agreement securing the same, or except when invested
12 pursuant to section thirteen of this article, shall be kept
13 in appropriate depositories and secured as provided and
14 required by law. The resolution authorizing the issu-
15 ance of such bonds of any issue or the trust agreement
16 securing such bonds shall provide that any officer to
17 whom, or any banking institution or trust company
18 to which, such moneys are paid shall act as trustee of
19 such moneys and hold and apply them for the purposes
20 hereof, subject to the conditions this article and such
21 resolution or trust agreement provide.

§29-18-15. Investment of funds by authority.

1 Funds of the authority in excess of current needs, ex-
2 cept as otherwise provided in any resolution authorizing
3 the issuance of its railroad maintenance revenue bonds
4 or in any trust agreement securing the same, may be
5 invested by the authority in any security or securities in
6 which the "West Virginia State Board of Investments"
7 is authorized to invest under sections nine and ten, ar-
8 ticle six, chapter twelve of this code, except those securi-

9 ties specified in subdivisions (f) and (g) of said section
10 nine. Income from all such investments of moneys in
11 any fund shall be credited to such funds as the authority
12 determines, subject to the provisions of any such resolu-
13 tion or trust agreement and such investments may be sold
14 at such times as the authority determines.

**§29-18-16. Rentals and other revenues from railroad projects;
contracts and leases of authority; cooperation of
other governmental agencies; bonds of such agen-
cies.**

1 The authority may charge, alter and collect rates,
2 rentals or other charges for the use or services of any
3 project, and contract in the manner provided by this
4 section with one or more persons, one or more govern-
5 mental agencies, or any combination thereof, desiring
6 the use or services thereof, and fix the terms, condi-
7 tions, rates, rentals or other charges for such use or
8 services. Such rentals or other charges shall not be sub-
9 ject to supervision or regulation by any other authority,
10 department, commission, board, bureau or agency of the
11 state, and such contract may provide for acquisition by
12 such person or governmental agency of all or any part
13 of such railroad project for such consideration payable
14 over the period of the contract or otherwise as the au-
15 thority in its sole discretion determines to be appropriate,
16 but subject to the provisions of any resolution autho-
17 rizing the issuance of railroad maintenance revenue
18 bonds or notes or railroad maintenance revenue re-
19 funding bonds of the authority or any trust agreement
20 securing the same. Any governmental agency which
21 has power to construct, operate and maintain railroad
22 projects may enter into a contract or lease with the
23 authority whereby the use or services of any railroad
24 project of the authority will be made available to such
25 governmental agency and pay for such use or services
26 such rentals or other charges as may be agreed to
27 by such governmental agency and the authority.

28 Any governmental agency or agencies or combination
29 thereof may cooperate with the authority in the acqui-
30 sition or construction of a railroad project and shall

31 enter into such agreements with the authority as are
32 necessary, with a view to effective cooperative action
33 and safeguarding of the respective interests of the
34 parties thereto, which agreements shall provide for such
35 contributions by the parties thereto in such proportion
36 as may be agreed upon and such other terms as may
37 be mutually satisfactory to the parties, including with-
38 out limitation the authorization of the construction of
39 the project by one of the parties acting as agent for all
40 of the parties and the ownership and control of the pro-
41 ject by the authority to the extent necessary or appro-
42 priate for purposes of the issuance of railroad main-
43 tenance revenue bonds by the authority. Any gov-
44 ernmental agency may provide such contribution as is
45 required under such agreements by the appropriation
46 of money or, if authorized by a favorable vote of the
47 electors to issue bonds or notes or levy taxes or assess-
48 ments and issue notes or bonds in anticipation of the
49 collection thereof, by the issuance of bonds or notes or
50 by the levying of taxes or assessments and the issu-
51 ance of bonds or notes in anticipation of the collection
52 thereof, and by the payment of such appropriated money
53 or the proceeds of such bonds or notes to the au-
54 thority pursuant to such agreements.

55 Any governmental agency, pursuant to a favorable
56 vote of the electors in an election held before or
57 after the effective date of this section for the purpose
58 of issuing bonds to provide funds to acquire, construct
59 or equip, or provide real estate and interests in real
60 estate for a railroad project, whether or not the gov-
61 ernmental agency at the time of such election had the
62 authority to pay the proceeds from such bonds or notes
63 issued in anticipation thereof to the authority as pro-
64 vided in this section, may issue such bonds or notes in
65 anticipation of the issuance thereof and pay the pro-
66 ceeds thereof to the authority in accordance with an
67 agreement between such governmental agency and the
68 authority: *Provided*, That the legislative authority of
69 the governmental agency finds and determines that the
70 railroad project to be acquired or constructed by the
71 authority in cooperation with such governmental agency

72 will serve the same public purpose and meet sub-
73 stantially the same public need as the facility other-
74 wise proposed to be acquired or constructed by the
75 governmental agency with the proceeds of such bonds
76 or notes.

§29-18-17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.

1 Each railroad project, when constructed and placed in
2 operation, shall be maintained and kept in good condition
3 and repair by the authority or the authority shall cause
4 the same to be maintained and kept in good condition and
5 repair. Each such project shall be operated by such oper-
6 ating employees as the authority employs or pursuant to
7 a contract or lease with a governmental agency or person.
8 All public or private property damaged or destroyed in
9 carrying out the provisions of this article and in the
10 exercise of the powers granted hereunder with regard to
11 any project shall be restored or repaired and placed in
12 its original condition, as nearly as practicable, or ade-
13 quate compensation made therefor out of funds provided
14 in accordance with the provisions of this article.

15 As soon as possible after the close of each fiscal year,
16 the authority shall make an annual report of its activi-
17 ties for the preceding fiscal year to the governor and
18 the Legislature. Each such report shall set forth a com-
19 plete operating and financial statement covering the
20 authority's operations during the preceding fiscal year.
21 The authority shall cause an audit of its books and ac-
22 counts to be made at least once each fiscal year by certi-
23 fied public accountants and the cost thereof may be
24 treated as a part of the cost of construction or of opera-
25 tions of its projects.

§29-18-18. Railroad maintenance bonds lawful investments.

1 The provisions of sections nine and ten, article six,
2 chapter twelve of this code to the contrary notwithstand-
3 ing, all railroad maintenance revenue bonds issued pur-
4 suant to this article shall be lawful investments for the
5 West Virginia state board of investments and shall also
6 be lawful investments for banking institutions, societies
7 for savings, building and loan associations, savings and

8 loan associations, deposit guarantee associations, trust
9 companies, insurance companies, including domestic for
10 life and domestic not for life insurance companies.

§29-18-19. Exemption from taxation.

1 The exercise of the powers granted to the authority by
2 this article will be in all respects for the benefit of the
3 people of the state, for the improvement of their health,
4 safety, convenience, well-being and for the enhancement
5 of their residential, agricultural, recreational, economic,
6 commercial and industrial opportunities and is a public
7 purpose. As the operation and maintenance of railroad
8 projects will constitute the performance of essential
9 governmental functions, the authority shall not be re-
10 quired to pay any taxes or assessments upon any railroad
11 project or upon any property acquired or used by the
12 authority or upon the income therefrom. Such bonds and
13 notes and all interest and income thereon shall be
14 exempt from all taxation by this state, or any county,
15 municipality, political subdivision or agency thereof,
16 except inheritance taxes.

§29-18-20. Acquisition of property by authority; governmental agencies authorized to convey, etc., property.

1 The authority may acquire by purchase, whenever it
2 deems such purchase expedient, any land, property, rights,
3 rights-of-way, franchises, easements and other interests in
4 lands it deems necessary or convenient for the construc-
5 tion and operation of any railroad project upon such terms
6 and at such prices it considers reasonable and can be
7 agreed upon between the authority and the owner thereof,
8 and take title thereto in the name of the state.

9 All governmental agencies, notwithstanding any con-
10 trary provision of law, may lease, lend, grant or convey
11 to the authority, at its request, upon such terms as the
12 proper authorities of such governmental agencies deem
13 reasonable and fair and without the necessity for an ad-
14 vertisement, auction, order of court or other action or
15 formality, other than the regular and formal action of the
16 governmental agency concerned, any real property or
17 interests therein, including improvements thereto or per-

18 sonal property which is necessary or convenient to the
19 effectuation of the authorized purposes of the authority,
20 including public roads and other real property or interests
21 therein, including improvements thereto or personal prop-
22 erty already devoted to public use.

§29-18-21. Property of public utilities and common carriers.

1 This section authorizes the authority to take or disturb
2 property or facilities belonging to any public utility or to
3 a common carrier, which property or facilities are re-
4 quired for the proper and convenient operation of such
5 public utility or common carrier, if provision is made for
6 the restoration, relocation or duplication of such property
7 or facilities elsewhere at the sole cost of the authority.

8 When the authority finds it necessary to change the lo-
9 cation of any portion of any public road, state highway,
10 railroad or public utility facility in connection with the
11 construction of a railroad project, it shall cause the same
12 to be reconstructed at such location as the unit or division
13 of government having jurisdiction over such road, high-
14 way, railroad or public utility facility deems most favor-
15 able. Such construction shall be of substantially the same
16 type and in as good condition as the original road, high-
17 way, railroad or public utility facility. The cost of such
18 reconstruction, relocation or removal and any damage
19 incurred in changing the location of any such road, high-
20 way, railroad or public utility facility shall be paid by
21 the authority as a part of the cost of such railroad project.

22 When the authority finds it necessary that any public
23 highway or portion thereof be vacated by reason of the
24 acquisition or construction of a railroad project, the au-
25 thority shall request the West Virginia commissioner of
26 highways, in writing, to vacate such highway or portion
27 thereof if the highway or portion thereof to be vacated is
28 part of the state road system, or, if the highway or portion
29 thereof to be vacated is under the jurisdiction of a county
30 or a municipality, the authority shall request the govern-
31 ing body of such county or municipality to vacate such
32 public road or portion thereof. The authority shall pay to
33 the West Virginia commissioner of highways or to the
34 county or municipality, as the case may be, as part of the

35 cost of such railroad project, any amounts required to be
36 deposited with any court in connection with proceedings
37 for the determination of compensation and damages and
38 all amounts of compensation and damages finally de-
39 termined to be payable as a result of such vacation.

40 The authority may make reasonable rules and regula-
41 tions for the installation, construction, maintenance, re-
42 pair, renewal, relocation and removal of railroad or public
43 utility facilities in, on, over or under any railroad project.
44 Whenever the authority determines that it is necessary
45 that any such facilities installed or constructed in, on,
46 over or under property of the authority pursuant to such
47 rules and regulations be relocated, the railroad or public
48 utility owning or operating such facilities shall relocate
49 or remove them in accordance with the order of the au-
50 thority. The cost and expenses of such relocation or re-
51 moval, including the cost of installing such facilities in a
52 new location, the cost of any lands or any rights or in-
53 terests in lands and the cost of any other rights acquired
54 to accomplish such relocation or removal, may be paid by
55 the authority as a part of the cost of such railroad project.
56 In case of any such relocation or removal of facilities, the
57 railroad or public utility owning or operating them, and
58 its successors or assigns, may maintain and operate such
59 facilities, with the necessary appurtenances in the new
60 location in, on, over or under the property of the author-
61 ity for as long a period and upon the same terms as it had
62 the right to maintain and operate such facilities in their
63 former location.

§29-18-22. Financial interest in contracts prohibited; penalty.

1 No officer, member or employee of the authority shall
2 be financially interested, directly or indirectly, in any
3 contract of any person with the authority, or in the sale
4 of any property, real or personal, to or from the authority.
5 This section does not apply to contracts or purchases of
6 property, real or personal, between the authority and any
7 governmental agency. If any officer, member or employee
8 of the authority has such financial interest in a contract or
9 sale of property prohibited hereby, he shall be guilty of a
10 misdemeanor, and, upon conviction thereof, shall be fined
11 not more than one thousand dollars, or imprisoned in the

12 county jail not more than one year, or both fined and im-
13 prisoned.

§29-18-23. Meetings and records of authority to be kept public.

1 All meetings of the authority shall be open to the public
2 and the records of the authority shall be open to public
3 inspection at all reasonable times, except as otherwise
4 provided in this section. All final actions of the authority
5 shall be journalized and such journal shall also be open
6 to the inspection of the public at all reasonable times.

§29-18-24. Liberal construction of article.

1 The provisions of this article are hereby declared to be
2 remedial and shall be liberally construed to effectuate its
3 purposes and intents.

CHAPTER 192

(H. B. 958—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed February 17, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to relocation assistance to and replacement housing costs for persons dislocated by highway construction.

Be it enacted by the Legislature of West Virginia:

That section twenty, 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-20. Relocation assistance to and replacement housing costs for persons dislocated by highway construction.

1 The payment of relocation costs and replacement housing
2 costs to persons dislocated by highway construction is hereby
3 declared to be a cost of highway construction and may be paid

4 from the state road fund, subject to the provisions of this sec-
5 tion. The commissioner of highways shall make the payments
6 authorized by this section to reduce hardships to persons so
7 dislocated. In addition, the commissioner shall render advisory
8 assistance to persons affected and shall call upon and coordi-
9 nate the services of such other agencies of state and local gov-
10 ernment as may be capable of rendering such assistance to re-
11 duce hardships to persons affected and to reduce delays in
12 highway construction. In rendering such advisory assistance,
13 the commissioner may accumulate and maintain lists of various
14 kinds of properties available to which persons affected may be
15 relocated, and acquire and file such other information and take
16 such other action as may be necessary to render such advisory
17 assistance. With respect to persons dislocated by federal-aid
18 highway projects, the commissioner shall provide a relocation
19 assistance program which will comply with and implement the
20 federal laws and regulations relating to relocation assistance to
21 displaced persons.

22 Any individual, family, business concern (including the
23 operation of a farm) or nonprofit organization to be displaced
24 by a highway construction project shall be compensated con-
25 sistent with the provisions and limitations of this section for
26 reasonable and necessary costs to be incurred in consequence
27 of being so displaced. When a family is displaced, no addi-
28 tional payment shall be made to individuals who are members
29 of such family; but, if two or more displaced families occupy
30 the same dwelling or comprise a single household, each family
31 within such dwelling or household may receive relocation costs
32 as provided in this section. Payments under this section are
33 subject to the limitations provided herein and to any rules and
34 regulations made by the commissioner as herein provided.

35 With respect to state highway projects and federal-aid high-
36 way projects, the commissioner shall have authority to make
37 such payments for relocation costs, replacement housing costs,
38 including the increased interest costs which the displaced per-
39 son is required to pay for financing the acquisition of a com-
40 parable replacement dwelling, and reasonable expenses inc-
41urred by such displaced person for evidence of title, record-
42ing fees, and other closing costs incident to the purchase of the
43 replacement dwelling, and expenses incidental to the transfer

44 of property as are authorized by the federal laws and regula-
45 tions relating to relocation payments to displaced persons.

46 The commissioner shall establish by rules and regulations a
47 procedure for the payment of relocation costs within the
48 limits of and consistent with the policies of this section. Such
49 rules and regulations may authorize lump sum payments to
50 individuals or families, in lieu of their respective provable
51 costs, based upon the size of the dwelling being vacated or
52 the number of persons being affected or any other reasonable
53 basis. The commissioner may authorize the obligations of or
54 payment of relocation costs in advance of expenditure for re-
55 location by any person, firm or organization eligible to receive
56 such payment where such advance obligation or payment would
57 speed the clearance of highway construction sites or reduce
58 hardships.

59 With respect to state highway projects and federal-aid
60 highway projects, the commissioner shall also have authority to
61 comply with the federal laws and regulations relating to pro-
62 viding last resort replacement housing.

63 Nothing contained in this section or in the federal laws
64 and regulations relating to relocation assistance and payments
65 to displaced persons shall be construed as creating in any
66 condemnation proceedings brought under the power of emi-
67 nent domain, any element of damages not in existence on the
68 effective date of this section or of the federal laws and regula-
69 tions relating to relocation assistance and payments to dis-
70 placed persons.



CHAPTER 193

(Com. Sub. for H. B. 1163—By Mr. Seibert)

[Passed April 14, 1975; 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 Highways Amendment of 1973, in a total amount not to exceed

one hundred million dollars, and in several issuances, none of which may exceed fifty million dollars, and with a specified ninety-day waiting period being applicable to any issuance and sale of the second fifty million dollars of bonds, for the sole purpose of raising funds 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 the construction, reconstruction, improving and upgrading of U. S. Route 52 between Huntington and Bluefield, West Virginia, 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; permitting the commissioner of the department of highways to determine the distribution of the total proceeds from the first fifty million dollars of bonds issued to subaccounts, after deposit of the total proceeds of each bond sale in the separate and distinct account in the state road fund; requiring notification to be given by the commissioner of the department of highways to the president of the Senate and speaker of the House of Delegates of such distribution; requiring the total proceeds from the second fifty million dollars of bonds to be distributed on a percentage basis; requiring the commissioner of the department of highways to make monthly reports of specific projects for which all proceeds have been obligated or expended; 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 fund; providing for the disposition and investment of the state road 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 within the state road fund and providing that said account shall contain six (6) subaccounts, their purposes and the amount of the total proceeds of such bond sale to be deposited therein and for expenditures from said

account; providing for annual accountability status report; providing that the plates, etc., from which the bonds are produced or made shall be the property of the state; 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; purposes; distribution of bond proceeds; notification and report; 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 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 a separate and distinct account within the state road fund; subaccounts and restriction on transfer of funds; expenditures; investment; annual accountability status report.
- §10. Plates, etc., property of state.
- §11. Auditor to be custodian of unsold bonds.
- §12. State treasurer to be financial advisor.
- §13. Attorney general or his duly appointed legal representative to serve as bond counsel.
- §14. Approval and payment of all necessary expenses.

§1. Road bonds; amount; purposes; distribution of bond proceeds; notification and report; when may issue.

1 Bonds of the state of West Virginia, under authority of the
 2 Better Highways Amendment of 1973, of the par value not to
 3 exceed one hundred million dollars are hereby authorized to be
 4 issued and sold for the sole purpose of raising funds for the
 5 building, construction, reconstruction, improving, upgrading
 6 and completion of state roads and highways and for bridge re-
 7 placement and improvement as provided for by the con-
 8 stitution and the laws enacted thereunder. .

9 (a) The total proceeds from the first fifty million dollars
10 of bonds issued and sold hereunder shall be deposited in the
11 separate and distinct account, hereinafter provided for in
12 section nine of this act, and shall be distributed to subac-
13 counts of such account as determined necessary by the
14 commissioner of the department of highways. The commis-
15 sioner of the department of highways shall, within fifteen
16 days after the sale of such bonds, notify the president of the
17 Senate and the speaker of the House of Delegates of the
18 Legislature of West Virginia of his distribution determination,
19 with the amount distributed to any subaccount to not exceed
20 the total aggregate amount allowable for the designated
21 purpose or program as specified in the constitutional amend-
22 ment.

23 (b) The total proceeds of the second fifty million dollars of
24 bonds issued and sold hereunder shall be deposited in the
25 separate and distinct account, hereinafter provided for in
26 section nine of this section, and shall be distributed to sub-
27 accounts of such account in the following percentages:

28 (1) Twenty-four percent for bridge replacement and im-
29 provement program;

30 (2) Twenty-six percent for completion of the Appalachian
31 highway system;

32 (3) Ten percent for upgrading sections of trunkline and
33 feeder systems;

34 (4) Ten percent for upgrading West Virginia State
35 Route 2;

36 (5) Twenty percent for upgrading state and local service
37 roads; and

38 (6) Ten percent for construction, reconstruction, improving
39 and upgrading of U.S. Route 52 between Huntington and
40 Bluefield, West Virginia.

41 (c) No later than ten days after the close of each month,
42 the commissioner of the department of highways shall submit
43 to the president of the Senate and the speaker of the House
44 of Delegates of the Legislature of West Virginia a report of
45 the specific projects and amount thereof awarded by the

46 department of highways and for which such bond proceed
47 moneys have been obligated or expended.

48 All such bonds may be issued by the governor in such
49 amounts, in coupon or registered form, in such denominations,
50 at such time, bearing such date or dates, as the governor may
51 determine, based upon an examination of the West Virginia
52 department of highways' yearly program which justifies the
53 issuance by the governor of said bonds, and shall become due
54 and payable serially, annually or semiannually, in such amounts
55 and mature in such years as the governor may determine:
56 *Provided*, That such bonds shall be sold in increments not to
57 exceed fifty million dollars: *Provided, however*, That no bonds
58 of the second fifty million dollars authorized hereunder shall
59 be issued or sold until ninety days shall have elapsed after
60 the sale of the final increment of road bonds as authorized by
61 the Legislature in chapter thirteen, acts of the Legislature,
62 second extraordinary session, one thousand nine hundred
63 seventy-four: *Provided further*, That all bonds authorized to
64 be issued and sold under this act shall mature within and not
65 exceeding twenty-five years from their date: *And Provided*
66 *further*, That the governor must offer all of said bonds for
67 competitive bids from recognized financial investment institu-
68 tions 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 road fund. Bonds taken in exchange shall be canceled by
6 the auditor and treasurer and be carefully preserved by the
7 treasurer. The treasurer shall make provisions for registering
8 "payable to bearer" bonds, and for each bond registered a
9 fee of one dollar shall likewise be charged by and paid to the
10 state of West Virginia, to the credit of the state road fund. All
11 such bonds shall be payable at the office of the treasurer of the
12 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
 16 governor. The bonds shall bear interest, payable semiannually,
 17 to bearer, at the office of the treasurer of the state of West
 18 Virginia, at the capitol of the state, or at the banks desig-
 19 nated and approved by the governor, upon presentation and
 20 surrender 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 the check to the registered owner at
 25 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
 2 West Virginia, by the manual or facsimile signature of
 3 the treasurer thereof, under the great seal of the state or a
 4 facsimile thereof, and countersigned by the manual or fac-
 5 simile signature of the auditor of the state: *Provided*, That one
 6 of said signatures on said bonds shall be a manual signature
 7 and said bonds shall be in the following form or to the follow-
 8 ing effect, as nearly as may be, namely:

COUPON ROAD BOND

(Or registered road bond, as the case may be)

OF THE

STATE OF WEST VIRGINIA

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. 17 adopted the thirteenth day of
 17 April, one thousand nine hundred seventy-three, and was rati-
 18 fied by a vote of the people at the special election on the sixth
 19 day of November, one thousand nine hundred seventy-three,

20 which is hereby made a part hereof as fully as if set forth at
 21 length herein, acknowledges itself to be indebted to and here-
 22 by promises to pay to the bearer hereof (in case of a coupon
 23 bond) or to _____ or assigns (the owner
 24 of record, in case of registered bonds) on the _____ day
 25 of _____ 19____, in lawful money of
 26 the United States of America at the office of the treasurer
 27 of the state of West Virginia at the capitol, of said state,
 28 or, at _____ bank in the
 29 city of New York, or, at _____ bank, at the
 30 option of the holder, the sum of _____
 31 dollars, with interest thereon at _____
 32 percent a year from the date, payable semiannually in
 33 like lawful money of the United States of America at the
 34 treasurer's office or banks aforesaid, on the first day of
 35 _____ and the first day of
 36 _____ of each year (and in the case of
 37 coupon bonds) according to the tenor of the annexed coupons
 38 bearing the facsimile signature of the treasurer of the state
 39 of West Virginia upon surrender of such coupons. This bond
 40 (in case of a coupon bond) may be exchanged for a regis-
 41 tered bond of like tenor upon application to the treasurer
 42 of the state of West Virginia. (Redemption provisions, if
 43 any, to be inserted here.)

44 To secure the payment of the principal and interest of
 45 this bond, the state of West Virginia covenants and agrees
 46 with the holder as follows: (1) That this bond shall constitute
 47 a direct and general obligation of the state of West Virginia;
 48 (2) that the full faith and credit of the state is pledged to
 49 secure the payment of the principal and interest of this bond;
 50 (3) that an annual state tax shall be collected in an amount
 51 sufficient to pay as it may accrue the interest on this bond and
 52 the principal thereof; and (4) that such tax shall be levied
 53 in any year only to the extent that the moneys in the
 54 state road fund irrevocably set aside and appropriated for
 55 and applied to the payment of the interest on and principal
 56 of this bond becoming due and payable in such year are
 57 insufficient therefor.

58 This bond is hereby made exempt from any taxation by

59 the state of West Virginia, or by any county, district or
60 municipal corporation thereof.

61 In testimony whereof, witness the manual or facsimile
62 signature of the treasurer of the state of West Virginia, and
63 the manual or facsimile countersignature of the auditor of
64 the state, hereto affixed according to law, dated the _____
65 day of _____, one thousand nine
66 hundred _____, and the seal of
67 the state of West Virginia or a facsimile thereof.

68 _____
69 Treasurer of the State of West Virginia

70 (SEAL)

71 Countersigned:

72 _____
73 Auditor of the State of West Virginia.

§4. Form of coupon.

1 The form of coupon shall be substantially as follows, to
2 wit:

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

5 On the first day of _____, 19____,
6 the state of West Virginia will pay to the bearer, in lawful
7 money of the United States of America, at the office of the
8 treasurer of the state, or, at _____
9 bank in the city of New York, or, at _____
10 _____ bank, at the option of the holder
11 the sum of _____ dollars, the same being
12 semiannual interest on Road Bond No. _____
13

14 _____
Treasurer of the State of West Virginia

15 The signature of the treasurer to such coupon shall be
16 by his facsimile signature and the coupons shall be num-
17 bered in the order of their maturity, from number one
18 consecutively. The bonds and coupons may be signed,
19 as provided in this act, by the present treasurer and audi-

20 tor, or by any of their respective successors in office, and
21 the bonds signed by the persons now in the office may be
22 sold by the governor or his successor in office without being
23 signed by the successor in office of the present treasurer or
24 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 the
7 owner thereof.

**§6. State road fund sources used to pay bonds and interest;
investment of remainder.**

1 Into the state road fund there shall be paid all money from
2 any and all appropriations made by the state from the state
3 road fund for the purpose of paying the interest on such bonds
4 or paying off and retiring the bonds, from transfer and registra-
5 tion fees as herein provided, and from any other source what-
6 soever which is made liable by law for the payment of the
7 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 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 invested by the state treasurer in obligations of the
16 government of the United States, bonds of the state of West
17 Virginia, or any political subdivision thereof: *Provided*, That
18 bonds or other obligations so purchased by the state treasurer
19 shall mature so as to provide sufficient money to pay off all
20 bonds herein provided to be issued as they become due; and
21 the money so paid into the state road fund under the pro-
22 visions of this act shall be expended for the purpose of paying
23 the interest and principal of the bonds hereby provided for as
24 they severally become due and payable.

§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 the
6 payment of the principal and interest of such bonds; (3)
7 that an annual state tax shall be collected in an amount
8 sufficient to pay as it may accrue the interest on such
9 bonds and the principal thereof; and (4) that such tax shall
10 be levied in any year only to the extent that the moneys in
11 the state road fund irrevocably set aside and appropriated
12 for and applied to the payment of the interest on and principal
13 of said bonds becoming due and payable in such year are
14 insufficient therefor.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at
2 such time or times, within the specified periods and limitations,
3 as he may determine necessary to provide funds for the
4 building, construction, reconstruction, improving, upgrading
5 and completion of state roads and highways, and for bridge
6 replacement and improvement as herein provided, upon the
7 recommendation of the West Virginia commissioner of high-
8 ways, and after reviewing the program of the West Virginia
9 department of highways and subject to the limitations con-
10 tained in this act. All sales shall be at not less than par
11 and accrued interest. All interest coupons becoming payable
12 prior to the sale date shall be canceled by the treasurer and
13 rendered ineffective before the delivery of the bonds so
14 sold.

§9. Proceeds paid into a separate and distinct account within the state road fund; subaccounts and restriction on transfer of funds; expenditures; investment; annual accountability status report.

1 The proceeds of the sale of each issue of bonds herein
2 authorized shall be paid into a separate and distinct account
3 within the state road fund, and in order to control expendi-
4 tures, said account shall contain six subaccounts to be

5 designated as follows; bridge replacement and improvement
6 subaccount; Appalachian highway system completion sub-
7 account; trunkline and feeder system upgrading subaccount;
8 state Route 2 upgrading subaccount; state and local service
9 roads upgrading subaccount; construction, reconstruction, im-
10 proving, and upgrading of U. S. Route 52 between Huntington
11 and Bluefield, West Virginia, subaccount.

12 It is the express intent of the Legislature that when the
13 proceeds of each issue of bonds sold have been deposited,
14 as aforesaid, and distributed to each subaccount in the
15 manner provided for in section one of this bill, there shall
16 be no transfer of funds thereafter among the six sub-
17 accounts. The proceeds of each sale of bonds shall be al-
18 located to the subaccounts, as designated above, and used
19 and appropriated solely for expenditure in the manner as
20 hereinbefore directed.

21 Except for such sums necessary for current operating bal-
22 ances, any excess cash in any one or more of said subaccounts
23 may be combined and shall be invested by the state treasurer
24 in obligations of the government of the United States, bonds
25 of the state of West Virginia, or any political subdivision
26 thereof: *Provided*, That no such investment may adversely
27 offset the current operating balances of such fund: *Provided*,
28 *however*, That all interest accruing from such investment
29 shall be paid into the state road fund for debt service on the
30 bonds issued.

31 On or before the thirty-first day of January of each year,
32 the commissioner of the department of highways shall submit
33 to the legislative auditor an accountability status report of
34 all moneys received or expended within the state road fund,
35 and the six separate subaccounts herein provided and any
36 other information required to fully account in respect to the
37 handling of bonds issued and moneys expended under the
38 authority of the Better Highways Amendment of 1973. No
39 moneys shall be expended by the commissioner other than as
40 authorized in said amendment.

§10. Plates, etc., property of state.

1 The plates, casts, dies or other forms from which the

2 bonds authorized by this bill 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. 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.

§13. 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
3 for the issuance of a final approving opinion regarding the
4 legality of the sale of such bonds.

§14. Approval and payment of all necessary expenses.

1 All necessary expenses, including legal expenses ap-
2 proved by the attorney general, incurred in the execution
3 of this act shall be paid out of the state road fund on
4 warrants of the auditor of the state drawn on the state
5 treasurer.

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CHAPTER 194

(H. B. 1219—By Mr. Lehr and Mr. Shaffer)

[Passed March 7, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section six, article two-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to area vocational program; qualifications of applicants to participate as students; rules and regulations governing eligibility of applicants; and fee students.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2B. AREA VOCATIONAL PROGRAM.

§1. Repeal of statute relating to area vocational program.

- 1 Section six, article two-b, chapter eighteen of the code of
- 2 West Virginia, one thousand nine hundred thirty-one, as
- 3 amended, is hereby repealed.

CHAPTER 195

(Com. Sub. for H. B. 695—By Mrs. Spears and Mr. Lohr)

[Passed March 8, 1975; In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one-b, one-c and four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county boards of education; election; terms of office; organization of board; meetings.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1b. Election; terms of office.

§18-5-1c. Organization of board.

§18-5-4. Meetings; quorum; employment and assignment of teachers; compensation of members; affiliation with state and national associations; dues and traveling expenses.

§18-5-1b. Election; terms of office.

- 1 At the primary election in the year one thousand nine
- 2 hundred seventy-six, one member shall be elected for a term
- 3 of five and one-half years; at the primary election in the year
- 4 one thousand nine hundred seventy-eight, two members shall
- 5 be elected for a term of five and one-half years; and at the
- 6 primary election in the year one thousand nine hundred eighty,
- 7 two members shall be elected for a term of five and one-half

8 years. The terms of the members so elected shall begin on the
9 first day of January of the year subsequent to their election.

10 As the terms provided above expire, members shall be
11 elected for six-year terms at the time of each regular primary
12 election thereafter. The terms of such members shall begin
13 on the first day of July next following the primary election at
14 which they were elected.

15 The term of office of any member of any county board of
16 education shall immediately cease, and a vacancy shall exist,
17 upon occurrence of ineligibility as prescribed in section one-a
18 of this article.

19 This section shall in no manner be construed so as to affect
20 the unexpired terms of county school board members who hold
21 office or were elected under prior existing law, except that the
22 term of office for which they were elected shall expire on the
23 thirty-first day of December next following the primary election
24 at which their successors in office were elected.

§18-5-1c. Organization of board.

1 On the first Monday of January, following each biennial
2 primary election, each respective board of education shall
3 organize and elect for a two-year term, a president from its
4 own membership and report same promptly to the state
5 superintendent of schools: *Provided*, That on the first Mon-
6 day of January, one thousand nine hundred eighty-one, each
7 respective board of education shall elect a president for
8 a term to expire the thirtieth day of June, one thousand
9 nine hundred eighty-two: *Provided, however*, That on the
10 first Monday of July, following the primary election in the
11 year one thousand nine hundred eighty-two and each biennial
12 primary election thereafter, each respective board of edu-
13 cation shall organize and elect for a two year term, a president
14 from its own membership and report same promptly to the
15 state superintendent of schools.

§18-5-4. Meetings; quorum; employment and assignment of teach- ers; compensation of members; affiliation with state and national associations; dues and traveling expenses.

1 The board shall meet on the first Monday of January,
2 except that in the year one thousand nine hundred eighty-two

3 and every year thereafter, the board shall meet on the first
4 Monday of July, and upon the dates provided by law for the
5 laying of levies, and at such other times as the board may
6 fix upon its records. At any meeting as authorized above
7 and in compliance with the provisions of article four of
8 this chapter, the board may employ such qualified teachers,
9 or those who will qualify by the time of entering upon their
10 duties, necessary to fill existing or anticipated vacancies
11 for the current or next ensuing school year. At a meeting
12 of the board, on or before the first Monday of May, the
13 superintendent shall furnish in writing to the board a list
14 of those teachers to be considered for transfer and subsequent
15 assignment for the next ensuing school year; all other teachers
16 not so listed shall be considered as reassigned to the positions
17 held at the time of this meeting. Such list of those recom-
18 mended for transfer shall be included in the minute record and
19 the teachers so listed shall be notified in writing, which notice
20 shall be delivered in writing, by certified mail, return receipt
21 requested, to such teachers' last-known addresses within ten
22 days following said board meeting, of their having been so
23 recommended for transfer and subsequent assignment.

24 Special meetings may be called by the president or any
25 three members, but no business shall be transacted other
26 than that designated in the call.

27 A majority of the members shall constitute the quorum
28 necessary for the transaction of official business.

29 Board members may receive compensation at a rate not to
30 exceed forty dollars per meeting attended. But they shall
31 not receive pay for more than thirty-six meetings in any one
32 fiscal year.

33 Members shall also be paid, upon the presentation of an
34 itemized sworn statement, for all necessary traveling expenses,
35 including all authorized meetings, incurred on official business,
36 at the order of the board.

37 When, by a majority vote of its members, a county board
38 of education deems it a matter of public interest, such board
39 may join the West Virginia school board association and
40 the national school board association, and may pay such
41 dues as may be prescribed by said associations and approved

42 by action of the respective county boards. Membership dues
43 and actual traveling expenses of board members for attending
44 meetings of the West Virginia school board association may
45 be paid by their respective county boards of education out
46 of funds available to meet actual expenses of the members,
47 but no allowance shall be made except upon sworn itemized
48 statements.

CHAPTER 196

(S. B. 173—By Mr. Nelson and Mr. Fanning)

[Passed March 9, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact sections three, twenty-six and thirty-five, article seven-a, chapter eighteen 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 thirty-five-a, all relating to general definitions, definitions of average salary and to prior service credit for nonteaching members and former members of the state teachers retirement system and computation of annuities.

Be it enacted by the Legislature of West Virginia:

That sections three, twenty-six and thirty-five, article seven-a, chapter eighteen 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 thirty-five-a, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

§18-7A-26. Computation of annuities.

§18-7A-35. Coverage for nonteaching employees; prior service credit.

§18-7A-35a. Prior service credit for former members of the state teachers retirement system employed in a nonteaching capacity.

§18-7A-3. Definitions.

1 "Teacher" shall include the following persons, if regu-

2 larly employed for at least half-time service: (a) Any
3 person employed for instructional service in the public
4 schools of West Virginia; (b) principals; (c) public school
5 librarians; (d) superintendents of schools and assistant
6 county superintendents of schools; (e) any county school
7 attendance director holding a West Virginia teacher's cer-
8 tificate; (f) the executive secretary of the retirement
9 board; (g) members of the research, extension, administra-
10 tive or library staffs of the public schools; (h) the state
11 superintendent of schools, heads and assistant heads of the
12 divisions under his supervision, or any other employee
13 thereunder performing services of an educational nature;
14 (i) employees of the state board of education who are per-
15 forming services of an educational nature; (j) any person
16 employed in a nonteaching capacity by the state board of
17 education, the West Virginia board of regents, any county
18 board of education, the state department of education or
19 the teachers retirement board, if such person was for-
20 merly employed as a teacher in the public schools; (k)
21 all classroom teachers, principals and educational adminis-
22 trators in schools under the supervision of the state com-
23 missioner of public institutions; (l) employees of the state
24 board of school finance if such person was formerly em-
25 ployed as a teacher in the public schools.

26 "Members of the administrative staff of the public
27 school" shall include deans of instruction, deans of men,
28 deans of women, and financial and administrative secre-
29 taries.

30 "Members of the extension staff" of the public schools
31 shall include every agricultural agent, boys' and girls'
32 club agent, and every member of the agricultural exten-
33 sion staff whose work is not primarily stenographic, clerical
34 or secretarial.

35 "Retirement system" shall mean the state teachers re-
36 tirement system provided for in this article.

37 "Present teacher" means any person who was a teacher
38 within the thirty-five years beginning July one, one
39 thousand nine hundred thirty-four, and whose member-
40 ship in the retirement system has been continuous.

41 "New entrant" shall mean a teacher who is not a present
42 teacher.

43 "Present member" shall mean a present teacher who is
44 a member of the retirement system.

45 "Total service" shall mean all service as a teacher while
46 a member of the retirement system since last becoming
47 a member and, in addition thereto, his credit for prior
48 service, if any.

49 "Prior service" shall mean all service as a teacher com-
50 pleted prior to July first, one thousand nine hundred
51 forty-one, and all service of a present member who was
52 employed as a teacher, and did not contribute to retire-
53 ment account because he was legally ineligible for mem-
54 bership during such service.

55 "Average final salary" shall mean the average annual
56 salary earned as a teacher during the last fifteen years of
57 prior service, including military service, as provided
58 herein, or if prior service is less than fifteen years, the
59 average annual salary for that period. If the records for
60 determining each annual salary need cannot reasonably
61 be established by the retirement board, then the term
62 shall mean the average annual salary of the teacher for
63 years for which records are available.

64 "Accumulated contributions" shall mean all deposits
65 and all deductions from the earnable compensation of a
66 contributor minus the total of all supplemental fees de-
67 ducted from his compensation.

68 "Regular interest" shall mean interest at three percent
69 compounded annually, or a higher earnable rate if ap-
70 proved by the retirement board.

71 "Refund interest" shall mean interest compounded an-
72 nually at a rate of three percent.

73 "Employer" shall mean the agency of and within the
74 state which has employed or employs a member.

75 "Contributor" shall mean a member of the retirement
76 system who has an account in the teachers accumulation
77 fund.

78 "Beneficiary" shall mean the recipient of annuity
79 payments made under the retirement system.

80 "Refund beneficiary" shall mean the estate of a de-
81 ceased contributor, or such person as he shall have nomi-
82 nated as beneficiary of his contributions by written desig-
83 nation duly executed and filed with the retirement board.

84 "Earnable compensation" shall mean the full compen-
85 sation actually received by members for service as
86 teachers whether or not a part of such compensation is
87 received from other funds, federal or otherwise, than
88 those provided by the state or its subdivisions. Allowances
89 from employers for maintenance of members shall be
90 deemed a part of earnable compensation of such members.

91 "Annuities" shall mean the annual retirement payments
92 for life granted beneficiaries in accordance with this
93 article.

94 "Member" shall mean a member of the retirement
95 system.

96 "Public schools" shall mean all publicly supported
97 schools, including normal schools, colleges, and univer-
98 sities in this state.

99 "Deposit" shall mean a voluntary payment to his ac-
100 count by a member.

101 The masculine gender shall be construed so as to include
102 the feminine.

103 Age in excess of seventy years shall be deemed to be
104 seventy years.

§18-7A-26. Computation of annuities.

1 Annuitants whose annuities were approved by the re-
2 tirement board effective before July first, one thousand
3 nine hundred seventy, shall be paid the annuities which
4 were approved by the retirement board, subject to the
5 supplemental benefits authorized in this article.

6 Annuities approved by the board effective after June
7 thirty, one thousand nine hundred seventy, shall be com-
8 puted as provided herein.

9 Upon establishment of eligibility for a retirement allow-
10 ance, a member shall be granted an annuity which shall
11 be the sum of either Plan A or Plan B, whichever provides
12 the larger annuity.

13 Plan A shall be computed as follows:

14 (a) The actuarial equivalent of the contributions and
15 deposits of the member in his individual account up to
16 the time of his retirement, with regular interest;

17 (b) The actuarial equivalent of the contributions of
18 the employer up to the time of the member's retirement,
19 which shall equal the sum in subdivision (a) of Plan A
20 minus deposits with regular interest on such deposits;

21 (c) Where prior service credit has been granted, an
22 allowance of one and one-half percent of the member's
23 average final salary multiplied by the number of years
24 of prior service credited to him;

25 (d) The actuarial equivalent of the amounts that
26 would have accumulated under subdivisions (a) and
27 (b) of Plan A, if the member had contributed to his
28 individual account until he was fifty years old, at the
29 annual rate of his past actual contributions, but this sub-
30 division shall apply only as additional income to mem-
31 bers who qualify for disability retirement before they
32 are fifty years old;

33 (e) Twelve dollars multiplied by his total service
34 credit as a teacher;

35 (f) The member shall receive in addition to the allow-
36 ances under subdivisions (c) and (d) an amount equal
37 to six dollars multiplied by his total service credit:
38 *Provided*, That the maximum allowance under this sub-
39 division shall be one hundred ninety-two dollars: *Pro-*
40 *vided, however*, That this subdivision shall be effective
41 on and after July first, one thousand nine hundred fifty-
42 seven;

43 (g) Twelve dollars multiplied by the member's total
44 service credit as a teacher.

45 For the purpose of subdivision (c) in Plan A:

46 (1) An allowance for prior service shall in no case
47 exceed three fifths of the member's average final salary;

48 (2) Average final salary for this purpose shall in no
49 case exceed two thousand five hundred dollars, nor shall
50 it be less than twelve hundred dollars.

51 Plan B shall be computed as follows:

52 (a) Two percent of the member's average salary
53 multiplied by his total service credit as a teacher. In
54 this paragraph "average salary" shall mean the average
55 of the highest annual salaries received by the member
56 during any five years contained within his last fifteen
57 years of total service credit; and any teacher who re-
58 tired before July one, one thousand nine hundred seventy-
59 four and who was employed for fifteen years or more
60 by a county board of education and who, though a
61 regular full-time employee as defined in this article,
62 shall have performed part-time services as a teacher
63 and shall have received less than a full salary for such
64 part-time services, over a period of two or more years,
65 during which said teacher was employed by the board
66 of education for more than one hundred eighty days
67 each year and was not otherwise employed, shall be
68 permitted to combine the salaries into increments of
69 two years, for the purpose of determining average salary,
70 but such increment shall not exceed the amount which
71 would have been payable for one year had the teacher
72 been employed on a full-time basis, and no more than
73 three such combinations may be used in computing the
74 average salary: *Provided*, That the highest annual salary
75 used in this calculation for members employed by the
76 West Virginia board of regents at institutions of higher
77 education under its control shall be four thousand eight
78 hundred dollars;

79 (b) The actuarial equivalent of the deposits of the
80 member in his individual account up to the time of his
81 retirement, with regular interest.

82 The disability annuities of all teachers retired for
83 disability shall be based upon a disability table prepared
84 by a competent actuary approved by the retirement board.

85 Upon the death of an annuitant who qualified for an
86 annuity as a surviving spouse or because of permanent
87 disability, the estate of the deceased or beneficiary desig-
88 nated for such purpose, shall be paid the difference, if
89 any, between the member's contributions with regular
90 interest thereon, and the sum of the annuity payments.

91 All annuities shall be paid in twelve monthly pay-
92 ments. In computing such monthly payments, fractions
93 of a cent shall be deemed a cent. Such monthly pay-
94 ments shall cease with the payment for the month
95 within which the beneficiary dies, and shall begin with
96 the payment for the month succeeding the month within
97 which the annuitant became eligible under this article
98 for the annuity granted; in no case, however, shall an
99 annuitant receive more than four monthly payments
100 which are retroactive after the board receives his applica-
101 tion for annuity.

102 In case the retirement board receives data affecting
103 the approved annuity of a retired teacher, the annuity
104 shall be changed in accordance with such data, the change
105 being effective with the payment for the month within
106 which the board received the new data.

107 Any person who has attained the age of sixty-five and
108 who has served at least twenty-five years as a teacher
109 prior to July one, one thousand nine hundred forty-one,
110 shall be eligible for prior service credit and for prior
111 service pensions as prescribed in this section.

§18-7A-35. Coverage for nonteaching employees; prior service credit.

1 Nonteaching employees shall mean all persons, except
2 teachers, regularly employed for full-time service by the
3 following educational agencies: (a) Any county board of
4 education, (b) the state board of education, (c) the West
5 Virginia board of regents; (d) and the teachers' retire-
6 ment board.

7 Such nonteaching employees shall be entitled to all the
8 rights, privileges and benefits provided for teachers by
9 this article, upon the same terms and conditions as are

10 herein prescribed for teachers. Any member who was
11 employed as a regular full-time employee in a nonteach-
12 ing capacity by a board of education, school principal or
13 school administrator, prior to the time he became eligible
14 for membership in the state teachers retirement system,
15 shall be granted prior service credit for such service upon
16 making application to the retirement board and pro-
17 viding satisfactory evidence of such service.

**§18-7A-35a. Prior service credit for former members of the
state teachers retirement system employed in a
nonteaching capacity.**

1 Any former member of the state teachers retirement sys-
2 tem who was employed as a regular full-time employee
3 in a nonteaching capacity by a board of education, school
4 principal or school administrator, prior to the time he
5 became eligible for membership in the state teachers re-
6 tirement system, shall be eligible for prior service credit
7 for such service. Upon making application to the retire-
8 ment board and providing satisfactory evidence, prior
9 service credit shall be granted and his retirement allow-
10 ance shall be recomputed and adjusted to include such
11 prior service credit. Any increased retirement allowance
12 resulting from the provisions of this section shall not be
13 retroactive.

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CHAPTER 197

(S. B. 253—By Mr. Rogerson)

[Passed March 9, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section two, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article four, chapter eighteen-a of said code by adding thereto a new section, designated section two-a, all relating to providing for a salary increase for teachers outside the West Virginia public school support plan and the payment

of the increased fixed charges payments required thereby; and relating to certain definitions and a certain rule of construction with respect to the West Virginia public school support plan.

Be it enacted by the Legislature of West Virginia:

That section two, 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 article four, chapter eighteen-a of said code be amended by adding thereto a new section, designated section two-a, all to read as follows:

Chapter

18. Education.

18A. School Personnel.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions; affect of increases given in §18-4-2a.

- 1 (a) For the purpose of this article:
- 2 "State board" means the West Virginia board of educa-
- 3 tion.
- 4 "County board" or "board" means a county board of
- 5 education.
- 6 "Professional salaries" means the state legal-mandated
- 7 salaries of the professional educators as provided in
- 8 article four, chapter eighteen-a of this code.
- 9 "Professional educator" shall be synonymous with and
- 10 shall have the same meaning as "teacher" as defined
- 11 in section one, article one, chapter eighteen of this code.
- 12 "Employment term" means the months of employment
- 13 as defined in section fifteen, article five of this chapter.
- 14 "Net enrollment" means the number of pupils enrolled
- 15 in special education programs, early childhood programs
- 16 and grades one to twelve, inclusive, of the public schools
- 17 of the county.

18 "Adjusted enrollment" means the net enrollment plus
19 twice the number of pupils enrolled for special education,
20 all adjusted to the equivalent of the instructional term
21 and in accordance with such eligibility requirements and
22 regulations as established by the state board, but no
23 pupil shall be counted more than once by reason of
24 transfer within the county or from another county within
25 the state, and no pupil shall be counted who attends
26 school in this state from another state.

27 "Levies for general current expense purposes" means
28 on each hundred dollars of valuation, nineteen and six-
29 tenths cents on Class I property, thirty-nine and two-
30 tenths cents on Class II property, and seventy-eight and
31 four-tenths cents on Classes III and IV property.

32 (b) Notwithstanding any other provision of this article
33 to the contrary, the salary increase given in section two-a,
34 article four, chapter eighteen-a of this code and the in-
35 creased fixed charges payments required thereby shall
36 not cause an increase in any of the amounts computed in
37 the total state basic foundation program hereinafter pro-
38 vided for. The salary increase and increased fixed charges
39 payments shall be paid for outside the West Virginia
40 public school support plan.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-2a. Salary increase for teachers.

1 In addition to the amount of state minimum salary he
2 would receive pursuant to the provisions of section two of
3 this article, each teacher shall receive as a salary in-
4 crease an amount of five hundred dollars. This salary
5 increase and the increased fixed charges payments re-
6 quired thereby shall be paid for outside the West Vir-
7 ginia public school support plan provided for in article
8 nine-a, chapter eighteen of this code.

CHAPTER 198

(S. B. 153—By Mr. Moreland)

[Passed March 5, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine-a, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the coal research bureau; investigations and research concerning uses of coal; mine safety and development of the mineral industry.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-9a. Coal research bureau; advisory committee on coal research.

1 The coal research bureau, heretofore established in
2 the school of mines at West Virginia University, shall be
3 continued. Subject to such rules and regulations as may
4 be prescribed by the board of regents, it shall conduct
5 investigations and research into the development of new,
6 safer and more economical ways to mine coal, consider
7 environmental problems created through the use of coal,
8 develop new uses and markets for coal, other energy
9 fuels and allied minerals, develop new methods of com-
10 bustion of coal and new uses of coal in the chemical indus-
11 try, develop greater efficiency and conservation in the
12 mining and mineral industries, and make such tests and
13 investigations as may be required by the department of
14 mines in the prosecution of its work. It shall conduct
15 such experiments and tests as will promote the develop-
16 ment of the mineral industries in the state, and shall co-
17 operate with the department of mines in the investiga-
18 tion of the causes of mine disasters and common mine

19 accidents. It shall also initiate and carry on a program
20 of research designed to discover and develop new uses
21 and new processes for the utilization of West Virginia
22 coal and other mineral resources.

23 The costs of financing the research program shall be
24 paid from any funds appropriated by the Legislature for
25 the purpose, from any grants or gifts received by the
26 bureau, and from any income received for research car-
27 ried on by the bureau under contract with any federal
28 or state agency, or with any private corporation, associ-
29 ation or individual. Within the limits of available funds,
30 research activities may be conducted by the bureau itself,
31 or under contract with some other research group, cor-
32 poration or individual whenever this is deemed advis-
33 able.

34 In order to avoid wasteful duplication, the research
35 program shall be carried on in close cooperation with the
36 federal bureau of mines, the state department of mines,
37 the planning and research division of the state depart-
38 ment of commerce, and other appropriate agencies,
39 research organizations and establishments. The bureau
40 shall from time to time publish and distribute to the
41 governor, the Legislature and to interested persons and
42 agencies reports of its activities, findings and recom-
43 mendations.

44 The "advisory committee on coal research," hereto-
45 fore existing is abolished and a new "advisory committee
46 on coal research," is hereby created to advise and counsel
47 with the university concerning the programs of the coal
48 research bureau and to make recommendations to
49 the board of regents, the governor and the Legisla-
50 ture concerning the support of the programs of the coal
51 research bureau.

52 The advisory committee on coal research shall consist
53 of nine members. Members shall be specialists or ex-
54 perts in the various areas of coal production, conversion
55 and utilization. Three members shall be appointed by
56 the president of the Senate, three members shall be ap-

57 pointed by the speaker of the House of Delegates and
58 three members shall be appointed by the governor. Ex-
59 cept for the original appointments, each official shall
60 make his appointments for overlapping terms of three
61 years and until such members' respective successors
62 have been appointed and qualified. For the purpose of
63 the original appointments, the president of the Senate,
64 the speaker of the House of Delegates and the governor
65 shall appoint one member each for a term of one year
66 and until his successor has been appointed and qualified;
67 one member each for a term of two years and until his
68 successor has been appointed and qualified; and one
69 member each for a term of three years and until his
70 successor has been appointed and qualified. Members
71 may be reappointed for any number of terms. Vacancies
72 shall be filled by appointment for the unexpired term
73 by the official who appointed such member for the term
74 vacated.

75 The advisory committee on coal research shall meet
76 upon call of the dean of the college of mineral and
77 energy resources of West Virginia University, which col-
78 lege was previously known and designated as the school
79 of mines. From its membership, the committee shall
80 select a chairman and secretary and such other officers
81 as it shall deem appropriate. After its first meeting, the
82 committee shall meet at least semiannually upon the call
83 of the dean or chairman. The committee may add addi-
84 tional members who have expertise not held by other
85 members of the committee and who have the potential
86 of giving guidance to coal production and utilization in
87 this state.

88 The members shall be entitled to be reimbursed for
89 all reasonable and necessary expenses actually incurred
90 in the performance of their duties as such members.

CHAPTER 199

(H. B. 1079—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 6, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article twenty-four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection, disposition and use of an additional registration fee from all students enrolled in state colleges, universities and community colleges for creation of the special capital improvements fund, and the issuance of revenue bonds.

Be it enacted by the Legislature of West Virginia:

That section four, 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.

§18-24-4. Collection; disposition and use of additional registration fee; creation of special capital improvements funds; revenue bonds.

1 In addition to all other fees imposed by the West Virginia
2 board of regents, there is hereby imposed and the board of
3 regents is hereby directed to provide for the collection of an
4 additional registration fee from all students enrolled in any col-
5 lege, university or community college under its supervision,
6 management and control, in the amounts hereinafter provided.

7 For full-time students at each state institution of higher edu-
8 cation, the additional registration fee shall be fifty dollars per
9 semester. The board of regents shall have authority to increase
10 such additional registration fee at any institution of higher
11 education for students who are nonresidents of this state. For
12 all part-time students and for all summer school students, the
13 board of regents shall impose and collect such fee in propor-
14 tion to, but not exceeding, that paid by full-time students.

15 The fee imposed by this section shall be in addition to the
16 maximum fees allowed to be collected under the provision of

17 section one of this article and shall not be limited thereby.
18 Refunds of such fee may be made in the same manner as any
19 other fee collected at state institutions of higher education.

20 There is hereby created in the state treasury a special capital
21 improvements fund into which shall be paid on and after the
22 first day of July, one thousand nine hundred sixty-three, all
23 proceeds of the additional registration fees collected from
24 students at West Virginia University and at Potomac State
25 College. Subject to any lien created by a pledge of the
26 moneys in said special capital improvements fund for the
27 payment of the principal of and interest on any revenue
28 bonds issued pursuant to this section prior to the first day
29 of July, one thousand nine hundred seventy-one, to finance
30 capital improvements at West Virginia University and at
31 Potomac State College, the board of regents is empowered to
32 expend moneys from this fund for the benefit of any state
33 institution of higher education as provided in this section.

34 There is hereby created in the state treasury a second
35 special capital improvements fund into which shall be paid
36 on and after the first day of July, one thousand nine
37 hundred sixty-three, all proceeds of the additional regis-
38 tration fees collected from students at all state institutions
39 of higher education other than West Virginia University and
40 Potomac State College. Subject to any lien created by a
41 pledge of the moneys in said capital improvements fund
42 for the payment of the principal of and interest on any
43 revenue bonds issued pursuant to this section prior to the
44 first day of July, one thousand nine hundred seventy-one,
45 to finance capital improvements at state institutions of higher
46 education other than West Virginia University and Potomac
47 State College, the board of regents is empowered to expend
48 moneys from this fund for the benefit of any state institution
49 of higher education as provided in this section.

50 There is created in the state treasury a state system
51 special capital improvemnets fund to be expended by the
52 board of regents for the benefit of any and all state in-
53 stitutions of higher education, which shall include any college,
54 university or community college under its supervision, manage-
55 ment and control. On and after the first day of July, one

56 thousand nine hundred seventy-one, the board of regents
57 may periodically transfer from each of the two special capital
58 improvements funds previously established by this section
59 into the state system special capital improvements fund moneys
60 in excess of the amount pledged for the payment of the princi-
61 pal of and interest on any revenue bonds issued pursuant to
62 this section prior to the first day of July, one thousand nine
63 hundred seventy-one.

64 The board of regents may make expenditures from any of
65 the special capital improvements funds established in this
66 section to finance in whole or in part, together with any
67 federal, state or other grants or contributions, any one or
68 more of the following purposes: (1) The acquisition of land
69 or any rights or interest therein, (2) the construction or
70 acquisition of new buildings, (3) the renovation or con-
71 struction of additions to existing buildings, (4) the acquisition
72 of furnishings and equipment for any such buildings, and
73 (5) the construction or acquisition of any other capital im-
74 provements or capital educational facilities at such state in-
75 stitutions of higher education, including any roads, utilities or
76 other properties, real or personal, or for other purposes neces-
77 sary, appurtenant or incidental to the construction, acquisi-
78 tion, financing and placing in operation of such buildings, cap-
79 ital improvements or capital educational facilities.

80 The board of regents, in its discretion, may use the moneys
81 in such special capital improvements funds to finance the
82 costs of the above purposes on a cash basis, or may from time
83 to time issue revenue bonds of the state as provided in this
84 section to finance all or part of such purposes and pledge all
85 or any part of the moneys in such special funds for the pay-
86 ment of the principal of and interest on such revenue bonds,
87 and for reserves therefor. Any pledge of such special funds for
88 such revenue bonds shall be a prior and superior charge on
89 such special funds over the use of any of the moneys in such
90 funds to pay for the cost of any of such purposes on a cash
91 basis: *Provided*, That any expenditures from such special
92 funds, other than for the retirement of revenue bonds, may
93 only be made by the board of regents to meet the cost of a
94 predetermined capital improvements program for one or more
95 of the state institutions of higher education, in such order of

96 priority as shall have been agreed upon by the board of regents
97 and presented to the governor for inclusion in the annual bud-
98 get bill, and only with the approval of the Legislature as indi-
99 cated by direct appropriation for the purpose.

100 Such revenue bonds may be authorized and issued from
101 time to time by the board of regents to finance in whole or
102 in part the purposes provided in this section in an aggregate
103 principal amount not exceeding the amount which the board
104 of regents shall determine can be paid as to both principal
105 and interest and reasonable margins for a reserve therefor
106 from the moneys in such special funds.

107 The issuance of such revenue bonds shall be authorized by
108 a resolution adopted by the board of regents, and such revenue
109 bonds shall bear such date or dates, mature at such time or
110 times not exceeding forty years from their respective dates; be
111 in such form either coupon or registered, with such exchange-
112 ability and interchangeability privileges; be payable in such
113 medium of payment and at such place or places, within or
114 without the state; be subject to such terms of prior redemption
115 at such prices not exceeding one hundred five per centum of the
116 principal amount thereof; and shall have such other terms
117 and provisions as the board of regents shall determine. Such
118 revenue bonds shall be signed by the governor and by the
119 president of the board of regents authorizing the issuance
120 thereof, under the great seal of the state, attested by the
121 secretary of state, and the coupons attached thereto shall
122 bear the facsimile signature of the president of the board
123 of regents. Such revenue bonds shall be sold in such manner
124 as the board of regents may determine to be for the best
125 interests of the state.

126 The board of regents may enter into trust agreements
127 with banks or trust companies, within or without the state,
128 and in such trust agreements or the resolutions authorizing the
129 issuance of such bonds may enter into valid and legally binding
130 covenants with the holders of such revenue bonds as to the
131 custody, safeguarding and disposition of the proceeds of such
132 revenue bonds, the moneys in such special funds, sinking
133 funds, reserve funds, or any other moneys or funds; as to the
134 rank and priority, if any, of different issues of revenue bonds

135 by the board of regents under the provisions of this section;
136 as to the maintenance or revision of the amounts of such
137 additional registration fees, and the terms and conditions,
138 if any, under which such additional registration fees may
139 be reduced; and as to any other matters or provisions which
140 are deemed necessary and advisable by the board of regents
141 in the best interests of the state and to enhance the market-
142 ability of such revenue bonds.

143 After the issuance of any of such revenue bonds, the
144 additional registration fees at the state institutions of higher
145 education shall not be reduced as long as any of such
146 revenue bonds are outstanding and unpaid except under such
147 terms, provisions and conditions as shall be contained in
148 the resolution, trust agreement or other proceedings under
149 which such revenue bonds were issued.

150 Such revenue bonds shall be and constitute negotiable in-
151 struments under the uniform commercial code of this state;
152 shall, together with the interest thereon, be exempt from all
153 taxation by the state of West Virginia, or by any county, school
154 district, municipality or political subdivision thereof; and such
155 revenue bonds shall not be deemed to be obligations or debts of
156 the state, and the credit or taxing power of the state shall not
157 be pledged therefor, but such revenue bonds shall be payable
158 only from the revenue pledged therefor as provided in this
159 section.

CHAPTER 200

(S. B. 155—By Mr. Rogerson and Mr. Hamilton)

[Passed February 25, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article twenty-six, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to education, West Virginia board of regents, definitions.

Be it enacted by the Legislature of West Virginia:

That section two, article twenty-six, 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 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-2. Definitions.

1 Notwithstanding the provisions of section one, article
2 one of this chapter, the following words when used in
3 this article shall have the meaning hereafter ascribed
4 to them unless the context clearly indicates a different
5 meaning:

6 (a) The term "board" shall mean the West Virginia
7 board of regents.

8 (b) The term "state colleges" shall mean Bluefield
9 State College, Concord College, Fairmont State College,
10 Glenville State College, Shepherd College, West Liberty
11 State College, West Virginia Institute of Technology,
12 West Virginia State College, West Virginia School of
13 Osteopathic Medicine and any state community college
14 or other state institution of higher education which may
15 hereafter be established and not designated as a "uni-
16 versity."

17 (c) The term "state college" shall mean one of the
18 state colleges.

19 (d) The terms "state universities" and "universities"
20 shall mean Marshall University and West Virginia Uni-
21 versity and any other state institution of higher education
22 which may hereafter be established and designated as a
23 "university."

24 (e) The terms "state university" and "university"
25 shall mean one of the state universities.

26 (f) The term "community college" shall mean any
27 institution of higher education which has been designated
28 as a community college by the West Virginia board of
29 regents under the provisions of section thirteen-b, article
30 twenty-six, chapter eighteen of this code.

31 (g) The term "higher educational institution" shall
 32 mean any institution as defined by sections 401 (f), (g),
 33 (h) of the Federal Higher Education Facilities Act of
 34 1963, as amended.

CHAPTER 201

(H. B. 1136—By Mr. Dalton and Mr. Damron, 10th Dist.)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions; and to amend article two, chapter eighteen-a of said code, by adding thereto a new section, designated section nine, relating to duties and responsibilities of school principals.

Be it enacted by the Legislature of West Virginia:

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

Article

1. General Provisions.
2. School Personnel.

ARTICLE 1. GENERAL PROVISIONS.

§18A-1-1. Definitions.

1 The definitions contained in section one, article one of
 2 chapter eighteen shall be applicable to this chapter. In
 3 addition, the following words used in this chapter and in
 4 any proceedings pursuant thereto shall, unless the context
 5 clearly indicates a different meaning, be construed as follows:

6 a. "School personnel" shall mean all personnel employed
 7 by a county board of education whether employed on a regular
 8 full-time basis, an hourly basis or otherwise. School personnel

9 shall be comprised of three categories: Professional personnel,
10 auxiliary personnel and service personnel.

11 b. "Professional personnel" shall mean persons who meet
12 the certification and/or licensing requirements of the state,
13 and shall include the professional educator and other pro-
14 fessional employees.

15 c. "Professional educator" shall be synonymous with and
16 shall have the same meaning as "teacher" as defined in section
17 one, article one, chapter eighteen of this code. Professional
18 educators shall be classified as:

19 (1) "Classroom teacher": The professional educator who
20 has direct instructional or counseling relationship with pupils,
21 spending the majority of his time in this capacity.

22 (2) "Principal": The professional educator who as agent
23 of the board has responsibility for the supervision, management
24 and control of a school or schools within the guidelines estab-
25 lished by said board. The major area of such responsibility
26 shall be the general supervision of all the school and all school
27 activities involving pupils, teachers and other school personnel.

28 (3) "Supervisor": The professional educator who, whether
29 by this or other appropriate title, is responsible for working
30 primarily in the field with professional and/or other personnel
31 in instructional and other school improvement.

32 (4) "Central office administrator": The superintendent,
33 associate superintendent, assistant superintendent, and other
34 professional educators, whether by these or other appropriate
35 titles, who are charged with the administering and supervising
36 of the whole or some assigned part of the total program of the
37 county-wide school system.

38 d. "Other professional employee" shall mean that person
39 from another profession who is properly licensed and is em-
40 ployed to serve the public schools.

41 e. "Auxiliary personnel" shall mean those persons selected
42 and trained for teacher-aide classifications such as monitor
43 aide, clerical aide, classroom aide, general aide.

44 f. "Service personnel" shall mean those who serve the
45 school or schools as a whole, in a nonprofessional capacity, in-
46 cluding such areas as secretarial, custodial, maintenance, trans-
47 portation, school lunch.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-9. Duties and responsibilities of school principals.

1 Upon the recommendation of the county superintendent of
2 schools, the county board of education shall employ and
3 assign, through written contract, public school principals who
4 shall supervise the management and the operation of the school
5 or schools to which they are assigned. Such principals shall
6 hold valid administrative certificates appropriate for their
7 assignments.

8 Under the supervision of the superintendent and in ac-
9 cordance with the rules and regulations of the county board of
10 education, the principal shall assume administrative and in-
11 structional supervisory responsibility for the planning, manage-
12 ment, operation and evaluation of the total educational program
13 of the school or schools to which he is assigned.

14 The principal may submit recommendations to the superin-
15 tendent regarding the appointment, assignment, promotion,
16 transfer and dismissal of all personnel assigned to the school or
17 schools under said principal's control. Such recommendation
18 shall be submitted in writing as prescribed by the superinten-
19 dent.

20 The principal shall perform such other duties as may be
21 assigned by the superintendent pursuant to the rules and
22 regulations of the county board of education.

23 Nothing contained in this section shall be construed to
24 reduce or limit the rights and privileges of principals as
25 teachers under the provisions of section one, article one,
26 chapter eighteen of the code of West Virginia as amended;
27 section one, article one, chapter eighteen-a; and other pro-
28 visions of this code."

CHAPTER 202

(S. B. 133—By Mr. Brotherton, Mr. President, and Mr. Nelson)

[Passed March 9, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend article two, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten, relating to county boards of education paying for required physical examinations of employees or applicants for employment.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-10. Physical examinations as condition of employment.

1 In case a medical or physical examination of any school
2 board employee or qualified applicant who becomes an
3 employee of the board for any school position is required
4 by a board of education or by any administrator, depart-
5 ment or agency of government which has authority to
6 require such examination, the cost shall be paid in full
7 by the employer.

8 It shall be unlawful for any board of education to re-
9 quire any employee or applicant who becomes an employ-
10 ee of the board to pay the cost of any medical or physical
11 examination as a condition of employment.

12 The provisions of this section shall be effective from
13 the first day of January, one thousand nine hundred
14 seventy-five.

CHAPTER 203

(S. B. 121—By Mr. Willis and Mr. Gilligan)

[Passed March 7, 1975; in effect July 1, 1975. Disapproved by the Governor, and repassed notwithstanding his objections.]

AN ACT to repeal section eight-a, article four, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section eight, article four of said chapter eighteen-a, all relating to minimum pay scales and employment terms for school auxiliary and service personnel; defining terms in this connection; relating to other rights, privileges and benefits of such personnel; authorizing county boards of education to establish higher salary schedules; relating to the authority of the state board of education in connection with the foregoing; relating to enforcement; providing an effective date; and said repealed section relating to the use of the foundation allowance for the employment, adjustment of and increase in the pay of such personnel and other provisions in connection therewith.

Be it enacted by the Legislature of West Virginia:

That section eight-a, article four, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section eight, article four of said chapter eighteen-a be amended and reenacted to read as follows:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-8. Minimum monthly pay for service and auxiliary personnel.

1 The purpose of this section is to establish a state mini-
2 mum monthly pay scale and employment term for auxilia-
3 ry and service personnel. The employment term for
4 auxiliary and service personnel shall be no less than ten
5 months, a month being defined as twenty employment
6 days: *Provided*, That the county board of education may
7 contract with all or part of such personnel for a longer
8 term. The beginning and closing dates of the ten-month

9 term shall not exceed forty-three weeks. Auxiliary and
10 service personnel employed on a yearly or twelve-month
11 basis may be employed by calendar months. Whenever
12 there is a change in job assignment during the school
13 year, the minimum pay scale and any county sup-
14 plement shall be applicable.

15 Upon the change in classification or upon meeting the
16 requirements of an advanced classification of or by any
17 employee, his salary shall be made to comply with the
18 requirements of this article, and to any county salary
19 schedule in excess of the minimum requirements of this
20 article, based upon his advanced classification and allow-
21 able years of employment.

22 An employee's contract as provided in sections four
23 and five, article two, of this chapter shall state the ap-
24 propriate monthly salary the employee is to be paid
25 based on the class title as provided in this article and
26 any county salary schedule in excess of the minimum
27 requirements of this article.

28 The column heads of the state minimum pay scale
29 and class titles, set forth below are defined as follows:

30 "Pay grade" means the monthly salary applicable to
31 class titles of auxiliary and service personnel.

32 "Years of employment" means the number of years
33 which an employee classified as auxiliary or service per-
34 sonnel has been employed by a board of education in
35 any position prior to or subsequent to the effective date
36 of this section and including service in the armed forces
37 of the United States if the employee were employed at
38 the time of his induction. For the purpose of this
39 section, years of employment shall be limited to the
40 number of years shown and allowed under the state min-
41 imum pay scale set forth hereinafter.

42 "Class title" means the name of the position or
43 job held by auxiliary and service personnel.

44 "Aide I" means auxiliary personnel as defined in sec-
45 tion one, article one of this chapter.

46 "Aide II" means auxiliary personnel as defined in sec-
47 tion one, article one of this chapter who have completed
48 a training program approved by the state board of edu-
49 cation.

50 "Custodian I" means personnel employed to keep build-
51 ings clean and free of refuse.

52 "Custodian II" means personnel employed as a watch-
53 man or groundsman.

54 "Custodian III" means personnel employed to keep
55 buildings clean and free of refuse, to operate the heat-
56 ing or cooling systems and to make minor repairs.

57 "Custodian IV" means personnel employed as head
58 custodians. In addition to providing services as defined
59 in "Custodian III," their duties may include supervising
60 other custodian personnel.

61 "Carpenter I" means personnel classified as a carpen-
62 ter's helper.

63 "Carpenter II" means personnel classified as a journey-
64 man carpenter.

65 "Electrician I" means personnel employed as an ap-
66 prentice electrician and helper or holds an electrician
67 helper license issued by the state fire marshal.

68 "Electrician II" means personnel employed as an elec-
69 trician journeyman or holds a journeyman electri-
70 cian license issued by the state fire marshal.

71 "Foreman" means skilled persons employed for super-
72 vision of personnel who work in the areas of repair
73 and maintenance of school property and equipment.

74 "General maintenance" means personnel employed as
75 helpers to skilled maintenance employees and to per-
76 form minor repairs to equipment and buildings of a
77 county school system.

78 "Groundsmen" means personnel employed to perform
79 duties that relate to the appearance, repair and general
80 care of school grounds in a county school system. Addi-
81 tional assignments may include the operation of a small

- 82 heating plant and routine cleaning duties in build-
83 ings.
- 84 "Handyman" means personnel employed to perform
85 routine manual tasks in any operation of the county school
86 system.
- 87 "Lubrication man" means personnel employed to lu-
88 bricate and service gasoline or diesel-powered equipment
89 of a county school system.
- 90 "Machinist" means personnel employed to perform
91 machinist tasks which include the ability to operate
92 lathes, planer, shaper, threading machine and wheel
93 press. Such personnel should also have ability to work
94 from blueprints and drawings.
- 95 "Mechanic" means personnel employed who can in-
96 dependently perform skilled duties in the maintenance
97 and repair of automobiles, school buses and other me-
98 chanical and mobile equipment to use in a county school
99 system.
- 100 "Mechanic assistant" means personnel employed as a
101 mechanic apprentice and helper.
- 102 "Office equipment repairman I" means personnel em-
103 ployed as an office equipment repairman apprentice or
104 helper.
- 105 "Office equipment repairman II" means personnel re-
106 sponsible for servicing and repairing all office machines
107 and equipment. Such personnel shall be responsible for
108 parts being purchased necessary for the proper oper-
109 ation of a program of continuous maintenance and re-
110 pair.
- 111 "Painter" means personnel employed to perform duties
112 of painting, finishing and decorating of wood, metal and
113 concrete surfaces of buildings, other structures, equip-
114 ment, machinery and furnishings of a county school
115 system.
- 116 "Plumber I" means personnel employed as an appren-
117 tice plumber and helper.
- 118 "Plumber II" means personnel employed as journey-
119 man plumber.
- 120 "Supervisor of maintenance" means skilled personnel

121 not defined as professional personnel or professional
122 educators as in section one, article one, of this chapter.
123 His responsibilities would include directing the upkeep
124 of buildings and shops, issuing instructions to subor-
125 dinates relating to cleaning, repairs and maintenance
126 of all structures, mechanical and electrical equipment of
127 a board of education.

128 "Truck driver" means personnel employed to operate
129 light or heavy duty gasoline and diesel-powered vehi-
130 cles.

131 "Watchman" means personnel employed to protect
132 school property against damage or theft. Additional as-
133 signments may include operation of a small heating plant
134 and routine cleaning duties.

135 "Clerk I" means personnel employed to perform cler-
136 ical tasks.

137 "Clerk II" means personnel employed to perform gen-
138 eral clerical tasks, prepare reports and tabulations and
139 operate office machines.

140 "Secretary I" means personnel employed to transcribe
141 from notes or mechanical equipment, receive callers,
142 perform clerical tasks, prepare reports and operate office
143 machines.

144 "Secretary II" means personnel employed as school,
145 office or program secretaries to perform general clerical
146 tasks, transcribe, prepare reports, receive callers and
147 refer them to proper persons, operate office machines,
148 keep records and handle routine correspondence.

149 "Secretary III" means personnel assigned to the county
150 board of education office administrators in charge
151 of various departments or with particular responsi-
152 bilities of purchasing and financial control.

153 "Cafeteria manager" means personnel employed to
154 direct the operation of a food services program in a school,
155 including assigning duties to employees, approving
156 requisitions for supplies and repairs, keeping inventories,
157 inspecting areas to maintain high standards of sanita-
158 tion, preparing financial reports and keeping records
159 pertinent to food services of a school.

160 "Cook I" means personnel employed as a cook's helper.

161 "Cook II" means personnel employed to interpret
162 menus, to prepare and serve meals in a lunch program
163 of a school system.

164 "Cook III" means personnel employed to prepare and
165 serve meals, make reports, prepare requisitions for sup-
166 plies, order equipment and repairs for a lunch program
167 of a school system.

168 "Food services supervisor" means qualified personnel
169 not defined as professional personnel or professional edu-
170 cators as in section one, article one, of this chapter, em-
171 ployed to manage and supervise a county school system's
172 food service or school lunch program. The duties would
173 include preparing in-service training programs for cooks
174 and food service employees, instructing personnel in
175 the areas of quantity cooking with economy and efficien-
176 cy, keeping aggregate records and reports.

177 "Bus operator" means personnel employed to operate
178 school buses and other school transportation vehicles
179 as provided by the state board of education.

180 "School bus supervisor" means qualified personnel
181 employed to assist in selecting school bus operators and
182 routing and scheduling of school buses, operate a bus
183 when needed, relay instructions to bus operators, plan
184 emergency routing of buses and promote good relation-
185 ships with parents, pupils, bus operators and other em-
186 ployees.

187 On and after the first day of July, one thousand nine
188 hundred seventy-five, the minimum monthly pay for
189 each auxiliary or service employee whose employment
190 is for a period of more than three and one-half hours a day
191 shall be at least the amounts indicated in the following
192 "State Minimum Pay Scale," and the minimum monthly
193 pay for each auxiliary or service employee whose em-
194 ployment is for a period of less than three and one-
195 half hours a day shall be at least one-half the
196 amount indicated in the following "State Minimum
197 Pay Scale":

STATE MINIMUM PAY SCALE
YEARS OF EMPLOYMENT

PAY GRADE	0	1	2	3	4	5	6	7	8	9	10
A. Monthly	350	360	370	380	390	400	410	420	430	440	450
B. Monthly	370	380	390	400	410	420	430	440	450	460	470
C. Monthly	410	420	430	440	450	460	470	480	490	500	510
D. Monthly	460	470	480	490	500	510	520	530	540	550	560
E. Monthly	510	520	530	540	550	560	570	580	590	600	610
F. Monthly	570	580	590	600	610	620	630	640	650	660	670
G. Monthly	600	610	620	630	640	650	660	670	680	690	700
H. Monthly	670	680	690	700	710	720	730	740	750	760	770

CLASS TITLE	PAY GRADE	CLASS TITLE	PAY GRADE
Aide I	A	Office Equipment Repairman II	G
Aide II	B	Painter	E
Custodian I	A	Plumber I	E
Custodian II	B	Plumber II	G
Custodian III	C	Supervisor of Maintenance	H
Custodian IV	D	Truck Driver	D
Carpenter I	E	Watchman	B
Carpenter II	F	Clerk I	B
Electrician I	F	Clerk II	C
Electrician II	G	Secretary I	D
Foreman	G	Secretary II	E
General Maintenance	C	Secretary III	F
Groundsman	B	Cafeteria Manager	D
Handyman	B	Cook I	A
Lubrication Man	C	Cook II	B
Machinist	F	Cook III	C
Mechanic	F	Food Services Supervisor	E
Mechanic Assistant	E	Bus Operator	D
Office Equipment Repairman I	F	School Bus Supervisor	E

SCHOOLS

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198 In addition to the compensation herein provided for
199 auxiliary and service personnel, each auxiliary or ser-
200 vice employee shall, notwithstanding any provision in
201 this code to the contrary, be entitled to all auxiliary
202 and service personnel employee rights, privileges and
203 benefits provided under this or any other chapter of
204 this code without regard to such employee's hours of
205 employment or the methods or sources of compensa-
206 tion.

207 Auxiliary and service personnel whose years of em-
208 ployment exceed the number of years shown and pro-
209 vided for under the state minimum pay scale hereto-
210 fore set forth shall not be paid less than the amount
211 shown for the maximum years of employment shown
212 and provided for in the classification in which he is em-
213 ployed.

214 The county board of education may establish salary
215 schedules which shall be in excess of the state minimum
216 fixed by this article, such county schedules to be uni-
217 form throughout the county with regard to any training
218 classifications, experience, years of employment, respon-
219 sibility, duties, pupil participation, pupil enrollment, size
220 of buildings, operation of equipment or other require-
221 ments. Uniformity shall apply to any additional salary
222 increments or compensation for all persons performing
223 like assignments and duties within the county. In es-
224 tablishing such local salary schedules, no county, from
225 the effective date of this article, shall reduce local funds
226 allocated for auxiliary and service personnel salaries
227 used for supplementing federal and state funds provided
228 for such salaries.

229 The state board of education is hereby authorized to
230 establish other class titles of auxiliary and service per-
231 sonnel positions and jobs not listed in this section. The
232 state board of education is further authorized to provide
233 appropriate pay grades for such positions and jobs but
234 pay shall be established within the minimum salary
235 scale of this section.

236 No person employed as an auxiliary or service em-

237 ployee by a county board during the school year ending
 238 the thirtieth day of June, one thousand nine hundred
 239 seventy-five, shall have his annual salary reduced as
 240 a result of the enactment of this section.

241 Any board failing to comply with the provisions of
 242 this article may be compelled to do so by mandamus.

243 The provisions of this section shall become effective
 244 July one, one thousand nine hundred seventy-five.

CHAPTER 204

(S. B. 120—By Mr. Willis and Mr. Gilligan)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section ten, article four, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to personal leave for full-time employees of county boards of education.

Be it enacted by the Legislature of West Virginia:

That section ten, article four, 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 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-10. Personal leave for illness and other causes.

1 At the beginning of his employment term, any full-
 2 time employee of a county board of education shall be
 3 entitled annually to at least one and one-half days per-
 4 sonal leave for each employment month or major fraction
 5 thereof in the employee's employment term. Unused
 6 leave shall be accumulative without limitation and shall
 7 be transferable within the state. A change in job assign-
 8 ment during the school year shall in no way affect the
 9 employee's rights or benefits.

10 A regular full-time employee who is absent from as-
 11 signed duties due to accident, sickness, death in the
 12 immediate family, or other cause authorized or approved
 13 by the board, shall be paid his full salary from his regular

14 budgeted salary appropriation during the period which
15 he is absent, but not to exceed the total amount of leave
16 to which he is entitled. Where the cause for leave had
17 its origin prior to the beginning of the employment term,
18 the employee shall be paid for time lost after the start
19 of the employment term. If an employee should use
20 personal leave which he has not yet accumulated on a
21 monthly basis and subsequently leave his employment,
22 he shall be required to reimburse the board for the salary
23 or wages paid to him for such unaccumulated leave.

24 The board may establish reasonable regulations for
25 reporting and verification of absence for causes; and if
26 any error in reporting absences should occur it shall have
27 authority to make necessary salary adjustments in the
28 next pay after the employee has returned to duty or in
29 the final pay if the absence should occur during the last
30 month of his employment term. When such allowable
31 absence does not directly affect the instruction of the
32 pupils or when a substitute employee may not be re-
33 quired because of the nature of the work and the dura-
34 tion of the cause for the allowable absence of the regular
35 employee, the administration, subject to board approval,
36 may use its discretion as to the need for a substitute
37 where limited absence may prevail. Any board of educa-
38 tion shall have authority to supplement such leave pro-
39 visions in any manner it may deem advisable.

40 If funds in any fiscal year, including transfers, are
41 insufficient to pay the full cost of substitutes for meeting
42 the provisions of this section, the remainder shall be paid
43 on or before the thirty-first day of August from the budget
44 of the next fiscal year.

CHAPTER 205

(H. B. 1077—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed February 21, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale, subsequent to the first day
of August, one thousand nine hundred seventy-five, by the gov-

error 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-six, 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 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 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 BUILDINGS 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 the
2 better school buildings amendment of 1972, of the par value
3 not to exceed fifty million dollars during the fiscal year ending
4 the thirtieth day of June, one thousand nine hundred seventy-
5 six, are hereby authorized to be issued and sold, at some date
6 subsequent to the first day of August, one thousand nine
7 hundred seventy-five, for the sole purpose of raising funds for
8 distribution to county boards of education that qualify by
9 meeting conditions, qualifications and requirements as are
10 prescribed by general law and used and appropriated by such
11 county boards of education solely for the construction, reno-
12 vation or remodeling of elementary or secondary public school
13 buildings or facilities, the equipping of the same in connection
14 with any such construction, renovation or remodeling, and the
15 acquisition and preparation of sites for elementary or secon-
16 dary public school buildings or facilities. Such bonds may be
17 issued by the governor in such amounts, in coupon or regis-
18 tered form, in such denominations, at such time, after the first
19 day of August, one thousand nine hundred seventy-five, bear-
20 ing such date or dates, as the governor may determine, based
21 upon an examination of the needs of the various county boards

22 of education which justify the issuance by the governor of said
23 bonds, and shall become due and payable serially, annually or
24 semiannually, in such amounts and mature in such years as
25 the governor may determine. Such bonds shall mature within
26 and not exceeding twenty-five years from their date. The gov-
27 ernor must offer said bonds for competitive bids from recog-
28 nized financial investment institutions before said bonds may
29 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 such
3 transfer a fee of one dollar shall be charged by and paid to the
4 state of West Virginia, to the credit of the state school
5 buildings bond debt service account. Bonds taken in exchange
6 shall be canceled by the auditor and treasurer and be care-
7 fully preserved by the treasurer. The treasurer shall make pro-
8 visions 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 ac-
12 count. All such bonds shall be payable at the office of the
13 treasurer of the state of West Virginia, or, at the option of the
14 holder, at a bank in the city of New York to be designated by
15 the governor, or, at the option of the holder at such other
16 bank or banks, within the state, as may be designated or ap-
17 proved by the governor. The bonds shall bear interest, pay-
18 able semiannually, to bearer, at the office of the treasurer of
19 the state of West Virginia, at the capitol of the state, or at
20 the banks designated and approved by the governor, upon pre-
21 sentation and surrender of interest coupons, then due, in the
22 case of coupon bonds. For the payment of interest on regis-
23 tered bonds, the treasurer of the state of West Virginia shall
24 requisition a warrant from the auditor of the state to be drawn
25 on the state treasurer, and shall mail such warrant to the
26 registered owner at the address as shown by the record of
27 registration. Both the principal and interest of the bonds shall
28 be payable in lawful money of the United States of America
29 and the bonds shall be exempt from taxation by the state of

30 West Virginia, or by any county, district or municipality
31 thereof, which facts shall appear on the face of the bonds as
32 part of the contract 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
7 be in the following form or to the following effect, as nearly
8 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
19 day of November, one thousand nine hundred seventy-two,
20 which is hereby made a part hereof as fully as if set forth at
21 length herein, acknowledges itself to be indebted to and here-
22 by promises to pay to the bearer hereof (in case of a coupon
23 bond) or to _____ or assigns (the owner or
24 record, in case of registered bonds) on the _____ day of
25 _____, 19_____, in lawful money of the Unit-
26 ed States of America at the office of the treasurer of the state
27 of West Virginia at the capitol of said state, or, at _____
28 _____ bank in the city of New York, or at _____
29 _____ bank, within the state, at the option of
30 the holder, the sum of _____ dollars,
31 with interest thereon at _____ percent a year from
32 the date, payable semiannually in like lawful money of the
33 United States of America at the treasurer's office or banks

34 aforesaid, on the first day of
 35 and the first day of _____ of each year
 36 (and in the case of coupon bonds) according to the tenor of the
 37 annexed coupons bearing the facsimile signature of the trea-
 38 surer of the state of West Virginia, upon surrender to 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
 41 to 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
 45 the holder as follows: (1) That this bond shall constitute a
 46 direct and general obligation of the state of West Virginia;
 47 (2) that the full faith and credit of the state is pledged to secure
 48 the payment of the principal and interest of this bond; (3) that
 49 an annual state tax shall be collected in an amount sufficient
 50 to pay as it may accrue the interest on this bond and the
 51 principal as the same mature; and (4) that to the full extent
 52 permitted by the constitution of West Virginia any of the
 53 covenants, agreements and provisions of this act may be en-
 54 forced in any court of competent jurisdiction by any holder
 55 of such bonds or of any interest coupon appertaining thereto.

56 This bond is hereby made exempt from any taxation by
 57 the state of West Virginia, or by any county, district or muni-
 58 cipal corporation thereof.

59 In testimony whereof, witness the manual or facsimile sig-
 60 nature of the treasurer of the state of West Virginia, and the
 61 manual or facsimile countersignature of the auditor of the
 62 state, hereto affixed according to law, dated the _____
 63 _____ day of _____, one thousand nine
 64 hundred _____, and the seal of the state of
 65 West Virginia or 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
2 wit:

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

5 On the first day of _____, 19____,
6 the state of West Virginia will pay to the bearer, in lawful
7 money of the United States of America, at the office of the
8 treasurer of the state, or, at _____
9 bank in the city of New York, or, at _____
10 _____ bank, within the state, at the option of the holder, the
11 sum of _____ dollars, the same being semi-
12 annual interest on School Buildings Bond No. _____ .

13
14 Treasurer of the State of West Virginia

15 The signature of the treasurer to such coupon shall be by
16 his facsimile signature and the coupons shall be numbered in
17 the order of their maturity, from number one consecutively.
18 The bonds and coupons may be signed, as provided in this
19 act, by the present treasurer and auditor, or by any of their
20 respective successors in office, and the bonds signed by the
21 persons now in the office may be sold by the governor or his
22 successor in office without being signed by the successor in
23 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, number,
4 character and amount of obligations issued, and in the 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. Establishment of state school buildings bond debt service ac-
count; 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
8 deposited 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 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 of
6 the principal and interest of such bonds; (3) that an annual
7 state tax shall be collected in an amount sufficient to pay as it
8 may accrue the interest on this bond and the principal as the
9 same mature; and (4) that to the full extent permitted by the
10 constitution of West Virginia any of the covenants, agree-
11 ments and provisions of this act may be enforced in any court
12 of competent jurisdiction by any holder of such bonds or of
13 any 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 this
6 act. All sales shall be at not less than par and accrued interest.
7 All interest coupons becoming payable prior to the sale date
8 shall be canceled by the treasurer and rendered ineffective,
9 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
2 be 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 and 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 the
9 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 prop-
3 erty 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 certifi-
2 cates to be issued to the purchasers of such bonds to be held by
3 them in lieu of permanent bonds. When interim certificates
4 are so issued, they shall become full and legal obligations
5 of the state of West Virginia under all of the provisions of this
6 act just as fully and completely as the permanent bonds.

§13. State treasurer to be financial advisor.

1 The state treasurer shall serve as financial advisor to the
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 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 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 206

(S. B. 326—By Mr. Brotherton, Mr. President, and Mr. Rogerson)

[Passed April 12, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article eighteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-a, relating to the readjustment, removal, relocation, change in or alteration of a public utility line or facility to accommodate an urban redevelopment or slum clearance project; providing that the cost thereof shall be borne by the urban renewal authority or other public body causing the same; specifying the elements of cost thereof to be included in determining the cost to be borne by such urban renewal authority or other public body; providing that such cost shall be considered to be a cost of a federal-aid urban redevelopment or slum clearance project; and specifying that the provisions of such section shall not be applicable to any project for which an application for federal funding shall have been made prior to the effective date of such section.

Be it enacted by the Legislature of West Virginia:

That article eighteen, 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 eight-a, to read as follows:

ARTICLE 18. SLUM CLEARANCE.

§16-18-8a. Relocation of public utility lines or facilities to accommodate urban redevelopment or slum clearance projects.

1 In the event any urban renewal authority or other
2 public body shall determine that any public utility line
3 or facility located upon, across or under any portion of
4 a street, avenue, highway, road or other public place
5 or way shall be temporarily or permanently readjusted,
6 removed, relocated, changed in grade or otherwise altered
7 (each and all hereinafter for convenience referred to as
8 "relocation") in order to accommodate any urban redevel-

9 opment or slum clearance project undertaken pursuant
10 to the provisions of this article, the cost of such relocation
11 shall be borne by the urban renewal authority or other
12 public body making the same necessary.

13 For purposes of this section, the term "cost of reloca-
14 tion" shall include the entire amount paid by such utility,
15 exclusive of any right-of-way costs incurred by such
16 utility, properly attributable to such relocation after de-
17 ducting therefrom any increase in the value of the new
18 line or facility and salvage derived from the old line or
19 facility.

20 The cost of relocating utility lines or facilities, as de-
21 fined herein, in connection with any federal-aid urban
22 redevelopment or slum clearance project is hereby de-
23 clared to be a cost of such project.

24 Under no circumstances whatever shall the foregoing
25 provisions of this section be applicable to any conven-
26 tional urban renewal project, urban redevelopment or
27 slum clearance project or neighborhood development
28 project for which an application for federal funding shall
29 have been made prior to the effective date of this section.

CHAPTER 207

(Com. Sub. for S. B. 285—Mr. McGraw)

[Passed March 8, 1975; in effect July 1, 1975. Disapproved by the Governor,
and repassed notwithstanding his objections.]

AN ACT to amend and reenact sections two, two-k, three-b and twenty-five, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article thirteen by adding thereto a new section, designated section two-l, all relating to business and occupation or privilege taxes; relating to the imposition, levying and collection of such taxes; relating to determination of value of products or part thereof shipped out of state; relating to the deter-

mination of value and gross income generally; relating to interrelationship between various sections of said article thirteen; relating to the business and occupation or privilege tax on banking and other financial business and gross income for such purpose; imposing an additional tax upon the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use any coal, the amount of such tax to be equal to the value of the coal produced as shown by the gross proceeds derived from the sale thereof by the producer multiplied by thirty-five one hundredths of one percent; providing that such additional tax is imposed pursuant to the provisions of section six-a, article ten of the West Virginia constitution; providing for seventy-five percent of the net proceeds of such additional tax to be distributed to the various counties in which the coal upon which such additional tax is imposed was located at the time it was severed from the ground, such counties being hereinafter referred to as the "coal producing counties"; providing that the remaining twenty-five percent of the net proceeds of such additional tax shall be deposited in the "county and municipal fund" to be created by an act of the Legislature and thereafter distributed as provided in such act; providing that such additional tax shall be due and payable, reported and remitted as elsewhere provided in said article thirteen; providing that the enforcement and other provisions of said article thirteen shall apply to such additional tax; authorizing the state tax commissioner to promulgate reasonable rules and regulations requiring the furnishing of additional information or as otherwise necessary to implement the provisions of said section two-1; creating a special fund in the state treasurer's office to be known as the "county coal revenue fund"; providing for seventy-five percent of the net proceeds of such additional tax to be deposited in such county coal revenue fund; providing for the distribution of the moneys in such county coal revenue fund to the coal producing counties; specifying that the amount of money to be distributed to a coal producing county shall be determined by applying the percentage to which such

coal producing county is entitled to the total amount of moneys in the county coal revenue fund then available for distribution to all coal producing counties; specifying a formula for the ascertainment of the percentage to which a coal producing county is entitled; relating to the method of payment of the sum due to a coal producing county; relating to the deposit and expenditure of moneys so received by a coal producing county; authorizing the state tax commissioner to retain each year thirty-five thousand dollars of the additional amount collected as a fee for the administration of such additional tax by the state tax commissioner and the distribution of the net proceeds thereof by the state treasurer; defining the term "normal tax" for the purpose of said article thirteen; and providing limitations on the business and occupation or privilege tax and the rates thereof which cities, towns and villages may impose.

Be it enacted by the Legislature of West Virginia:

That sections two, two-k, three-b and twenty-five, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article thirteen be further amended by adding thereto a new section, designated section two-l, all to read as follows:

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-2. Imposition of privilege tax.

§11-13-2k. Banking and other financial business; legislative findings.

§11-13-2l. Additional tax on the severance, extraction and production of coal; dedication of additional tax for benefit of all counties and municipalities; distribution of major portion of such additional tax to coal producing counties; distribution of minor portion of such additional tax to all counties and municipalities; reports and rules and regulations; creation of special fund in office of state treasurer; method and formula for distribution of additional tax to coal producing counties; expenditure of funds by coal producing counties for public purposes; retention of fixed amount for cost of administration.

§11-13-3b. Definitions; reduction allowed in tax due; how computed.

§11-13-25. Cities, towns or villages restricted from imposing additional tax.

§11-13-2. Imposition of privilege tax.

- 1 There is hereby levied and shall be collected annual
- 2 privilege taxes against the persons, on account of the
- 3 business and other activities, and in the amounts to be

4 determined by the application of rates against values
5 or gross income as set forth in sections two-a to two-l,
6 inclusive, of this article.

7 If any person liable for any tax under sections two-a,
8 two-b or two-l shall ship or transport his products or
9 any part thereof out of the state without making sale
10 of such products, the value of the products in the con-
11 dition or form in which they exist immediately before
12 transportation out of the state shall be the basis for
13 the assessment of the tax imposed in said section, ex-
14 cept in those instances in which another measure of the
15 tax is expressly provided. The tax commissioner shall
16 prescribe equitable and uniform rules for ascertaining
17 such value.

18 In determining value, however, as regards sales from
19 one to another of affiliated companies or persons, or
20 under other circumstances where the relation between
21 the buyer and seller is such that the gross proceeds from
22 the sale are not indicative of the true value of the sub-
23 ject matter of the sale, the tax commissioner shall pre-
24 scribe uniform and equitable rules for determining the
25 value upon which such privilege tax shall be levied,
26 corresponding as nearly as possible to the gross pro-
27 ceeds from the sale of similar products of like quality
28 or character where no common interest exists between
29 the buyer and seller but the circumstances and condi-
30 tions are otherwise similar.

31 Gross income included in the measure of the tax under
32 sections two-a, two-b and two-l of this article shall neither
33 be added nor deducted in computing the tax levied under
34 the other sections of this article.

35 A person exercising any privilege taxable under sec-
36 tions two-a, two-b or two-l of this article and engaging
37 in the business of selling his natural resources or manu-
38 factured products at retail in this state shall be required
39 to make returns of the gross proceeds of such retail sales
40 and pay the tax imposed in section two-c of this article
41 for the privilege of engaging in the business of selling
42 such natural resources or manufactured products at
43 retail in this state. But any person exercising any priv-

44 ilege taxable under sections two-a, two-b or two-l of
45 this article and engaging in the business of selling his
46 natural resources or manufactured products to pro-
47 ducers of natural resources, manufacturers, wholesalers,
48 jobbers, retailers or commercial consumers for use
49 or consumption in the purchaser's business shall not
50 be required to pay the tax imposed in section two-c
51 of this article.

52 Manufacturers exercising any privilege taxable under
53 section two-b of this article shall not be required to
54 pay the tax imposed in section two-c of this article for
55 the privilege of selling their manufactured products
56 for delivery outside of this state, but the gross in-
57 come derived from the sale of such manufactured
58 products outside of this state shall be included in
59 determining the measure of the tax imposed on such
60 manufacturer in section two-b.

61 A person exercising privileges taxable under the other
62 sections of this article, producing coal, oil, natural gas,
63 minerals, timber or other natural resource products the
64 production of which is taxable under sections two-a and
65 two-l, and using or consuming the same in his busi-
66 ness or transferring or delivering the same as any roy-
67 alty payment, in kind, or the like, shall be deemed to
68 be engaged in the business of mining and producing
69 coal, oil, natural gas, minerals, timber or other natural
70 resource products for sale, profit or commercial use,
71 and shall be required to make returns on account of
72 the production of the business showing the gross pro-
73 ceeds or equivalent in accordance with uniform and
74 equitable rules for determining the value upon which
75 such privilege tax shall be levied, corresponding as
76 nearly as possible to the gross proceeds from the sale
77 of similar products of like quality or character by other
78 taxpayers, which rules the tax commissioner shall pre-
79 scribe.

§11-13-2k. Banking and other financial business; legislative findings.

1 Upon every person engaging or continuing within this

2 state in the business of banking or financial business,
3 from and after the first day of April, one thousand nine
4 hundred seventy-one, the tax shall be equal to one and
5 fifteen one-hundredths percent of the gross income re-
6 ceived from interest, premiums, discounts, dividends,
7 service fees or charges, commissions, fines, rents from
8 real or tangible personal property, however denominated,
9 royalties, charges for bookkeeping or data processing,
10 receipts from check sales, charges or fees, and receipts
11 from the sale of tangible personal property: *Provided,*
12 *however,* That gross income shall not include (a) interest
13 received on the obligations of the United States, its
14 agencies and instrumentalities, (b) interest received on
15 the obligations of this or any other state, territory or
16 possession of the United States, or any political sub-
17 division of any of the foregoing or of the District of
18 Columbia, or (c) interest received on investments or
19 loans primarily secured by first mortgages or deeds of
20 trust on residential property occupied by nontransients:
21 *Provided, however,* That all interest derived on activities
22 exempt under (c) above, shall be reported, as to amounts,
23 on the return of a person taxable under the provisions of
24 this section.

25 Persons taxed pursuant to the provisions of this section
26 shall not be taxed under sections two-a to two-j, inclusive,
27 or section two-l of this article.

28 The Legislature hereby finds and declares that it is
29 the intent of the Legislature to subject national banking
30 associations and other financial organizations to the tax
31 imposed by this article, in accordance with the authoriza-
32 tion contained in section five thousand two hundred
33 nineteen of the Revised Statutes of the United States as
34 amended by Public Law 91-156 enacted the twenty-fourth
35 day of December, one thousand nine hundred sixty-nine.

**§11-13-21. Additional tax on the severance, extraction and
production of coal; dedication of additional tax
for benefit of all counties and municipalities;
distribution of major portion of such additional
tax to coal producing counties; distribution of
minor portion of such additional tax to all coun-**

ties and municipalities; reports and rules and regulations; creation of special fund in office of state treasurer; method and formula for distribution of additional tax to coal producing counties; expenditure of funds by coal producing counties for public purposes; retention of fixed amount for cost of administration.

1 (a) Upon every person exercising the privilege of
2 engaging or continuing within this state in the business
3 of severing, extracting, reducing to possession and pro-
4 ducing for sale, profit or commercial use any coal, the
5 amount of such tax to be equal to the value of the coal
6 produced as shown by the gross proceeds derived from
7 the sale thereof by the producer, multiplied by thirty-
8 five one hundredths of one percent, and the tax imposed
9 by section two of this article in conjunction with this
10 subsection (a) shall be in addition to the tax imposed
11 by said section two in conjunction with section two-a
12 of this article, and the tax imposed by section two of
13 this article in conjunction with this subsection (a) is
14 hereinafter in this section referred to as "such additional
15 tax." The measure of such additional tax is the value
16 of the entire production in this state, regardless of the
17 place of sale or the fact that the delivery may be
18 made to points outside the state.

19 (b) Such additional tax is imposed pursuant to the
20 provisions of section six-a, article ten of the West Vir-
21 ginia constitution for the benefit of and use by the various
22 counties and municipalities in this state. Seventy-five
23 percent of the net proceeds of such additional tax
24 shall, after appropriation thereof by the Legislature,
25 be distributed by the state treasurer to the various coun-
26 ties in this state in which the coal upon which such addi-
27 tional tax is imposed was located at the time it was
28 severed from the ground, such counties being herein-
29 after in this section referred to as the "coal producing
30 counties," and the remaining twenty-five percent of
31 the net proceeds of such additional tax shall be de-
32 posited in the "county and municipal fund" to be
33 created by the enactment of legislation to amend

34 chapter eight of this code by adding thereto a new
35 article, designated article twenty-three-a, for dis-
36 tribution, after appropriation thereof by the Leg-
37 islature, as to be provided by said article twenty-
38 three-a.

39 (c) Such additional tax shall be due and payable,
40 reported and remitted as elsewhere provided in this
41 article for the tax imposed by said section two in con-
42 junction with said section two-a of this article and
43 all of the enforcement and other provisions of this
44 article shall apply to such additional tax. In addition
45 to the reports and other information required under
46 the provisions of this article and the tonnage reports
47 required to be filed under the provisions of section
48 seventy-two, article two, chapter twenty-two of this
49 code, the state tax commissioner is hereby granted
50 plenary power and authority to promulgate reasonable
51 rules and regulations requiring the furnishing by
52 producers of such additional information as may be
53 necessary to compute the allocation required under
54 the provisions of subsection (f) of this section. The
55 state tax commissioner is also hereby granted plenary
56 power and authority to promulgate such other rea-
57 sonable rules and regulations as may be necessary to
58 implement the provisions of this section.

59 (d) In order to provide a procedure for the distri-
60 bution of seventy-five percent of the net proceeds of
61 such additional tax to such coal producing counties,
62 there is hereby created in the state treasurer's office a
63 special fund to be known as the "county coal revenue
64 fund," hereinafter referred to as "such fund." Seventy-
65 five percent of the net proceeds of such additional tax shall
66 be deposited in such fund from time to time as such pro-
67 ceeds are received by the state tax commissioner. The
68 moneys in such fund shall, after appropriation thereof by
69 the Legislature, be distributed to such coal producing coun-
70 ties in the manner set forth in subsection (e) of this section.

71 (e) The moneys in such fund shall be allocated among
72 and distributed quarterly to the coal producing counties
73 by the state treasurer in the manner hereinafter in

74 this subsection specified. On or before each distri-
75 bution date, the state treasurer shall determine the
76 total amount of moneys in such fund which will
77 be available for distribution to such coal producing
78 counties on that distribution date. The amount of
79 money to be distributed to a coal producing county
80 shall be determined by applying the percentage to
81 which such coal producing county is entitled to the
82 total amount of moneys in such fund then available
83 for distribution to all coal producing counties. The per-
84 centage to which a coal producing county is entitled
85 shall be determined in accordance with subsection (f)
86 of this section.

87 (f) The percentage to which a coal producing county
88 is entitled shall be determined by (i) dividing the total
89 amount of moneys in such fund then available for dis-
90 tribution by the total number of tons of coal mined
91 in this state during the preceding quarter, and (ii) mul-
92 tiplying the quotient thus obtained by the number of
93 tons of coal removed from the ground in such county
94 during the preceding quarter. After determining the
95 percentage to which a coal producing county is entitled
96 as aforesaid, a warrant of the state auditor for the
97 sum due to such coal producing county shall be ob-
98 tained and a check drawn thereon making payment
99 of such sum shall thereafter be distributed to such
100 coal producing county.

101 (g) The moneys distributed to a coal producing
102 county under the provisions of this section shall be de-
103 posited in the general revenue fund of such coal pro-
104 ducing county and thereafter expended by the county
105 commission of such coal producing county for such pub-
106 lic purposes as such county commission shall determine
107 to be in the best interest of the people of such coal pro-
108 ducing county.

109 (h) The state tax commissioner shall retain for the
110 benefit of the state from the additional tax collected
111 the amount of thirty-five thousand dollars annually as
112 a fee for the administration of such additional tax by

113 the state tax commissioner and the distribution of the
114 net proceeds thereof by the state treasurer.

§11-13-3b. Definitions; reduction allowed in tax due; how computed.

1 When used in this section, the phrase "normal tax"
2 shall mean the tax computed by the application of rates
3 against values or gross income as set forth in sections
4 two-a to two-l, inclusive, of this article, less exemption
5 at the rate of fifty dollars annually or at the rate of
6 four dollars and sixteen cents per month for the period
7 actually engaged in business.

8 The normal tax shall be computed by the application
9 of rates against values or gross income as set forth in
10 sections two-a to two-l, inclusive, of this article.

§11-13-25. Cities, towns or villages restricted from imposing additional tax.

1 Notwithstanding the provisions of section five, article
2 thirteen, chapter eight of this code, no city, town or
3 village shall impose a business and occupation tax or
4 privilege tax upon occupations or privileges taxed under
5 sections two-a, two-b, two-c, two-d, two-e, two-g, two-h,
6 two-i and two-j of this article, in excess of rates, in
7 effect under this article on January one, one thousand
8 nine hundred fifty-nine, or in excess of one percent
9 of gross income under section two-k of this article, or
10 at all under section two-l of this article.

CHAPTER 208

(S. B. 316—By Mr. Brotherton, Mr. President, and Mr. Savilla)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exempting gross income derived from advertising service ren-

dered in the business of radio and television broadcasting and any demonstration, pilot or research project for the gasification or liquefaction of coal when the same is totally or partially funded by public funds from the business and occupation tax.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-3. Exemptions.

1 There shall be an exemption in every case of fifty dol-
2 lars in amount of tax computed under the provisions of
3 this article. A person exercising a privilege taxable here-
4 under for a fractional part of a tax year shall be entitled
5 to an exemption of the sum bearing the proportion to fifty
6 dollars that the period of time the privilege is exercised
7 bears to a whole year. Only one exemption shall be al-
8 lowed to any one person, whether he exercises one or more
9 privileges taxable hereunder.

10 The provisions of the article shall not apply to: (a) In-
11 surance companies which pay the state of West Virginia
12 a tax upon premiums: *Provided*, That said exemption
13 shall not extend to that part of the gross income of in-
14 surance companies which is received for the use of real
15 property, other than property in which any such company
16 maintains its office or offices, in this state, whether such
17 income be in the form of rentals or royalties; (b) non-
18 profit cemetery companies organized and operated for the
19 exclusive benefit of their members; (c) fraternal societies,
20 organizations and associations organized and operated for
21 the exclusive benefit of their members and not for profit:
22 *Provided, however*, That said exemption shall not extend
23 to that part of the gross income arising from the sale of
24 alcoholic liquor, food and related services, of such fraternal
25 societies, organizations and associations which are licensed
26 as private clubs under the provisions of article seven,
27 chapter sixty of this code; (d) corporations, associations
28 and societies organized and operated exclusively for

29 religious or charitable purposes; (e) production credit
 30 association, organized under the provisions of the federal
 31 "Farm Credit Act of 1933"; (f) any credit union organized
 32 under the provisions of chapter thirty-one, or any other
 33 chapter of this code: *Provided further*, That the exemp-
 34 tions of this section shall not apply to corporations or
 35 cooperative associations organized under the provisions of
 36 article four, chapter nineteen of this code; (g) gross income
 37 derived from advertising service rendered in the business
 38 of radio and television broadcasting; and (h) any demon-
 39 stration, pilot or research project for the gasification or
 40 liquefaction of coal when the same is totally or partially
 41 funded by public moneys: *Provided*, That the exemption
 42 contained in this clause (h) shall not apply to any
 43 gross income after June thirtieth, one thousand nine
 44 hundred eighty-one.

CHAPTER 209

(H. B. 937—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 7, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article twenty-one, chap-
 ter eleven of the code of West Virginia, one thousand nine
 hundred thirty-one, as amended, relating to meaning of terms
 in 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 United
 3 States relating to income taxes, unless a different meaning
 4 is clearly required. Any reference in this article to the laws

5 of the United States shall mean the provisions of the Internal
6 Revenue Code of 1954, as amended, and such other provisions
7 of the laws of the United States as relate to the determination
8 of income for federal income tax purposes. All amendments
9 made to the laws of the United States prior to the first day of
10 January, one thousand nine hundred seventy-five, shall be
11 given effect in determining the taxes imposed by this article for
12 the tax period beginning the first day of January, one thousand
13 nine hundred seventy-four, and thereafter, but no amendment
14 to the laws of the United States made on or after the first
15 day of January, one thousand nine hundred seventy-five, shall
16 be given effect.

CHAPTER 210

(H. B. 933—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 7, 1975; 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 1—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,
4 unless a different meaning is clearly required by the context
5 or by definition in this article. Any reference in this article to

6 the laws of the United States or to the Internal Revenue Code
7 or to the federal income tax law shall mean the provisions of
8 the laws of the United States as relate to the determination of
9 income 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-five, shall be given
12 effect in determining the taxes imposed by this article for the
13 tax period beginning the first day of January, one thousand nine
14 hundred seventy-five, 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-five, 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 foreign
31 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
42 directed or managed.

43 (10) The term "compensation" means wages, salaries,
44 commissions and any form of remuneration paid to employees
45 for personal services.

46 (11) The term "West Virginia taxable income" means the
47 taxable income of a corporation as defined by the laws of
48 the United States for federal income tax purposes, adjusted
49 as provided in section six: *Provided*, That in the case of a
50 corporation having income from business activity which is
51 taxable without this state, its "West Virginia taxable in-
52 come" shall be such portion of its taxable income as so
53 defined and adjusted as is allocated or apportioned to this
54 state under the provisions of section seven.

55 (12) The term "business income" means income arising
56 from transactions and activity in the regular course of the
57 taxpayer'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 211

(S. B. 325—By Mr. Savilla and Mr. Harman)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact article two, chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to state homes for vet-

erans established and maintained, and the eligibility of veterans; powers of department of veterans' affairs.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STATE HOMES FOR VETERANS.

§9A-2-1. State homes for veterans.

§9A-2-2. Funds collected from the federal government; use of funds.

§9A-2-3. Powers of department of veterans' affairs.

§9A-2-1. State homes for veterans.

1 In consultation with the governor and other appropri-
 2 ate state agencies, the department of veterans' affairs shall
 3 establish and maintain throughout the state a home or
 4 homes for qualified veterans. The present Soldiers Home
 5 at Weston State Hospital shall be reidentified as Veterans
 6 Unit of Weston State Hospital and continued as formerly
 7 constituted. As used in this article the term "qualified
 8 veteran" means a disabled veteran as rated by the vet-
 9 erans' administration, and as such is eligible for benefits
 10 administered by the veterans' administration, Title 38,
 11 United States Code, who: (a) Is ambulatory and is able
 12 to attend to his personal needs, dress himself and attend
 13 a general mess; (b) served in the armed forces of the
 14 United States of America or a nation allied therewith
 15 during wartime and; (c) is a citizen of the state of West
 16 Virginia for one year or more and whose separation from
 17 the service was other than dishonorable.

18 In the event that the veteran served during peacetime
 19 and attained the age of sixty-five years, he shall be deemed
 20 a qualified veteran if he has met conditions (a) and (c).

§9A-2-2. Funds collected from the federal government; use of funds.

1 The department of veterans' affairs is hereby autho-
 2 rized and directed to receive from the federal government
 3 or any agency thereof, any funds appropriated, expended
 4 or disbursed for the purpose of effectuating veterans'
 5 benefits or veterans' programs, including, but not limited

6 to improvement and renovation of physical facilities,
7 personal care costs and medical, nursing and dental
8 services.

9 The money so collected from the governmental agency
10 as federal aid and money appropriated by the Legisla-
11 ture shall be placed in a special fund to be known as the
12 "veterans' fund." This fund shall be administered by the
13 director of the West Virginia department of veterans'
14 affairs. The fund shall be deposited in the state treasury
15 and paid out only on such vouchers as may be authorized
16 and approved by the director of the West Virginia de-
17 partment of veterans' affairs, in the same manner and
18 under the same restrictions as are now provided by law
19 for the disbursement of funds by that department. At
20 the discretion of the West Virginia department of vet-
21 erans' affairs, these funds may be used as follows: (1)
22 For the erection or the improvement and renovation of
23 suitable buildings for the care of qualified veterans; or
24 (2) in any manner deemed expedient by the director
25 of the West Virginia department of veterans' affairs for
26 the benefit of qualified veterans.

§9A-2-3. Powers of department of veterans' affairs.

1 The department of veterans' affairs is authorized and
2 empowered to establish rules and regulations providing
3 for the tenure, treatment, eligibility and discharge of elig-
4 ible veterans which such rules and regulations shall not
5 be inconsistent with the provisions of this article.

CHAPTER 212

(S. B. 442—Originating in the Senate Committee on Finance)

[Passed February 20, 1975; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, eight and twelve,
chapter eighteen, acts of the Legislature, second extraor-

dinary session, one thousand nine hundred seventy-four, relating to Vietnam veterans bonus bonds; establishing the fifteenth day of April, one thousand nine hundred seventy-five, as the earliest date on which the governor is authorized to issue and sell such bonds; and further establishing the fifteenth day of April, one thousand nine hundred seventy-five, as the earliest date on which the governor may authorize the issuance of short-term interim certificates.

Be it enacted by the Legislature of West Virginia:

That sections one, eight and twelve, chapter eighteen, acts of the Legislature, second extraordinary session, one thousand nine hundred seventy-four, be amended and reenacted to read as follows:

ISSUANCE AND SALE OF VIETNAM VETERANS BONUS BONDS.

§1. Vietnam veterans bonus bonds; amount; authority to issue.

§8. Sale by governor; minimum price.

§12. Interim certificates.

§1. Vietnam veterans bonus bonds; amount; authority to issue.

1 Bonds of the state of West Virginia, under authority
2 of the Vietnam Veterans Bonus Amendment of 1973, of
3 the par value not to exceed forty million dollars, less any
4 appropriations of the Legislature made for the payment
5 of a cash bonus to veterans as provided in said amend-
6 ment are hereby authorized to be issued and sold, on
7 and after the fifteenth day of April, one thousand nine
8 hundred seventy-five, for the purpose of raising funds in
9 combination with the appropriations of the Legislature
10 as aforesaid for the payment of a cash bonus to veterans
11 as provided for in said amendment, including the cost
12 of administration necessarily incident thereto. Such
13 bonds may be issued by the governor in such amounts,
14 in coupon or registered form, in such denominations, at
15 such times on and after the fifteenth day of April, one
16 thousand nine hundred seventy-five, and bearing such
17 date or dates as the governor may determine, and shall
18 become due and payable serially, annually or semian-

19 nually, beginning one year and ending not more than
20 twenty-five years from the date thereof: *Provided*, That
21 the governor must offer such bonds for competitive bids
22 from recognized financial investment institutions before
23 said bonds may be sold.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at
2 such time or times on and after the fifteenth day of April,
3 one thousand nine hundred seventy-five, as he may de-
4 termine necessary to provide funds for the payment of
5 the bonus as herein provided. All sales shall be at not
6 less than par and accrued interest. All interest coupons
7 becoming payable prior to the sale date shall be can-
8 celed by the treasurer and rendered ineffective, before
9 the delivery of the bonds so sold.

§12. Interim certificates.

1 For the purpose of facilitating the payment of Vietnam
2 veterans bonus awards, prior to the issuance of any per-
3 manent bonds, the governor may authorize issuance by
4 the state treasurer of short-term interim certificates to
5 purchasers, on and after the fifteenth day of April, one
6 thousand nine hundred seventy-five, for a period not
7 to exceed eighteen months and in sufficient amount as
8 required to meet bonus award obligations. During the
9 period such interim certificates are outstanding, as speci-
10 fied, it shall be ascertained, as near as may be, the total
11 number of persons entitled to such awards who have
12 not been or cannot be paid out of legislative appropria-
13 tions for such purpose, the total cost of such awards re-
14 maining to be made, and the most favorable time for
15 market and sale of permanent bonds, with sale of per-
16 manent bonds to thereupon occur and with the resultant
17 retirement of said interim certificates. The interim cer-
18 tificates, when issued and outstanding, shall be full and
19 legal obligations of the state of West Virginia under all
20 of the provisions of this act just as fully and completely
21 as permanent bonds.

CHAPTER 213

(H. B. 658—By Mr. Chafin)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licenses to carry weapons and the required procedures in obtaining such licenses; relating to the application to be filed to obtain any such license and the allegations which must be set forth therein; requiring applicant to qualify under minimum requirements for handling and firing firearms established by the department of natural resources; relating to the fee which must be paid and the bond which must be filed and the amounts thereof; relating to the territory covered by and the duration of every such license, including a license granted to a security guard; relating to duties of sheriff and state tax commissioner; relating to notification to the department of public safety and a fee therefor; and relating to duties of clerk of circuit court.

Be it enacted by the Legislature of West Virginia:

That section two, article seven, 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 7. DANGEROUS WEAPONS.

§61-7-2. License to carry weapons; how obtained.

1 Any person desiring to obtain a state license to carry any
2 such weapon as is mentioned in the first section of this article,
3 within one or more counties in this state, shall first publish a
4 notice setting forth his name, residence and occupation, and
5 that on a certain day he will apply to the circuit court of his
6 county for such state license. Such notice shall be published
7 as a Class I legal advertisement in compliance with the pro-
8 visions of article three, chapter fifty-nine of this code, and the
9 publication area for such publication shall be the county in
10 which such person resides. Such notice shall be published at
11 least ten days before such application is made. After the

12 publication of such notice and at the time stated in such
13 notice, upon application to such court, it may grant such li-
14 cense to such person, in the following manner, to wit:

15 The applicant shall file with such court his application in
16 writing, duly verified, which application shall show:

17 (a) That such applicant is a citizen of the United States of
18 America;

19 (b) That the applicant has been a bona fide resident of this
20 state for at least one year next prior to the date of such appli-
21 cation, and of the county sixty days next prior thereto;

22 (c) That the applicant is over eighteen years of age; that
23 he is a person of good moral character, of temperate habits,
24 not addicted to intoxication, not addicted to the use of any con-
25 trolled substance, and has not been convicted of a felony or of
26 any offense involving the use on his part of such weapon in an
27 unlawful manner, and shall prove to the satisfaction of the court
28 that he is gainfully employed in a lawful occupation and has
29 been so engaged for a period of five years next preceding the
30 date of his application;

31 (d) The purpose or purposes for which the applicant desires
32 to carry such weapon, the necessity therefor, and the county or
33 counties in which such license is desired to be effective; and

34 (e) That the applicant has qualified under minimum re-
35 quirements for handling and firing such firearms. These
36 minimum requirements are those promulgated by the de-
37 partment of natural resources and attained under the auspices
38 of the department of natural resources.

39 Upon the hearing of such application the court shall hear
40 evidence upon all matters stated in such application and
41 upon any other matter deemed pertinent by the court, and
42 if such court be satisfied from the proof that there is good
43 reason and cause for such person to carry such weapon, and
44 all of the other conditions of this article be complied with,
45 the court, or the judge thereof in vacation, may grant such
46 license for such purposes, and no other, as such court, or the
47 judge in vacation, may set out in the license (and the word
48 "court" as used in this article shall include the circuit judge

49 thereof, acting either in term or vacation); but, before such
50 license shall be effective such person shall pay to the sheriff,
51 and the court shall so certify in its order granting the license, the
52 sum of fifty dollars, and shall also file a bond with the clerk of
53 such court, in the penalty of five thousand dollars, with good
54 security, signed by a responsible person or persons, or by some
55 surety company, authorized to do business in this state, condi-
56 tioned that such applicant will not carry such weapon except in
57 accordance with his application and as authorized by the court,
58 and that he will pay all costs and damages accruing to any per-
59 son by the accidental discharge or improper, negligent or illegal
60 use of such weapon or weapons. Any such license granted shall
61 be good for three years, unless sooner revoked, as hereinafter
62 provided, and be coextensive with the county in which granted,
63 and such other county or counties as the court shall designate in
64 the order granting such license; except that upon a proper
65 showing the court granting such license to any person regularly
66 employed as a security guard may, in its discretion, in the order
67 granting such license extend the period of the validity of such
68 license for a period not to exceed four years, under such terms
69 and conditions as the court deems proper; except that regularly
70 appointed deputy sheriffs having license shall be permitted to
71 carry such revolver or other weapons at any place, within the
72 state, while in the performance of their duties as such deputy
73 sheriffs; and except that any such license granted to regularly
74 appointed railway police shall be coextensive with the state. All
75 license fees collected hereunder shall be paid by the sheriff and
76 accounted for to the auditor as other license taxes are collected
77 and paid, and the state tax commissioner shall prepare all suit-
78 able forms for licenses, bonds and certificates showing that such
79 license has been granted and shall do anything else in the prem-
80 ises to protect the state and see to the enforcement of this
81 section.

82 The clerk of the circuit court shall, immediately after license
83 is granted as aforesaid, furnish the superintendent of the de-
84 partment of public safety a certified copy of the order of the
85 court granting such license, for which service the clerk shall be
86 paid a fee of two dollars which shall be taxed as cost in the pro-
87 ceeding. It shall be the duty of the clerk of each circuit court to
88 furnish to the superintendent of the department of public safety,

89 at any time so required, a certified list of all such licenses issued
90 in his county.

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CHAPTER 214

(H. B. 706—Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revocation of a will by marriage, annulment or divorce subsequent to the execution of such will; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter forty-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. CAPACITY TO MAKE; REQUISITES; VALIDITY.

§41-1-6. When marriage, annulment or divorce revokes will; certain exceptions.

1 Every will made by a man or woman shall be revoked by
2 his or her marriage, annulment or divorce, except a will which
3 makes provision therein for such contingency, or a will which,
4 though not making provision for such contingency, is made in
5 exercise of a power of appointment, when the estate thereby
6 appointed would not, in default of such appointment, pass to
7 his or her heirs, personal representative, or next of kin: *Pro-*
8 *vided,* That even when the estate thereby appointed would, in
9 default of such appointment, pass to his or her heirs, personal
10 representative, or next of kin, such will shall, nevertheless, not
11 be revoked (a) by such marriage if such marriage is between
12 the person appointed in the exercise of such power of appoint-
13 ment and the person exercising such power of appointment, or
14 (b) by such annulment or divorce, unless the person appointed

15 in the exercise of such power of appointment is the person
16 whose marriage to the person exercising such power of ap-
17 pointment was terminated by such annulment or divorce.

CHAPTER 215

(Com. Sub. for S. B. 302—By Mr. Rogerson and Mr. Palumbo)

[Passed March 8, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact section four, article one; sections one and ten, article two; sections two and three, article three; sections one, one-b, one-c, three, four, six, eight, nine and ten, article four; and sections two and five, article five, all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article two, by adding thereto three new sections, designated sections one-a, one-b and one-c; and to further amend said article five, by adding thereto a new section, designated section three-b, all relating to workmen's compensation generally; relating to the office hours and records of the workmen's compensation commissioner; relating to employers subject to said chapter twenty-three; providing special provisions with respect to partnerships, sole proprietorships and churches; relating to protection afforded by said chapter twenty-three; relating to mandatory and elective coverage; relating to foreign corporations and coverage under said chapter twenty-three; relating to employees, officers and others subject to said chapter twenty-three; relating to unlawful employment; providing special provisions as to premiums on the earnings of officers, partners and owners and the payment of premiums by certain employers; authorizing county commissions and municipalities to pay premiums for emergency service organizations and volunteer fire departments; relating to extraterritorial coverage under said chapter twenty-three and agreements in connection therewith; providing for set off of benefits under certain circumstances; relating to the application of said

chapter twenty-three to interstate commerce; relating to the custody, investment and disbursements of the workmen's compensation fund and all surpluses, reserves and other moneys belonging thereto; relating to the board of investments, relating to the investment of surplus funds; relating to disability and death benefits; specifying to whom compensation shall be disbursed; relating to injuries, occupational pneumoconiosis and other occupational diseases; defining injuries, occupational pneumoconiosis and occupational diseases; relating to certain requirements as to compensability; relating to charges; relating to the significance of x-ray evidence in occupational pneumoconiosis claims; relating to injury reports by employers and failure to object to compensability or temporary total disability benefits; relating to the payment of temporary total disability benefits; establishing a time frame within which a self-insurer must make payments of temporary total disability benefits; relating to overpayments; relating to fee schedules and disbursements for medical, surgical, dental and hospital treatment and other related matters; relating to the replacement of artificial limbs, crutches, hearing aids, eyeglasses and all other mechanical appliances; relating to the allowance for funeral expenses; relating to classification and amount of disability benefits; relating to physical examinations of claimants and payment for loss of wages and for traveling and other expenses in connection with certain of such examinations; relating to physical and vocational rehabilitation; increasing the dollar limitation on vocational rehabilitation; relating to death benefits and those entitled thereto; defining the term "dependent"; relating to the West Virginia workmen's compensation appeal board, the members thereof and their qualifications, terms, removal, salary and expenses; relating to the chairman and terms of such board; relating to clerical services for and the clerical staff of such board; relating to rules and regulations of and fiscal matters pertaining to such board; relating to the disqualification of the members of such board; relating to the fees of attorneys who represent claimants or dependents in workmen's compensation claims; establishing a limitation

upon the amount which may be paid as a fee to any such attorney; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That section four, article one; sections one and ten, article two; sections two and three, article three; sections one, one-b, one-c, three, four, six, eight, nine and ten, article four; and that sections two and five, article five, all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article two be further amended by adding thereto three new sections, designated sections one-a, one-b and one-c; and that said article five be further amended by adding thereto a new section, designated section three-b, all to read as follows:

Article

1. **General Administrative Provisions.**
2. **Employers and Employees Subject to Chapter; Extraterritorial Coverage.**
3. **Workmen's Compensation Fund.**
4. **Disability and Death Benefits.**
5. **Review.**

ARTICLE 1. GENERAL ADMINISTRATIVE PROVISIONS.

§23-1-4. Office hours; records.

1 The offices of the commissioner shall be open for the
 2 transaction of business between the hours of eight-thirty
 3 o'clock a.m., and five o'clock p.m., of each and every day
 4 excepting Saturdays, Sundays and legal holidays, and be
 5 in charge of his secretary or some other competent person.
 6 All proceedings of the commissioner shall be shown on
 7 his record of proceedings, which shall be a public record
 8 and shall contain a record of each case considered and the
 9 award with respect thereto and of all salaries allowed to
 10 any employee of the commissioner or to any other person
 11 for services.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; EXTRATERRITORIAL COVERAGE.

- §23-2-1. Employers subject to chapter.
 §23-2-1a. Employees subject to chapter.
 §23-2-1b. Special provisions as to premiums.
 §23-2-1c. Extraterritorial coverage.
 §23-2-10. Application of chapter to interstate commerce.

§23-2-1. Employers subject to chapter.

1 The state of West Virginia and all governmental

2 agencies or departments created by it, including county
3 boards of education, political subdivisions of the state,
4 any duly incorporated volunteer fire department or com-
5 pany and emergency service organizations organized
6 under article five, chapter fifteen of this code, and all
7 persons, firms, associations and corporations regularly
8 employing another person or persons for the purpose of
9 carrying on any form of industry, service or business in
10 this state, are employers within the meaning of this chap-
11 ter and are hereby required to subscribe to and pay pre-
12 miums into the workmen's compensation fund for the
13 protection of their employees and shall be subject to all
14 requirements of this chapter and all rules and regulations
15 prescribed by the commissioner with reference to rates,
16 classification and premium payment.

17 This chapter shall not apply to:

- 18 (1) Employers of employees in domestic service; or
- 19 (2) Employers of five or fewer full-time employ-
20 ees in agricultural service; or
- 21 (3) Employers of employees while said employees
22 are employed without the state except in cases
23 of temporary employment without the state; or
- 24 (4) Casual employers. An employer is deemed to be
25 a casual employer when the number of his em-
26 ployees does not exceed three and the period of
27 employment is temporary, intermittent and
28 sporadic in nature and does not exceed ten cal-
29 endar days in any calendar quarter.

30 If an employer is a partnership, or sole proprietorship,
31 such employer may elect to include as an "employee"
32 within this chapter, any member of such partnership, or
33 the owner of the sole proprietorship. In the event of such
34 election, the employer shall serve upon the commissioner
35 written notice naming the persons to be covered and
36 shall include such "employee's" remuneration for premium
37 purposes in all future payroll reports, and no such
38 partner or proprietor shall be deemed an employee with-
39 in the meaning of this chapter until such notice has been
40 served.

41 Notwithstanding any other provision of this chapter
42 to the contrary, whenever there are churches in a
43 circuit which employ one individual clergyman and
44 the payments to such clergyman from such churches
45 constitute his full salary, such circuit or group of church-
46 es shall be considered a single employer for purposes of
47 premium payment into the workmen's compensation
48 fund.

49 Employers who are not required to subscribe to the
50 workmen's compensation fund may voluntarily choose
51 to subscribe to and pay premiums into the fund for the
52 protection of their employees and in such case shall be
53 subject to all requirements of this chapter and all rules
54 and regulations prescribed by the commissioner with
55 reference to rates, classifications and premium payments
56 and shall afford to them the protection of this chapter,
57 including section six of this article, but the failure of such
58 employers to choose to subscribe to and to pay premiums
59 into the fund shall not impose any liability upon them
60 other than such liability as would exist notwithstanding
61 the provisions of this chapter.

62 Any foreign corporation employer whose employment
63 in this state is to be for a definite or limited period which
64 could not be considered "regularly employing" within
65 the meaning of this section may choose to pay into the
66 workmen's compensation fund the premiums herein pro-
67 vided for and, at the time of making application to the
68 commissioner, such employer shall furnish a statement
69 under oath showing the probable length of time the em-
70 ployment will continue in this state, the character of the
71 work, an estimate of the monthly payroll and any other
72 information which may be required by the commissioner.
73 At the time of making application such employer shall
74 deposit with the state compensation commissioner to the
75 credit of the workmen's compensation fund the amount
76 required by section five of this article, which amount shall
77 be returned to the employer if his application be rejected
78 by the commissioner. Upon notice to such employer of the
79 acceptance of his application by the commissioner, he

80 shall be an employer within the meaning of this chapter
81 and subject to all of its provisions.

82 Any foreign corporation employer choosing to comply
83 with the provisions of this chapter and to receive the
84 benefits hereunder shall, at the time of making applica-
85 tion to the commissioner, in addition to other require-
86 ments of this chapter, furnish such commissioner with a
87 certificate from the secretary of state, where such cer-
88 tificate is necessary, showing that it has complied with all
89 the requirements necessary to enable it legally to do
90 business in this state and no application of such foreign
91 corporation employer shall be accepted by the commis-
92 sioner until such certificate is filed.

§23-2-1a. Employees subject to chapter.

1 Employees subject to this chapter are all persons in
2 the service of employers and employed by them for the
3 purpose of carrying on the industry, business, service
4 or work in which they are engaged, including, but not
5 limited to persons regularly employed in the state whose
6 duties necessitate employment of a temporary or transi-
7 tory nature by the same employer without the state,
8 every executive officer of an association or of a corpo-
9 ration elected or appointed in accordance with the char-
10 ter and bylaws of the association or corporation, every
11 person in the service of the state or of any political sub-
12 division or agency thereof, under any contract of hire,
13 express or implied, and every official or officer thereof,
14 whether elected or appointed, while performing his of-
15 ficial duties, checkweighmen employed according to law,
16 all members of rescue teams assisting in mine accidents
17 with the consent of the owner who, in such case, shall
18 be deemed the employer, or at the direction of the direc-
19 tor of the department of mines and all forest fire fighters
20 who, under the supervision of the director of the
21 department of natural resources or his designated
22 representative, assist in the prevention, confinement
23 and suppression of any forest fire.

24 The right to receive compensation under this chapter
25 shall not be affected by the fact that a minor is employed

26 or is permitted to be employed in violation of the laws
27 of this state relating to the employment of minors, or
28 that he obtained his employment by misrepresenting his
29 age.

§23-2-1b. Special provisions as to premiums.

1 Every executive officer of an association or of a cor-
2 poration defined as an employee elsewhere in this chap-
3 ter and any member of a partnership or owner of a
4 sole proprietorship which has elected coverage under
5 this chapter for such member or owner shall pay
6 premiums on each such person's annual income up
7 to a maximum of fifteen thousand dollars per annum.

8 The premium and actual expenses in connection with
9 governmental agencies and departments of the state of
10 West Virginia shall be paid out of the state treasury
11 from appropriations made for such agencies and de-
12 partments, in the same manner as other disbursements
13 are made by such agencies and departments.

14 County commissions, municipalities, other political
15 subdivisions of the state, county boards of education,
16 emergency service organizations organized as aforesaid
17 and duly incorporated volunteer fire departments or
18 companies shall provide for the funds to pay their pre-
19 scribed premiums into the fund and such premiums and
20 premiums of state agencies and departments, including
21 county boards of education, shall be paid into the fund
22 in the same manner as herein provided for other em-
23 ployers subject to this chapter.

24 County commissions and municipalities are hereby
25 authorized to pay all or any part of the premiums pre-
26 scribed for such emergency service organizations orga-
27 nized as aforesaid and such duly incorporated volunteer
28 fire departments or companies as may provide services
29 within the county or municipality.

§23-2-1c. Extraterritorial coverage.

1 (a) Whenever, with respect to an employee of an
2 employer who is a subscriber in good standing to the
3 workmen's compensation fund or an employer who has

4 elected to pay compensation directly, as provided in
5 section nine of this article, there is a possibility of con-
6 flict with respect to the application of workmen's com-
7 pensation laws because the contract of employment is
8 entered into and all or some portion of the work is per-
9 formed or is to be performed in a state or states other
10 than this state, the employer and the employee may
11 agree to be bound by the laws of this state or by the
12 laws of such other state in which all or some portion
13 of the work of the employee is to be performed. Such
14 agreement shall be in writing and filed with the com-
15 missioner within ten days after execution thereof and
16 shall remain in effect until terminated or modified by
17 agreement of the parties similarly filed. If the parties
18 agree to be bound by the laws of this state, an employee
19 injured within the terms and provisions of this chapter
20 shall be entitled to benefits under this chapter regard-
21 less of the situs of the injury or exposure to occupational
22 pneumoconiosis or other occupational disease, and the
23 rights of the employee and his dependents under the
24 laws of this state shall be the exclusive remedy
25 against the employer on account of injury, disease
26 or death in the course of and as a result of the em-
27 ployment.

28 If the parties agree to be bound by the laws of an-
29 other state and the employer has complied with the laws
30 of that state, the rights of the employee and his de-
31 pendants under the laws of that state shall be the ex-
32 clusive remedy against the employer on account of in-
33 jury, disease or death in the course of and as a result
34 of the employment without regard to the situs of the
35 injury or exposure to occupational pneumoconiosis or
36 other occupational disease.

37 If the employee is a resident of a state other than this
38 state and is subject to the terms and provisions of the
39 workmen's compensation law or similar laws of a state
40 other than this state, such employee and his dependents
41 shall not be entitled to the benefits payable under this
42 chapter on account of injury, disease or death in the
43 course of and as a result of employment temporarily

44 within this state, and the rights of such employee
45 and his dependents under the laws of such other
46 state shall be the exclusive remedy against the em-
47 ployer on account of such injury, disease or death.

48 If any employee or his dependents be awarded work-
49 men's compensation benefits or recover damages from
50 the employer under the laws of another state for an
51 injury received in the course of and resulting from
52 the employment, the amount so awarded or recovered,
53 whether paid or to be paid in future installments,
54 shall be credited against the amount of any benefits pay-
55 able under this chapter for the same injury.

§23-2-10. Application of chapter to interstate commerce.

1 In case any employer within the meaning of this chap-
2 ter is also engaged in interstate or foreign commerce,
3 and for whom a rule of liability or method of compen-
4 sation has been established by the Congress of the United
5 States, this chapter shall apply to him only to the ex-
6 tent that his mutual connection with work in this state
7 is clearly separable and distinguishable from his inter-
8 state work, and to the extent that such work in this
9 state is clearly separable and distinguishable from his
10 interstate work, such employer shall be subject to the
11 terms and provisions of this chapter in like manner
12 as all other employers hereunder. Payments of premiums
13 shall be on the basis of the payroll of those employees
14 who perform work in this state only.

15 Unless and until the Congress of the United States has
16 by appropriate legislation established a rule of liability
17 or method of compensation governing employers and
18 employees engaged in commerce within the purview
19 of the commerce clause of the United States Constitu-
20 tion (article 1, section 8), section one of this article shall
21 apply without regard to the interstate or intrastate charac-
22 ter or nature of the work or business engaged in.

ARTICLE 3. WORKMEN'S COMPENSATION FUND.

§23-3-2. Custody, investment and disbursement of fund.

§23-3-3. Investment of surplus funds required.

§23-3-2. Custody, investment and disbursement of fund.

1 The state treasurer shall be the custodian of the work-
2 men's compensation fund and all premiums, deposits or
3 other moneys paid thereto shall be deposited in the state
4 treasury to the credit of the workmen's compensation
5 fund in the manner prescribed in section five, article
6 two of this chapter. The workmen's compensation fund
7 shall consist of the premiums and deposits provided by
8 this chapter and all interest accruing thereto upon in-
9 vestments and deposits in the state depositories, and any
10 other moneys or funds which may be given, appropriated
11 or otherwise designated or accruing thereto. Said fund
12 shall be a separate and distinct fund and shall be so kept
13 upon the books and records of the auditor and treasurer
14 and the state depositories in which any part is deposited.
15 Disbursements therefrom shall be made upon requisitions
16 signed by the secretary and approved by the compensa-
17 tion commissioner.

18 The board of investments shall have authority to in-
19 vest the surplus, reserve or other moneys belonging to
20 the fund in the bonds of the United States, notes or
21 bonds of this state, bridge revenue bonds of this state
22 issued prior to January first, one thousand nine hundred
23 thirty-nine, or any bonds issued to refund the same,
24 bonds of any county, city, town, village or school district
25 of the state. No such investment shall be made, nor
26 any investment sold or otherwise disposed of without
27 the concurrence of a majority of all members of the
28 board of investments. It shall be the duty of every
29 county, school district or municipality issuing any bonds,
30 to offer the same in writing to the board of investments,
31 prior to advertising the same for sale, and the board of
32 investments shall, within fifteen days after receipt of
33 such offer, accept the same and purchase such bonds, or
34 any portion thereof at par and accrued interest, or reject
35 such offer. All securities purchased by the board of in-
36 vestments for investment for the workmen's compensation
37 fund shall be placed in the hands of the state treasurer
38 as the custodian thereof, and it shall be his duty to keep
39 and account for the same as he keeps and accounts for
40 other securities of the state, and to collect the interest

41 thereon as the same becomes due and payable and the
 42 principal when the same is due. No notes, bonds or other
 43 securities shall be purchased by the board of investments
 44 until and unless the attorney general shall investigate
 45 the issuance of such notes, bonds or securities and shall
 46 give a written opinion to the board that the same have
 47 been regularly issued according to the constitution and
 48 the laws of this state, which opinion, if such notes, bonds
 49 or securities be purchased, shall be filed with the treasurer
 50 with such bonds or securities.

§23-3-3. Investment of surplus funds required.

1 Whenever there shall be in the state treasury any funds
 2 belonging to the workmen's compensation fund not likely,
 3 in the opinion of the commissioner, to be required for
 4 immediate use, it shall be the duty of the board of invest-
 5 ments to invest the same as prescribed in the preceding
 6 section. Whenever it may become necessary or expedient
 7 to use any of the funds so invested, the board of invest-
 8 ments, at the direction of the compensation commissioner,
 9 shall collect, sell or otherwise realize upon any invest-
 10 ment to the amount deemed necessary or expedient to use.

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-1. To whom compensation fund disbursed; occupational pneumo-
 coniosis and other occupational diseases included in "injury"
 and "personal injury"; definition of occupational pneumo-
 coniosis and other occupational diseases.

§23-4-1b. Report of injuries by employers.

§23-4-1c. Payment of temporary total disability benefits directly to claimant;
 payments of benefits during protest; right of commissioner to
 collect payments improperly made.

§23-4-3. Schedule of maximum disbursements for medical, surgical, dental
 and hospital treatment; charges in excess of scheduled amounts
 not to be made; contract by employer with hospital, physician,
 etc., prohibited; penalties.

§23-4-4. Funeral expenses.

§23-4-6. Classification of disability benefits.

§23-4-8. Physical examination of claimant.

§23-4-9. Physical and vocational rehabilitation.

§23-4-10. Classification of death benefits; "dependent" defined.

§23-4-1. To whom compensation fund disbursed; occupational pneumoconiosis and other occupational diseases included in "injury" and "personal injury"; definition of occupational pneumoconiosis and other occupational diseases.

1 Subject to the provisions and limitations elsewhere in
2 this chapter set forth, the commissioner shall disburse
3 the workmen's compensation fund to the employees of
4 employers subject to this chapter, which employees have
5 received personal injuries in the course of and resulting
6 from their covered employment or to the dependents, if
7 any, of such employees in case death has ensued, accord-
8 ing to the provisions hereinafter made; and also for the
9 expenses of the administration of this chapter, as pro-
10 vided in section two, article one of this chapter.

11 For the purposes of this chapter the terms "injury" and
12 "personal injury" shall include occupational pneumocon-
13 iosis and any other occupational disease, as hereinafter
14 defined, and the commissioner shall likewise disburse the
15 workmen's compensation fund to the employees of such
16 employers in whose employment such employees have
17 been exposed to the hazards of occupational pneumocon-
18 iosis or other occupational disease and in this state have
19 contracted occupational pneumoconiosis or other occupa-
20 tional disease, or have suffered a perceptible aggra-
21 vation of an existing pneumoconiosis or other occupa-
22 tional disease, or to the dependents, if any, of such
23 employees, in case death has ensued, according to the
24 provisions hereinafter made: *Provided*, That compensation
25 shall not be payable for the disease of occupational pneu-
26 moconiosis, or death resulting therefrom, unless the em-
27 ployee has been exposed to the hazards of occupational
28 pneumoconiosis in the state of West Virginia over a con-
29 tinuous period of not less than two years during the ten
30 years immediately preceding the date of his last exposure
31 to such hazards. An application for benefits on account of
32 occupational pneumoconiosis shall set forth the name of
33 the employer or employers and the time worked for each,
34 and the commissioner may allocate to and divide any
35 charges resulting from such claim among the employers

36 by whom the claimant was employed for as much as
37 sixty days during the period of three years immediately
38 preceding the date of last exposure to the hazards of oc-
39 cupational pneumoconiosis. The allocation shall be based
40 upon the time and degree of exposure with each em-
41 ployer.

42 For the purposes of this chapter disability or death
43 resulting from occupational pneumoconiosis, as defined in
44 the immediately succeeding sentence, shall be treated and
45 compensated as an injury by accident.

46 Occupational pneumoconiosis is a disease of the lungs
47 caused by the inhalation of minute particles of dust over
48 a period of time due to causes and conditions arising out
49 of and in the course of the employment. The term "occu-
50 pational pneumoconiosis" shall include, but shall not be
51 limited to, such diseases as silicosis, anthracosilicosis,
52 coal worker's pneumoconiosis, commonly known as black
53 lung or miner's asthma, silico-tuberculosis (silicosis ac-
54 companied by active tuberculosis of the lungs), coal
55 worker's pneumoconiosis accompanied by active tubercu-
56 losis of the lungs, asbestosis, siderosis, anthrax and any
57 and all other dust diseases of the lungs and conditions
58 and diseases caused by occupational pneumoconiosis
59 which are not specifically designated herein meeting the
60 definition of occupational pneumoconiosis set forth in
61 the immediately preceding sentence.

62 In determining the presence of occupational pneumo-
63 coniosis, x-ray evidence may be considered but shall not
64 be accorded greater weight than any other type of evi-
65 dence demonstrating occupational pneumoconiosis.

66 For the purposes of this chapter, occupational disease
67 means a disease incurred in the course of and resulting
68 from employment. No ordinary disease of life to which
69 the general public is exposed outside of the employment
70 shall be compensable except when it follows as an inci-
71 dent of occupational disease as defined in this chapter.
72 Except in the case of occupational pneumoconiosis, a
73 disease shall be deemed to have been incurred in the
74 course of or to have resulted from the employment only if
75 it is apparent to the rational mind, upon consideration

76 of all the circumstances (1) that there is a direct causal
77 connection between the conditions under which work is
78 performed and the occupational disease, (2) that it can
79 be seen to have followed as a natural incident of the work
80 as a result of the exposure occasioned by the nature of the
81 employment, (3) that it can be fairly traced to the em-
82 ployment as the proximate cause, (4) that it does not
83 come from a hazard to which workmen would have been
84 equally exposed outside of the employment, (5) that it is
85 incidental to the character of the business and not inde-
86 pendent of the relation of employer and employee, and
87 (6) that it must appear to have had its origin in a risk
88 connected with the employment and to have flowed from
89 that source as a natural consequence, though it need not
90 have been foreseen or expected before its contraction.

91 No award shall be made under the provisions of this
92 chapter for any occupational disease contracted prior to
93 the first day of July, one thousand nine hundred forty-
94 nine. An employee shall be deemed to have contracted an
95 occupational disease within the meaning of this para-
96 graph if the disease or condition has developed to such
97 an extent that it can be diagnosed as an occupational
98 disease.

99 Claims for occupational disease as hereinbefore defined,
100 except occupational pneumoconiosis, shall be processed in
101 like manner as claims for all other personal injuries.

§23-4-1b. Report of injuries by employers.

1 It shall be the duty of every employer to report to the
2 commissioner every injury sustained by any person in
3 his employ. Such report shall be on forms prescribed by
4 the commissioner; and shall be made within five days of
5 the employer's receipt of the employee's notice of injury,
6 required by section one-a of this article, or within five
7 days after the employer has been notified by the com-
8 missioner that a claim for benefits has been filed on
9 account of such injury, whichever is sooner, and, not-
10 withstanding any other provision of this chapter to the
11 contrary, such five-day period may not be extended by
12 the commissioner, but the employer shall have the right
13 to file a supplemental report at a later date. The em-

14 ployer's report of injury shall include a statement as to
15 whether or not, on the basis of the information then
16 available, the employer disputes the compensability of
17 the injury or objects to the payment of temporary total
18 disability benefits in connection therewith. Such state-
19 ments by the employer shall not prejudice the employer's
20 right thereafter to contest the compensability of the in-
21 jury, or to object to any subsequent finding or award, in
22 accordance with article five of this chapter; but an em-
23 ployer's failure to make timely report of an injury as
24 required herein; or statements in such report to the
25 effect that the employer does not dispute the compensa-
26 bility of the injury or object to the payment of temporary
27 total disability benefits for such injury, shall be deemed
28 to be a waiver of the employer's right to object to any
29 interim payment of temporary total disability benefits
30 paid by the commissioner with respect to any period
31 from the date of injury to the date of the commissioner's
32 receipt of any objection made thereto by the employer.

**§23-4-1c. Payment of temporary total disability benefits di-
rectly to claimant; payments of benefits during pro-
test; right of commissioner to collect payments
improperly made.**

1 Upon a finding by the commissioner that a claimant
2 has sustained a compensable injury within the meaning
3 of section one of this article, and upon proof by proper
4 physician's report, or otherwise, that disability will last
5 longer than three days as provided in section five of this
6 article, the commissioner shall immediately commence
7 payment of temporary total disability benefits to the
8 claimant in the amounts provided for in sections six and
9 fourteen of this article, without waiting for the expiration
10 of the thirty-day period during which objections may be
11 filed to such findings as provided in section one, article
12 five of this chapter. The commissioner shall give immedi-
13 ate notice to the employer of his findings and of the com-
14 mencement of such payments.

15 The commissioner shall determine whether or not the
16 claimant has sustained a compensable injury within the
17 meaning of section one of this article, and shall commence

18 payment of temporary total disability benefits as provided
19 herein within fifteen days of receipt of the employee's
20 or employer's report of injury, whichever is received
21 sooner, and receipt of either a proper physician's report
22 or any other information necessary for a determination.

23 Where the employer is a subscriber to the workmen's
24 compensation fund under the provisions of article three
25 of this chapter, and upon the findings aforesaid, the com-
26 missioner shall mail all workmen's compensation checks
27 paying temporary total disability benefits directly to
28 the claimant and not to the employer for delivery to the
29 claimant.

30 Where the employer has elected to carry his own risk
31 under section nine, article two of this chapter, and upon
32 the findings aforesaid, the commissioner shall immedi-
33 ately issue a pay order directing the employer to pay
34 such amounts as are due the claimant for temporary
35 total disability benefits. The self-insured employer shall
36 commence such payments by mailing or delivering the
37 payments directly to the employee within ten days of
38 receiving the pay order. If the self-insured employer
39 believes that his employee is entitled to benefits, he may
40 start payments before receiving a pay order from the
41 commissioner.

42 In the event that an employer files a timely objection
43 to any finding or order of the commissioner, as provided
44 in section one, article five of this chapter, with respect
45 to the payment or continued payment of temporary total
46 disability benefits, as provided herein, the commissioner
47 shall continue to pay to the claimant such benefits during
48 the period of such disability unless it is subsequently
49 found by the commissioner that the claimant was not
50 entitled to receive the temporary total disability bene-
51 fits, or any part thereof, so paid, in which event the com-
52 missioner shall, where the employer is a subscriber to
53 the fund, credit said employer's account with the amount
54 of the overpayment; and, where the employer has elected
55 to carry his own risk, the commissioner shall refund to
56 such employer the amount of the overpayment. The
57 amounts so credited to a subscriber or repaid to a self-

58 insurer shall be charged by the commissioner to the sur-
59 plus fund created by section one, article three of this
60 chapter. If the final decision in any case determines that
61 a claimant was not lawfully entitled to benefits paid to
62 him pursuant to a prior decision, such amount of benefits
63 so paid shall be deemed overpaid. The commissioner may
64 recover such amount by civil action or in any manner
65 provided in this code for the collection of past-due pay-
66 ment and shall withhold, in whole or in part, as de-
67 termined by the commissioner, any future benefits pay-
68 able to the individual and credit such amount against the
69 overpayment until it is repaid in full.

**§23-4-3. Schedule of maximum disbursements for medical, sur-
gical, dental and hospital treatment; charges in ex-
cess of scheduled amounts not to be made; contract
by employer with hospital, physician, etc., pro-
hibited; penalties.**

1 The commissioner shall establish, and alter from time
2 to time as he may determine to be appropriate a sched-
3 ule of the maximum reasonable amounts to be paid to
4 physicians, surgeons, hospitals or other persons, firms
5 or corporations for the rendering of treatment to in-
6 jured employees under this chapter.

7 The commissioner shall disburse and pay from the
8 fund for such personal injuries to such employees as
9 may be entitled thereto hereunder as follows:

10 (a) Such sums for medicines, medical, surgical, dental
11 and hospital treatment, crutches, artificial limbs and
12 such other and additional approved mechanical appli-
13 ances and devices, as may be reasonably required and
14 as are, in the case of medical, surgical, dental or hos-
15 pital treatment only, within the maximum amount pro-
16 vided for by schedule established by the commissioner
17 as aforesaid, but not as to any one injured em-
18 ployee in excess of seven thousand five hundred dol-
19 lars: *Provided*, That in special cases where the treat-
20 ment required, in the opinion of competent medical au-
21 thority, is such as to necessitate an expenditure in ex-
22 cess of said sum of seven thousand five hundred dol-

23 lars, the commissioner may pay out of any available
24 funds such additional sum as may be necessary, but
25 such additional sum shall not be charged to the ac-
26 count of the employer.

27 (b) Payment for such medicine, medical, surgical,
28 dental and hospital treatment, crutches, artificial limbs
29 and such other and additional approved mechanical ap-
30 pliances and devices authorized under subdivision (a)
31 hereof may be made to the injured employee, or to the
32 person, firm or corporation who or which has rendered
33 such treatment or furnished any of the items specified
34 above, or who has advanced payment for same, as the
35 commissioner may deem proper, but no such payments
36 or disbursements shall be made or awarded by him
37 unless duly verified statements on forms prescribed by
38 the commissioner shall be filed with the commissioner
39 within one year after the cessation of such treatment
40 or the delivery of such appliances: *Provided*, That no
41 payment hereunder shall be made unless such verified
42 statement shows no charge for or with respect to such
43 treatment or for or with respect to any of the items
44 specified above has been or will be made against the
45 injured employee or any other person, firm or corpora-
46 tion, and when an employee covered under the provi-
47 sions of this chapter is injured in the course of and as
48 a result of his employment and is accepted for medical,
49 surgical, dental or hospital treatment, the person, firm
50 or corporation rendering such treatment is hereby pro-
51 hibited from making any charge or charges therefor or
52 with respect thereto against the injured employee or
53 any other person, firm or corporation which would re-
54 sult in a total charge for the treatment rendered in
55 excess of the maximum amount set forth therefor
56 in the commissioner's schedule established as afore-
57 said.

58 (c) No employer shall enter into any contracts with
59 any hospital, its physicians, officers, agents or employ-
60 ees to render medical, dental or hospital service or to
61 give medical or surgical attention therein to any em-
62 ployee for injury compensable within the purview of

63 this chapter, and no employer shall permit or require
64 any employee to contribute, directly or indirectly, to
65 any fund for the payment of such medical, surgical,
66 dental or hospital service within such hospital for such
67 compensable injury. Any employer violating this sec-
68 tion shall be liable in damages to his employees as pro-
69 vided in section eight, article two of this chapter, and
70 any employer or hospital or agent or employee thereof
71 violating the provisions of this section shall be guilty
72 of a misdemeanor, and, upon conviction thereof, shall
73 be sentenced to pay a fine not exceeding one thou-
74 sand dollars or undergo imprisonment not exceeding one
75 year, or both.

76 (d) When an injury has been reported to the com-
77 missioner by the employer without protest, the com-
78 missioner may pay, or order an employer who or which
79 made the election and who or which received the per-
80 mission mentioned in section nine, article two of this
81 chapter to pay, within the maximum amount provided
82 by schedule established by the commissioner as afore-
83 said, bills for medical or hospital services without re-
84 quiring the injured employee to file an application for
85 benefits.

86 (e) The commissioner shall provide for the replace-
87 ment of artificial limbs, crutches, hearing aids, eye-
88 glasses and all other mechanical appliances provided in
89 accordance with this section which later wear out, or
90 which later need to be refitted because of the progres-
91 sion of the injury which caused the same to be orig-
92 inally furnished, or which are broken in the course of
93 and as a result of the employee's employment. The fund
94 or self-insured employer shall pay for these devices,
95 when needed, notwithstanding any time limits provided
96 by law.

§23-4-4. Funeral expenses.

1 In case the personal injury causes death, and disability
2 is continuous from the date of such injury to date of
3 death, reasonable funeral expenses, not to exceed fifteen
4 hundred dollars, shall be paid from the fund, payment

5 to be made to the persons who have furnished the services
6 and supplies, or to the persons who have advanced pay-
7 ment for same, as the commissioner may deem proper,
8 in addition to such award as may be made to the em-
9 ployee's dependents.

§23-4-6. Classification of disability benefits.

1 Where compensation is due an employee under the
2 provisions of this chapter for personal injury, such com-
3 pensation shall be as provided in the following sched-
4 ule:

5 (a) The expressions "average weekly wage earnings,
6 wherever earned, of the injured employee, at the date
7 of injury" and "average weekly wage in West Virginia,"
8 as used in this chapter, shall have the meaning and shall
9 be computed as set forth in section fourteen of this
10 article.

11 (b) If the injury causes temporary total disability,
12 the employee shall receive during the continuance there-
13 of weekly benefits as follows: A maximum weekly
14 benefit to be computed on the basis of sixty-six and two-
15 thirds percent of the average weekly earnings, wherever
16 earned, of the injured employee, at the date of injury,
17 not to exceed the percentage of the average weekly wage
18 in West Virginia, as follows: On or after July one, one
19 thousand nine hundred sixty-nine, forty-five percent;
20 on or after July one, one thousand nine hundred seventy,
21 fifty percent; on or after July one, one thousand nine
22 hundred seventy-one, fifty-five percent; on or after July
23 one, one thousand nine hundred seventy-three, sixty per-
24 cent; on or after July one, one thousand nine hundred
25 seventy-four, eighty percent; on or after July one, one
26 thousand nine hundred seventy-five, one hundred per-
27 cent.

28 The minimum weekly benefits paid hereunder shall not
29 be less than twenty-six dollars per week for injuries
30 occurring on or after July one, one thousand nine hun-
31 dred sixty-nine; not less than thirty-five dollars per
32 week for injuries occurring on or after July one, one
33 thousand nine hundred seventy-one; not less than forty

34 dollars per week for injuries occurring on or after July
35 one, one thousand nine hundred seventy-three and not
36 less than forty-five dollars per week for injuries oc-
37 ccurring on or after July one, one thousand nine hun-
38 dred seventy-four.

39 (c) Subdivision (b) shall be limited as follows: Ag-
40 gregate award for a single injury causing temporary
41 disability shall be for a period not exceeding two hun-
42 dred eight weeks.

43 (d) If the injury causes permanent total disability,
44 benefits shall be payable during the remainder of life
45 at the maximum or minimum weekly benefits as pro-
46 vided in subdivision (b) of this section for temporary
47 total disability. A permanent disability of eighty-five
48 percent or more shall be deemed a permanent total
49 disability for the purpose of this section.

50 (e) If the injury causes permanent disability less
51 than permanent total disability, the percentage of dis-
52 ability to total disability shall be determined and the
53 award computed on the basis of four weeks compen-
54 sation for each percent of disability determined, at the
55 following maximum or minimum benefit rates: Sixty-
56 six and two-thirds percent of the average weekly earn-
57 ings, wherever earned, of the injured employee, at the
58 date of injury, not to exceed the percentage of the
59 average weekly wage in West Virginia, as follows: On
60 or after July one, one thousand nine hundred sixty-
61 nine, forty-five percent; on or after July one, one thou-
62 sand nine hundred seventy, fifty percent; on or after
63 July one, one thousand nine hundred seventy-one, fifty-
64 five percent; on or after July one, one thousand nine
65 hundred seventy-three, sixty percent; on or after July
66 one, one thousand nine hundred seventy-five, sixty-six
67 and two-thirds percent.

68 The minimum weekly benefit under this subdivision
69 shall be as provided in subdivision (b) of this section
70 for temporary total disability.

71 (f) If the injury results in the total loss by sever-
72 ance of any of the members named in this subdivision,

73 the percentage of disability shall be determined by the
74 commissioner, with the following table establishing the
75 minimum percentage of disability. In determining the
76 percentage of disability, the commissioner may be
77 guided by but shall not be limited to the disabilities
78 enumerated in the following table, and in no event
79 shall the disability be less than that specified in the
80 following table:

81 The loss of a great toe shall be considered a ten per-
82 cent disability.

83 The loss of a great toe (one phalanx) shall be con-
84 sidered a five percent disability.

85 The loss of other toes shall be considered a four per-
86 cent disability.

87 The loss of other toes (one phalanx) shall be con-
88 sidered a two percent disability.

89 The loss of all toes shall be considered a twenty-five
90 percent disability.

91 The loss of forepart of foot shall be considered a thirty
92 percent disability.

93 The loss of foot shall be considered a thirty-five per-
94 cent disability.

95 The loss of a leg shall be considered a forty-five per-
96 cent disability.

97 The loss of thigh shall be considered a fifty percent
98 disability.

99 The loss of thigh at hip joint shall be considered a
100 sixty percent disability.

101 The loss of a little or fourth finger (one phalanx) shall
102 be considered a three percent disability.

103 The loss of little or fourth finger shall be considered
104 a five percent disability.

105 The loss of ring or third finger (one phalanx) shall be
106 considered a three percent disability.

107 The loss of ring or third finger shall be considered a
108 five percent disability.

- 109 The loss of middle or second finger (one phalanx) shall
110 be considered a three percent disability.
- 111 The loss of middle or second finger shall be considered
112 a seven percent disability.
- 113 The loss of index or first finger (one phalanx) shall be
114 considered a six percent disability.
- 115 The loss of index or first finger shall be considered
116 a ten percent disability.
- 117 The loss of thumb (one phalanx) shall be considered a
118 twelve percent disability.
- 119 The loss of thumb shall be considered a twenty per-
120 cent disability.
- 121 The loss of thumb and index finger shall be considered
122 a thirty-two percent disability.
- 123 The loss of index and middle finger shall be considered
124 a twenty percent disability.
- 125 The loss of middle and ring finger shall be considered
126 a fifteen percent disability.
- 127 The loss of ring and little finger shall be considered
128 a ten percent disability.
- 129 The loss of thumb, index and middle finger shall be
130 considered a forty percent disability.
- 131 The loss of index, middle and ring finger shall be
132 considered a thirty percent disability.
- 133 The loss of middle, ring and little finger shall be con-
134 sidered a twenty percent disability.
- 135 The loss of four fingers shall be considered a thirty-
136 two percent disability.
- 137 The loss of hand shall be considered a fifty percent
138 disability.
- 139 The loss of forearm shall be considered a fifty-five per-
140 cent disability.
- 141 The loss of arm shall be considered a sixty percent
142 disability.
- 143 The total and irrecoverable loss of the sight of one

144 eye shall be considered a thirty-three percent disability.
145 For the partial loss of vision in one, or both eyes, the
146 percentage of disability shall be determined by the
147 commissioner, using as a basis the total loss of one
148 eye.

149 The total and irrecoverable loss of the hearing of one
150 ear shall be considered a fifteen percent disability, and
151 the injured employee shall be entitled to compensation
152 for a period of sixty weeks. The total and irrecoverable
153 loss of hearing of both ears shall be considered a forty-
154 five percent disability, and the injured employee shall
155 be entitled to compensation for a period of one hundred
156 eighty weeks.

157 For the partial loss of hearing in one, or both ears,
158 the percentage of disability shall be determined by the
159 commissioner, using as a basis the total loss of hearing
160 in both ears.

161 Should a claimant sustain a compensable injury which
162 results in the total loss by severance of any of the bodily
163 members named in this subdivision, die from sickness
164 or noncompensable injury before the commissioner makes
165 the proper award for such injury, the commissioner
166 shall make such award to claimant's dependents as de-
167 fined in this chapter, if any; such payment to be made
168 in the same installments that would have been paid to
169 claimant if living: *Provided*, That no payment shall be
170 made to any widow of such claimant after her remar-
171 riage, and that this liability shall not accrue to the es-
172 tate of such claimant and shall not be subject to any
173 debts of, or charges against, such estate.

174 (g) Should a claimant to whom has been made a
175 permanent partial award of from one percent to eighty-
176 four percent, both inclusive, die from sickness or non-
177 compensable injury, the unpaid balance of such award
178 shall be paid to claimant's dependents as defined in this
179 chapter, if any; such payment to be made in the same
180 installments that would have been paid to claimant if
181 living: *Provided*, That no payment shall be made to
182 any widow of such claimant after her remarriage, and

183 that this liability shall not accrue to the estate of such
184 claimant and shall not be subject to any debts of, or
185 charges against, such estate.

186 (h) For the purpose of the immediately preceding
187 paragraph, a finding of the occupational pneumoconiosis
188 board shall have the force and effect of an award.

189 (i) The award for permanent disabilities intermediate
190 to those fixed by the foregoing schedule and per-
191 manent disability of from one percent to eighty-
192 four percent shall be the same proportion and shall
193 be computed and allowed by the commissioner.

194 (j) The percentage of all permanent disabilities
195 other than those enumerated in subdivision (f) of this
196 section shall be determined by the commissioner, and
197 awards made in accordance with the provisions of sub-
198 division (d) or (e) of this section. Where there has
199 been an injury to a member as distinguished from total
200 loss by severance of that member, the commissioner in
201 determining the percentage of disability may be guided
202 by but shall not be limited to the disabilities enumerated
203 in subdivision (f) of this section.

204 (k) Compensation payable under any subdivision of
205 this section shall not exceed the maximum nor be less
206 than the weekly benefits specified in subdivision (b) of
207 this section.

208 (l) Temporary total disability benefits payable under
209 subdivision (b) of this section shall not be deductible
210 from permanent partial disability awards payable un-
211 der subdivision (e) or (f) of this section. Compensa-
212 tion, either total temporary or permanent partial, un-
213 der this section shall be payable only to the injured
214 employee and the right thereto shall not vest in his
215 or her estate, except that any unpaid compensation which
216 would have been paid or payable to the employee up
217 to the time of his death, if he had lived, shall be paid
218 to the dependents of such injured employee if there be
219 such dependents at the time of death.

220 (m) The following permanent disabilities shall be
221 conclusively presumed to be total in character:

222 Loss of both eyes or the sight thereof.

223 Loss of both hands or the use thereof.

224 Loss of both feet or the use thereof.

225 Loss of one hand and one foot or the use thereof.

226 In all other cases permanent disability shall be de-
227 termined by the commissioner in accordance with the
228 facts in the case, and award made in accordance with
229 the provisions of subdivision (d) or (e).

230 (n) A disability which renders the injured employee
231 unable to engage in substantial gainful activity requir-
232 ing skills or abilities comparable to those of any gainful
233 activity in which he has previously engaged with some
234 regularity and over a substantial period of time shall
235 be considered in determining the issue of total dis-
236 ability.

§23-4-8. Physical examination of claimant.

1 The commissioner shall have authority, after due no-
2 tice to the employer and claimant, whenever in his
3 opinion it shall be necessary, to order a claimant of com-
4 pensation for a personal injury other than occupational
5 pneumoconiosis to appear for examination before a medi-
6 cal examiner or examiners selected by the commissioner;
7 and the claimant and employer, respectively, shall each
8 have the right to select a physician of his or its own
9 choosing and at his or its own expense to participate in
10 such examination. The claimant and employer shall,
11 respectively, be furnished with a copy of the report of
12 examination made by the medical examiner or examiners
13 selected by the commissioner. The respective physicians
14 selected by the claimant and employer shall have the
15 right to concur in any report made by the medical
16 examiner or examiners selected by the commissioner, or
17 each may file with the commissioner a separate report,
18 which separate report shall be considered by the commis-
19 sioner in passing upon the claim. If the compensation
20 claimed is for occupational pneumoconiosis, the commis-
21 sioner shall have the power, after due notice to the em-
22 ployer, and whenever in his opinion it shall be necessary

23 to order a claimant to appear for examination before the
24 occupational pneumoconiosis board hereinafter provided.
25 In any case the claimant shall be entitled to reimburse-
26 ment for loss of wages, and to reasonable traveling and
27 other expenses necessarily incurred by him in obeying
28 such order.

29 Where the claimant is required to undergo a medical
30 examination or examinations by a physician or physicians
31 selected by the employer, as aforesaid or in connection
32 with any claim which is in litigation, the employer shall
33 reimburse the claimant for loss of wages, and reasonable
34 traveling and other expenses in connection with such
35 examination or examinations, not to exceed the expenses
36 paid when a claimant is examined by a physician or
37 physicians selected by the commissioner.

§23-4-9. Physical and vocational rehabilitation.

1 In cases where an employee has sustained a permanent
2 disability, or has sustained injuries likely to result in
3 permanent disability, and such fact has been determined
4 by the commissioner, and the employee can be physically
5 and vocationally rehabilitated and returned to remuner-
6 ative employment by vocational training, by the use of
7 crutches, artificial limbs, or other approved mechanical
8 appliances, or by medicines, medical, surgical, dental or
9 hospital treatment, the commissioner shall forthwith,
10 after due notice to the employer, expend such an amount
11 as may be necessary for the aforesaid purposes: *Pro-*
12 *vided*, That such expenditure for vocational rehabilitation
13 shall not exceed four thousand dollars for any one injured
14 employee: *Provided, however*, That no payment shall be
15 made for such purposes as provided by this section unless
16 authorized by the commissioner prior to the rendering of
17 such physical or vocational rehabilitation.

18 In every case in which the commissioner shall order
19 physical or vocational rehabilitation of a claimant as
20 provided herein, the claimant shall, during the time he is
21 receiving any vocational rehabilitation or rehabilitative
22 treatment that renders him totally disabled during the
23 period thereof, be compensated on a temporary total

24 disability basis for such period, unless he is being paid
25 compensation under an award granted prior to the time
26 such rehabilitation is authorized by the commissioner.

§23-4-10. Classification of death benefits; "dependent" defined.

1 In case a personal injury, other than occupational pneu-
2 moconiosis or other occupational disease, suffered by an
3 employee in the course of and resulting from his employ-
4 ment, causes death and disability is continuous from date
5 of such injury until date of death, or if death results from
6 occupational pneumoconiosis or from any other occupa-
7 tional disease, the benefits shall be in the amounts and to
8 the persons as follows:

9 (a) If there be no dependents, the disbursements shall
10 be limited to the expense provided for in sections three
11 and four of this article.

12 (b) If there be dependents as defined in subdivision (d)
13 of this section, such dependents shall be paid for as long
14 as their dependency shall continue in the same amount as
15 was paid or would have been paid the deceased employee
16 for total disability had he lived. The order of preference
17 of payment and length of dependence shall be as follows:

18 (1) A dependent widow or widower until death or
19 remarriage of such widow or widower, and any
20 child or children dependent upon the decedent
21 until each such child shall reach eighteen years of
22 age or where such child after reaching eighteen
23 years of age continues as a full-time student in an
24 accredited high school, college, university, busi-
25 ness or trade school, until such child reaches the
26 age of twenty-three years or if an invalid child to
27 continue as long as such child remains an invalid.
28 All such persons shall be jointly entitled to the
29 amount of benefits payable as a result of em-
30 ployee's death.

31 (2) A wholly dependent father or mother until death.

32 (3) Any other wholly dependent person for a period
33 of six years after the death of the deceased em-
34 ployee.

35 (c) If the deceased employee leaves no wholly depend-
36 ent person, but there are partially dependent persons at
37 the time of death, the payment shall be fifty dollars a
38 month, to continue for such portion of the period of six
39 years after the death, as the commissioner may determine,
40 but no such partially dependent person shall receive com-
41 pensation payments as a result of the death of more than
42 one employee.

43 Compensation under subdivisions (b) and (c) hereof
44 shall, except as may be specifically provided to the con-
45 trary therein, cease upon the death of the dependent, and
46 the right thereto shall not vest in his or her estate.

47 (d) Dependent, as used in this chapter, shall mean a
48 widow, widower, child under eighteen years of age, or
49 under twenty-three years of age when a full-time student
50 as provided herein, invalid child or posthumous child,
51 who, at the time of the injury causing death, is dependent
52 in whole or part for his or her support upon the earnings
53 of the employee, stepchild under eighteen years of age, or
54 under twenty-three years of age when a full-time student
55 as provided herein, child under eighteen years of age
56 legally adopted prior to the injury causing death, or under
57 twenty-three years of age when a full-time student as
58 provided herein, father, mother, grandfather or grand-
59 mother, who at the time of the injury causing death, is
60 dependent in whole or in part for his or her support upon
61 the earnings of the employee; and invalid brother or sis-
62 ter wholly dependent for his or her support upon the
63 earnings of the employee at the time of the injury causing
64 death.

ARTICLE 5. REVIEW.

§23-5-2. Workmen's compensation appeal board—Generally.

§23-5-3b. Disqualification of board members.

§23-5-5. Fees of attorney for claimant; unlawful charging or receiving of attorney fees.

§23-5-2. Workmen's compensation appeal board—Generally.

1 There shall be a board to be known as the "Work-
2 men's Compensation Appeal Board", which shall be re-
3 ferred to in this article as the "board", to be composed
4 of three members.

5 Two members of such board shall be of opposite politics
6 to the third, and all three shall be citizens of this state
7 who have resided therein for a period of at least five
8 years. All members of the board shall be appointed
9 by the governor for a term of six years. The governor
10 is hereby vested with the power to remove any member
11 of the board in accordance with the provisions of section
12 four, article six, chapter six of this code. The members
13 of the board shall receive an annual salary in accordance
14 with the provisions of section two-a, article seven, chap-
15 ter six of this code, payable in monthly installments,
16 and shall also be entitled to all reasonable and
17 necessary traveling and other expenses actually in-
18 curred while engaged in the performance of their duties.
19 The governor shall designate one of the members of the
20 board as chairman thereof, and the board shall meet at
21 the capitol or at such other places throughout the state
22 as it may deem proper at regular sessions commencing
23 on the first Tuesday in February, April, June, August,
24 October and December, and continuing as long as may
25 be necessary for the proper and expeditious transaction
26 of the business before it. All clerical services required
27 by the board shall be paid for by the compensation com-
28 missioner from any funds at his disposal. The board shall,
29 from time to time, compile and promulgate such rules
30 of practice and procedure as to it shall appear proper
31 for the prompt and efficient discharge of its business and
32 such rules shall be submitted to the supreme court of
33 appeals for approval, and if approved by such court
34 shall have the same force and effect as the approved
35 rules of procedure of circuit courts. The board shall
36 employ such clerical staff as may be necessary for the
37 efficient conduct of its business but the number of such
38 employees shall not exceed two. Salaries of the board,
39 and its employees, and all of its necessary operating ex-
40 pense shall be paid from the workmen's compensation
41 fund. The board shall submit its annual budget to the
42 state compensation commissioner for inclusion as a sep-
43 arate item in the budget estimates prepared by him an-
44 nually and within the limits of such budget, all expenses

45 of the board shall be by the requisition of the commis-
46 sioner. Salaries of the employees of the board shall be
47 fixed by the board.

§23-5-3b. Disqualification of board members.

1 In any appeal wherein a board member is a party, or
2 is interested in the results thereof otherwise than as a
3 general subscriber to the compensation fund, or he is
4 connected with a contributor therein, or is a beneficiary
5 therein, or is connected with a beneficiary therein, he
6 shall be disqualified from participating in the hearing
7 and determination of such appeal.

§23-5-5. Fees of attorney for claimant; unlawful charging or receiving of attorney fees.

1 On or after the first day of July, one thousand nine
2 hundred seventy-five, no attorney's fee in excess of twenty
3 percent of any award granted shall be charged or re-
4 ceived by an attorney for a claimant or dependent. In
5 no case shall the fee received by the attorney of such
6 claimant or dependent be in excess of twenty percent
7 of the benefits to be paid during a period of two hundred
8 eight weeks. This section shall not apply to any contract
9 for legal services made prior to the first day of July, one
10 thousand nine hundred seventy-five: *Provided*, That the
11 interest on disability or dependent benefits as provided
12 for in this chapter shall not be considered as part of the
13 award in determining any such attorney's fee. How-
14 ever, any contract entered into in excess of twenty
15 percent of the benefits to be paid during a period of two
16 hundred eight weeks, as herein provided, shall be unlaw-
17 ful and unenforceable as contrary to the public policy
18 of this state and any fee charged or received by an at-
19 torney in violation thereof shall be deemed an unlawful
20 practice and render the attorney subject to disciplinary
21 action.

CHAPTER 216

(S. B. 252—By Mr. Rogerson)

[Passed March 7, 1975; in effect ninety days from passage. Approved by the Governor.]

AN ACT authorizing the county commission of Marshall county to create a Marshall county activities authority; providing for the purposes of the authority; providing for management and control to be vested in the board; providing for the appointment and terms of members and the appointment for vacancies and removal of members of the board; relating to the call of meetings and the determination of a quorum; providing for the payment of expenses; providing that the authority be a public corporation; providing powers of the board to make general administrative rules and to enter into contracts and hire employees; providing for the receipt of grants in aid and other sources of income; providing for the purchase, sale and disposal of personal and real property; providing for the borrowing of money and security therefor; providing for the issuance of bonds; providing an exemption from taxes; providing for the disposition of surplus; providing for contributions to the authority and publication of an annual report; providing for the dissolution of the authority; relating to liberal construction of the act; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

MARSHALL COUNTY ACTIVITIES DEVELOPMENT AUTHORITY.

- \$1. County commission authorized to create; name.
- \$2. Purposes.
- \$3. Management and control vested in board; appointment and terms of members; vacancies; removal of members; meetings; quorum.
- \$4. Payment of expenses of members.
- \$5. Authority to be a public corporation.
- \$6. Powers.
- \$7. Indebtedness of the authority.
- \$8. Agreements in connection with obtaining funds.
- \$9. Property, bonds and obligations of authority exempt from taxation.
- \$10. County commission authorized to convey properties and facilities to the authority.
- \$11. Disposition of surplus of authority.

- §12. Contributions to authority; funds and accounts; publication of annual report.
- §13. Dissolution of authority.
- §14. Liberal construction of act.
- §15. Provisions severable.

§1. County commission authorized to create; name.

1 The county commission of Marshall county is hereby
2 authorized to create and establish a public agency to be
3 known as the "Marshall county activities development
4 authority" (hereinafter called the authority) to develop
5 the real property conveyed to the county commission of
6 Marshall county by chapter ninety-four, acts of the Leg-
7 islature, regular session, one thousand nine hundred
8 seventy-four, consistent with the purposes hereinafter
9 set forth.

§2. Purposes.

1 The purposes for which the authority is created are to
2 promote, develop and advance activities of a social,
3 recreational, business, cultural, educational or agricul-
4 tural nature for the citizens of Marshall county. The
5 authority is hereby authorized and empowered to acquire,
6 equip, construct, improve, maintain and operate meeting
7 or activities facilities and Four-H club camps with all
8 usual and convenient appurtenances, including but not
9 limited to recreational facilities. Such operation may be
10 managed directly or on a concession basis. The authority
11 may engage in any activity that is necessary or conven-
12 ient, customary or desirable, and related or incidental to
13 such activities facility or Four-H camp.

§3. Management and control vested in board; appointment and terms of members; vacancies; removal of members; meetings; quorum.

1 The management and control of the authority, its
2 property, operations, business and affairs shall be lodged
3 in a board of seven persons who shall be known as
4 "members of the authority," each of whom shall be
5 appointed for a term of three years, except that as to the
6 first seven appointed to the first board appointed, the
7 terms of two members shall expire on the first day of

8 July next ensuing, the terms of the next two members
9 shall expire on the first day of July two years thereafter,
10 and the term of three members shall expire on the first
11 day of July three years thereafter. Each member shall
12 hold office until the expiration of the term for which
13 such member is appointed or until a successor shall have
14 been duly appointed and shall have qualified. Vacancies
15 on the board shall be filled by appointment by the county
16 commission for the unexpired term of the member whose
17 office shall be vacant.

18 Each member of the board shall be a citizen of the
19 United States and a resident of Marshall county: *Pro-*
20 *vided, however,* That at least two members of the board
21 shall be members of the Marshall county Four-H leader's
22 organization and at least one member of the board shall
23 be a member of a Marshall county home demonstration
24 club.

25 The county commission may at any time remove any
26 member of the board by an order duly entered of record
27 and may appoint a successor.

28 The board shall elect from its membership a president
29 and a secretary who shall serve at the will and pleasure
30 of the board. The majority of the board shall constitute a
31 quorum, and meetings shall be held at the call of the
32 president or upon request of two members at such time
33 and place as designated in such call or request.

§4. Payment of expenses of members.

1 No member of the board of the authority shall receive
2 any compensation, whether in form of salary, per diem
3 allowances or otherwise, for or in connection with his
4 services as member. Each member shall, however, be
5 entitled to reimbursement by the authority for any
6 necessary expenditures in connection with the perform-
7 ance of his general duties as such member.

§5. Authority to be a public corporation.

1 The authority when created, and the members thereof,
2 shall constitute and be a public corporation under the
3 name of "Marshall county activities development author-

4 ity” and as such shall have perpetual succession, may
5 contract and be contracted with, sue and be sued, plead
6 and be impleaded and have and use a common seal.

§6. Powers.

1 The authority is hereby given power and authority as
2 follows:

3 (1) To make and adopt all necessary bylaws, rules and
4 regulations for its organization and operations not incon-
5 sistent with law.

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

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both
11 public and private corporations, and generally to do any
12 and all things necessary or convenient for the purpose of
13 acquiring, equipping, constructing, maintaining, improv-
14 ing, extending, financing and operating Four-H camps and
15 recreational facilities and all usual and convenient ap-
16 purtenant activities and facilities in Marshall county, West
17 Virginia, including but not limited to those enumerated
18 in section two hereof.

19 (4) To delegate any authority given to it by law to any
20 of its officers, committees, agents or employees.

21 (5) To apply for, receive and use grants in aid, dona-
22 tions and contributions from any source or sources,
23 including but not limited to the federal government and
24 any agency thereof, and the state of West Virginia, and to
25 accept and use bequests, devises, gifts and donations from
26 any person, firm or corporation.

27 (6) To acquire lands and hold title thereto in its own
28 name.

29 (7) To purchase, own, hold, sell and dispose of personal
30 property and to sell, lease or otherwise dispose of any
31 real estate which it may own.

32 (8) To raise funds by the issuance and sale of revenue
33 bonds in the manner provided by the applicable provi-
34 sions of article sixteen, chapter eight of this code.

35 (9) To expend its funds in the execution of the powers
36 and authority herein given, which expenditures, by the
37 means authorized herein, are hereby determined and
38 declared as a matter of legislative finding to be for a
39 public purpose and use, in the public interest, and for the
40 general welfare of the people of West Virginia.

§7. Indebtedness of the authority.

1 The authority may incur any proper indebtedness and
2 issue any obligations and give any security therefor which
3 it may deem necessary or advisable in connection with
4 carrying out its purposes as hereinbefore mentioned. No
5 statutory limitation with respect to the nature or amount
6 of indebtedness which may be incurred by municipali-
7 ties or other public bodies shall apply to indebtedness of
8 the authority. No indebtedness of any nature of the
9 authority shall constitute an indebtedness of the county
10 commission of Marshall county. No obligation incurred
11 by the authority shall give any right against any member
12 of the county commission of Marshall county. The rights
13 of creditors of the authority shall be solely against the
14 authority as a corporate body and shall be satisfied only
15 out of property held by it in its corporate capacity.

§8. Agreements in connection with obtaining funds.

1 The authority may, in connection with obtaining funds
2 for its purposes, enter into any agreement with any
3 person, firm or corporation, including any federal, state
4 or local government, or any agency or subdivision there-
5 of, containing such provisions, covenants, terms and con-
6 ditions as the authority may deem advisable.

§9. Property, bonds and obligations of authority exempt from taxation.

1 The authority shall be exempt from the payment of
2 any taxes or fees to the state or any subdivisions thereof
3 or to any officer or employee of the state or of any
4 subdivisions thereof. The property of the authority shall
5 be exempt from all local and municipal taxes. Bonds,
6 notes, debentures and other evidence of indebtedness of
7 the authority are declared to be issued for a public pur-

8 pose and to be public instrumentalities and, together
9 with interest thereon, shall be exempt from taxes.

§10. County commission authorized to convey properties and facilities to the authority.

1 The county commission of Marshall county is hereby
2 authorized to convey to the authority property owned by
3 the county of Marshall, together with all the appur-
4 tenances and facilities therewith, such conveyance to be
5 without consideration or for such price and upon such
6 terms and conditions as the county commission of Mar-
7 shall county shall deem proper.

§11. Disposition of surplus of authority.

1 If the authority should realize a surplus, whether from
2 operating the property or leasing it for operation, over
3 and above the amount required for the maintenance,
4 improvement and operation thereof and for meeting all
5 required payments on its obligations, it shall set aside
6 such reserve for future operations, improvements and con-
7 tingencies as it shall deem proper and shall then apply the
8 residue of such surplus, if any, to the payment of any
9 recognized and established obligations not then due; and
10 after all such recognized and established obligations have
11 been paid off and discharged in full, the authority shall, at
12 the end of each fiscal year, set aside the reserve for future
13 operations, improvements and contingencies, as afore-
14 said, and then pay the residue of such surplus, if any,
15 to the county commission of Marshall county to be used
16 by said county commission for general county purposes.

**§12. Contributions to authority; funds and accounts; publica-
tion of annual report.**

1 Contributions may be made to the authority from time
2 to time by the county commission of Marshall county or
3 by any persons, firms or corporations that shall desire so
4 to do. All such funds and all other funds received by the
5 authority shall be deposited in such bank or banks as the
6 authority may direct and shall be withdrawn therefrom
7 in such manner as the authority may direct. The authority
8 shall keep strict account of all its receipts and expendi-

9 tures and shall each quarter make a report to the county
10 commission of Marshall county containing an itemized
11 account of its receipts and disbursements during the pre-
12 ceding quarter. Such report shall be made within sixty
13 days after the termination of the quarter. Within sixty
14 days after the end of each fiscal year, the authority shall
15 make an annual report containing an itemized statement
16 of its receipts and disbursements for the preceding year
17 and such annual report shall be published once a week
18 for two successive weeks in two newspapers of opposite
19 politics published in Marshall county, West Virginia, and
20 of general circulation in Marshall county, West Virginia,
21 if there be two such papers, or otherwise in any news-
22 paper of general circulation in said county. The books,
23 records and accounts of the authority shall be subject to
24 audit and examination by the office of the state tax com-
25 missioner of West Virginia and by any other proper public
26 official or body in the manner provided by law.

§13. **Dissolution of authority.**

1 The authority may at any time pay off and discharge in
2 full all of its indebtedness, obligations and liabilities,
3 convey its properties, appurtenances and facilities to the
4 county commission of Marshall county and be dissolved.
5 Before making such conveyance of its properties, the
6 authority shall first publish notice of its intention so to
7 do and of its intention to be dissolved, once a week for
8 four successive weeks in two newspapers of opposite
9 politics published in, and of general circulation in Mar-
10 shall county, West Virginia, if there be two such papers,
11 or otherwise in any newspaper of general circulation in
12 said county. Certificates from the publishers of the papers
13 or paper showing such publication shall be filed with the
14 county commission of Marshall county on or before the
15 deed conveying said properties is delivered. Any funds
16 remaining in the hands of the authority at the time of the
17 conveyance of said properties shall be by the authority
18 paid over to the county commission of Marshall county
19 to be used by it for purposes in connection with said
20 properties. Upon the payment of its indebtedness, obli-
21 gations and liabilities, the publishing of the notices afore-

22 said, the conveyance of its properties and the paying over
23 to the county commission of Marshall county of any
24 funds remaining in its hands, the authority shall cause
25 a certificate showing its dissolution to be executed under
26 its name and seal and to be recorded in the office of the
27 clerk of the county commission of Marshall county and
28 thereupon its dissolution shall be complete.

§14. Liberal construction of act.

1 It is the purpose of this act to provide for the
2 acquisition, construction, improvement, extension, main-
3 tenance and operation of a Four-H camp or camps and
4 recreational facilities and appurtenant facilities in a
5 prudent and economical manner, and this act shall be
6 liberally construed as giving to the authority full and
7 complete power reasonably required to give effect to the
8 purposes hereof. The provisions of this act are in addi-
9 tion to and not in derogation of any power existing in the
10 board of education and the county commission of Mar-
11 shall county under any constitutional or statutory pro-
12 visions which they may now have, or may hereafter ac-
13 quire.

§15. Provisions severable.

1 The several sections and provisions of this act are
2 severable, and if any section or provision hereof shall be
3 held unconstitutional, all the remaining sections and
4 provisions of this act shall nevertheless remain valid.

†

CHAPTER 217

(H. B. 1083—By Mr. Moyle and Mr. Otte)

[Passed March 7, 1975; in effect July 1, 1975. Approved by the Governor.]

AN ACT to amend and reenact chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five; as last amended by chapter eighty-five, acts of the Legislature, regular session, one thousand nine hundred seventy, relating to

the authority of the county commission of the County of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and for the construction, equipment and maintenance of any county building.

Be it enacted by the Legislature of West Virginia:

That chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, as last amended and reenacted by chapter eighty-five, acts of the Legislature, regular session, one thousand nine hundred seventy, be amended and reenacted to read as follows:

OHIO COUNTY AIRPORT AND COUNTY BUILDINGS.

§1. The county commission of the County of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and county buildings.

§2. Inconsistent acts repealed.

§1. The county commission of the County of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and county buildings.

1 For a period of five years commencing with the fiscal year
2 one thousand nine hundred seventy-five—one thousand nine
3 hundred seventy-six, in addition to the levies heretofore
4 authorized to be laid by the county commission for general
5 county current expense, and for the payment of interest and
6 sinking fund requirements on bonded indebtedness incurred
7 subsequent to the passage of the tax levy limitation amendment,
8 the county commission of the County of Ohio is hereby
9 authorized and empowered to lay such an additional levy as
10 may not be required for bonded indebtedness, on all of the
11 property in Ohio County, but not to exceed four and nine-tenths
12 cents on each one hundred dollars' assessed valuation on Class
13 I property; nine and eight-tenths cents on Class II property; and
14 nineteen and six-tenths cents on Classes III and IV property.
15 The proceeds of said levy shall be placed in a separate fund
16 designated "public improvement fund", to be used solely for
17 the construction, equipment, and maintenance of an airport,
18 and for the construction, equipment and maintenance of any
19 county building.

§2. Inconsistent acts repealed.

- 1 All acts and parts of acts inconsistent or in conflict herewith,
- 2 insofar as the same may be applicable to the County of Ohio, or
- 3 the said county commission of the County of Ohio, are hereby
- 4 repealed.

CHAPTER 218

(S. B. 167—By Mr. Gilligan)

[Passed March 7, 1975; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the Tyler County board of education to transfer a certain parcel of real estate, located in Tyler County and owned by that county, to the Middle Island Health Service, Inc.

Be it enacted by the Legislature of West Virginia:

MIDDLE ISLAND HEALTH SERVICE, INC.**§1. Tyler county board of education authorized to transfer certain land to the Middle Island Health Service, Inc.**

- 1 The Tyler County board of education is hereby autho-
- 2 rized and empowered to transfer to the Middle Island
- 3 Health Service, Inc., a tract of land, together with the
- 4 improvements thereon and the appurtenances thereunto
- 5 belonging, owned by the Tyler County board of education,
- 6 consisting of one acre, more or less, to be used as the site
- 7 of a health services clinic.

RESOLUTIONS

CONCURRENT RESOLUTIONS

(Only resolutions of general interest are included herein)

Authorizing and continuing legislative interim studies:

(Since these resolutions take the same general form, they are listed herein by number showing the subject of studies authorized thereby. They may be found in the House and Senate Journals of the session, and are indexed in the Journals under tabular indices of House and Senate Concurrent Resolutions.)

House Concurrent

45. Aged Citizens Programs, Civil Procedure, Coal Mining, Criminal Law, Election Campaign Law, Energy and Natural Resources, Exceptional Children, Family Physicians, Highway Safety, Institutional Reorganization, Juvenile Law, Legislative Data Processing, Manufacturing Employment, Park System, Public Employees Retirement, Public Safety Administration, Solid Waste Program, State Aid Formula, State-Federal Duplication and Tax Structure by the Joint Committee on Government and Finance, and the study of the legislative process by a special committee.
54. Minor judiciary system.

Senate Concurrent

24. Health and social service departments of state government.

HOUSE CONCURRENT RESOLUTION NO. 7

(By Mr. Burke and Mr. Terry)

[Adopted March 8, 1975]

Directing that capital improvement projects at state institutional farms, except for necessary health and safety projects, be delayed until April 1, 1976, when the Legislature shall have had an opportunity to act on the report of its study of such farms.

WHEREAS, The Subcommittee on Institutional Farms has determined that the management and operation of state institutional farms are not satisfactory and that all state farms should be placed under central management; and

CONCURRENT RESOLUTIONS

WHEREAS, The Subcommittee has obtained assistance from the State Department of Agriculture and West Virginia University's School of Agriculture and Forestry to examine each institutional farm in an effort to determine the most economically feasible use of each state farm; and

WHEREAS, Planned and proposed capital improvement projects at these farms may be unusable under this proposed reorganization of the state farms; therefore, be it

Resolved by the Legislature of West Virginia:

That the Governor, the Commissioner of Public Institutions, the Director of the Department of Mental Health and the superintendents and business managers of state institutions with farming operations are hereby directed to delay capital improvement projects, except for necessary health and safety improvements, at state institutional farms until the first day of April, 1976, when the Legislature shall have had an opportunity to act on the report of its study of such farms; and, be it

Further Resolved, That the Clerk of the House of Delegates is hereby directed to forward a copy of this resolution to the Governor, the Commissioner of Public Institutions, the Director of the Department of Mental Health and the superintendents and business managers of state institutions with farming operations.

HOUSE CONCURRENT RESOLUTION NO. 12

(By Mrs. Pitsenberger and Mr. Sommerville)

[Adopted March 8, 1975]

Requesting that the Congress of the United States enact legislation to provide for payments to compensate county governments for the tax immunity of federal lands within their boundaries.

WHEREAS, Many counties in Appalachia have lost a large part of their tax base because of acquisition by the federal government of land lying therein; and

WHEREAS, Federal law is needed to equitably compensate the areas affected through federal grants or revenue sharing; and

WHEREAS, H. R. 12225 was introduced in the House of Representatives on January 24, 1974, and S. 2912 was introduced in the Senate of the United States on January 29, 1974, both of which were directed at the problem; and

WHEREAS, Counties affected should be compensated by means of a federal grant or through a clause to be added to the federal revenue sharing formula which would provide for payment to the counties an amount which would be equal to the amount which would be collected by them if the federally owned lands were taxed by the counties upon a value established by the state taxing authority, applying a rate thereto which would be the average tax rate upon lands in the counties affected.

WHEREAS, There is yet no federal law enacted to compensate the states for the loss of revenue brought about by this acquisition of land by the federal government; therefore, be it

Resolved by the Legislature of West Virginia:

That the Congress of the United States is hereby requested to enact legislation to provide for payments to compensate county governments for the tax immunity of federal lands within their boundaries; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to each member of the West Virginia delegation in the Congress of the United States.

HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Allen and Mr. Wright)

[Adopted February 3, 1975]

Memorializing the President, the Department of Agriculture and West Virginia Congressional delegation to withdraw Food Stamp Regulation No. 1975-1.2.

WHEREAS, The administration in Washington through the Department of Agriculture has proposed Regulation Amendment Notice FSD No. 1975-1.2 to take effect March 1, 1975; and

WHEREAS, This amendment will result in a significant change in the Federal Food Stamp Program by requiring all eligible

recipients to pay a flat thirty percent of their net incomes in order to purchase food stamps; and

WHEREAS, Such a change will force almost ninety-five percent of all food stamp recipients to pay more for the same amount of stamps; and

WHEREAS, Those people most adversely affected will be families with net monthly incomes of less than \$100 and elderly households of one or two people, particularly recipients of the Supplemental Security Income (SSI) Program; and

WHEREAS, All single person households with net incomes above \$154 will be effectively eliminated from the Food Stamp Program; and

WHEREAS, Some persons living below the poverty level will be denied food stamps; and

WHEREAS, This amendment will reduce the current Food Stamp Program by \$325,000,000; and

WHEREAS, Unemployment, which rises fastest for those with the lowest incomes, was seven and one-half percent at the end of December in West Virginia and is projected to rise in the succeeding months; and

WHEREAS, Given West Virginia's economic condition, twenty percent of the State's population is eligible for food stamps and it is projected that twenty-five percent of West Virginia's population will be eligible by the end of 1975; and

WHEREAS, Food prices are expected to rise by another fifteen to twenty percent in 1975, thereby further devaluing food stamps; and

WHEREAS, The Federal Government and the Ford administration should be employing the Food Stamp Program as a cushion for financially depressed Americans; and

WHEREAS, The increasing desperate economic conditions of our country do not justify making low income and unemployed people sacrifice beyond their abilities; therefore, be it

Resolved by the Legislature of West Virginia:

That we, the 62nd West Virginia Legislature, respectfully oppose the implementation of Regulation Amendment Notice FSP No.

1975-1.2 and firmly recommend and urge the U. S. Department of Agriculture to reconsider its proposed action and withdraw the amendment prior to its effective date of March 1, 1975; and, be it

Further Resolved, That suitable copies of this resolution be transmitted immediately to the Honorable Gerald Ford, President of the United States, to Earl Butz, Secretary of the U. S. Department of Agriculture, to P. Royal Shipp, Food Stamp Division, Food and Nutrition Services, USDA, Washington, D. C. and to all members of the West Virginia congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 57

(By Mr. Tonkovich and Mr. Wiedebusch)

[Adopted April 12, 1975]

Finding and declaring a certain area in McMechen, West Virginia, as a natural disaster area.

WHEREAS, A natural disaster of major proportions in the form of devastating mudslides and landslides has occurred, is occurring and will continue to occur in the area of Third to Sixteenth streets, Marshall, Caldwell and Locust streets in McMechen, West Virginia; and

WHEREAS, Over twenty-six family residences have already been severely damaged by this disaster, affecting fifty-three adults and forty-two children, and over eighty-eight family residences and several businesses are in immediate danger which will affect another two hundred forty-five people; and

WHEREAS, One street in this area has been completely destroyed and two adjacent streets are in immediate danger of collapse; and

WHEREAS, There has been a break in a main gas pipeline and many small gaslines, and over twenty water pipelines have been destroyed which has caused severe safety and health hazards to the people of this area; and

WHEREAS, The municipality of McMechen and the local chapter of the American Red Cross have attempted to the best of their ability to aid the residents of this area through temporary repairs and floor jacks to family residences and in seeking to provide emergency

housing for those who are homeless and desperately in need of assistance; and

WHEREAS, It has been estimated that over \$300,000 must now be spent just to contain slipping dirt and relieve underground pressure, and that if immediate attention is not given to this area over \$1 million in property damage is anticipated; and

WHEREAS, Pursuant to section six, article five, chapter fifteen of the Code of West Virginia, the Legislature proclaims that a natural disaster of major proportions has actually occurred within this State in a certain area of McMechen; therefore, be it

Resolved by the Legislature of West Virginia:

That a certain area in McMechen, West Virginia, being Third to Sixteenth streets, Marshall, Caldwell and Locust streets, is hereby found and declared to be a natural disaster area; and be it

Further Resolved, That the Clerk send a copy of this resolution to the Governor and to the Mayor of McMechen.

SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Galperin and Mr. Benson)

[Adopted March 8, 1975]

Requesting and insisting that the United States Army Corps of Engineers modify the structure and operation of its dam located on the Elk River near Sutton, West Virginia.

WHEREAS, The Elk River, one of the most scenic rivers in the State of West Virginia, was once rich in plant and animal life in, on and along the river, and consequently was a mecca of fishermen, hunters, campers and vacationists; and

WHEREAS, In recent years, particularly after the construction of the Sutton Dam was completed on the Elk River in 1961, the quality of the river degraded sharply causing an agonized outcry from West Virginia citizens and visitors to the State of West Virginia; and

WHEREAS, The West Virginia Legislature, knowing that the loss of the Elk River as a scenic and recreational stream would be an economic disaster for the State of West Virginia as well as a great

environmental loss for all persons who use the Elk River in any manner, caused a two-year study to be conducted to determine the reasons the river had degraded so rapidly and severely; and

WHEREAS, The study, in the main conducted by the West Virginia Geological and Economic Survey, clearly indicated that the presence of the Sutton Dam on the Elk River and the way the dam is constructed and the manner in which it is operated are major factors contributing to the degradation of the Elk River because of rapidly fluctuating water temperature and increased turbidity and erosion below the dam which destroy private property, scenic and recreational values and the natural habitat and life cycles of plant and animal life in, on and along the river; and

WHEREAS, Although the study indicated that it will be virtually impossible to return the Elk River to its original state, it did develop eighteen recommendations, which, if implemented soon, can greatly improve the water quality of the river for beneficial uses; and

WHEREAS, Five of the recommendations must be implemented by the United States Army Corps of Engineers because they involve modifying the structure of Sutton Dam and its operation; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia Legislature hereby requests and insists that the United States Army Corps of Engineers modify the structure and operation of its dam located on the Elk River near Sutton, West Virginia, in accordance with the five following recommendations which resulted from the study of the Elk River conducted by the West Virginia Legislature:

1. The rate of change of discharge from the dam be drastically reduced from the current guideline of 1-foot-per-hour change in water depth. All floodgate and sluiceway changes should be accomplished as gradually as possible;

2. The Sutton Reservoir level be raised to summer pool level at a much slower rate;

3. The start of lowering the Sutton Reservoir level be postponed until October 15 each year;

4. A multiple-level intake structure be constructed for Sutton Dam to allow waters to be drawn off the top of the reservoir or

mixed with deeper waters to produce discharges with lower turbidity, higher and less-variable temperatures;

5. Reservoir pool levels be allowed to fluctuate slightly to reduce the range in water-depth fluctuations that occur downstream as a result of even medium-size storms; and, be it

Further Resolved, That the Congress of the United States take all actions appropriate and necessary to provide the United States Army Corps of Engineers with the authority and funds needed to implement the said five recommendations; and, be it

Further Resolved, That the Clerk of the Senate send copies of this resolution and the West Virginia Legislature's report of its study on the Elk River, "Improving Stream-Water Quality in the Elk River Basin", by the West Virginia Geological and Economic Survey, dated October, 1974, to the Secretary of the Army; the Chief of Engineers of the Department of the Army; the District Engineer of the United States Army Engineer District, Baltimore, Maryland; the District Engineer of the United States Army Engineer District, Huntington, West Virginia; the President pro tempore of the Senate and the Speaker of the House of Representatives of the Congress of the United States; each member of the West Virginia congressional delegation; and to the Governor of the State of West Virginia, the Honorable Arch A. Moore, Jr.

SENATE CONCURRENT RESOLUTION NO. 26

(By Mr. Susman)

[Adopted March 8, 1975]

Requesting the Congress of the United States to enact into law stringent surface-mining legislation.

WHEREAS, West Virginia has one of the largest reserves of coal of any state in the nation, and the largest low sulfur reserves east of the Mississippi River; and

WHEREAS, West Virginia has one of the strongest surface mine reclamation laws in the nation, while a number of the states whose coal is in competition with West Virginia do not; and

WHEREAS, Much of the coal land in the Western United States is

critical to the continued production of the nation's meat and grains, which land will have serious water supply problems unless surface coal mining is most carefully regulated; and

WHEREAS, A national energy policy demands a policy on surface mine reclamation that is uniform so that the coal industry can make definite plans for expanding production, and so that certain states will not look more financially attractive to investors than those with stronger reclamation laws; therefore, be it

Resolved by the Legislature of West Virginia:

That the Congress of the United States is hereby requested to enact into law stringent surface-mining legislation which will be as exacting as the current West Virginia law, will be cognizant of regional and geographical differences, will provide for expanded coal research, but which will not place an additional tax burden upon this vital energy producing industry; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward copies of this resolution to each member of the West Virginia congressional delegation in Washington, D. C., and to the President of the United States, Senator Henry Jackson and Congressman James Haley.

SENATE CONCURRENT RESOLUTION NO. 39

(By Mr. Brotherton, Mr. President)

[Adopted March 8, 1975]

Extending this the first regular session of the Sixty-second Legislature of West Virginia.

WHEREAS, Section twenty-two, article six of the West Virginia Constitution provides that any regular session of the West Virginia Legislature may be extended by the concurrence of two thirds of the members elected to each house; and

WHEREAS, The Legislature desires to extend this the first regular session of the Sixty-second Legislature of West Virginia for the consideration of any supplementary appropriation bills, for the reconsideration of any bills disapproved or vetoed by the Governor and for the reconsideration of any item or part of any supplementary ap-

propriation bill disapproved or reduced by the Governor; now, therefore, be it

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That this the first regular session of the Sixty-second Legislature of West Virginia is hereby extended through midnight, the 14th day of April, 1975, for consideration of any supplementary appropriation bills, for the reconsideration of any bills disapproved or vetoed by the Governor and for the reconsideration of any item or part of any supplementary appropriation bill or bills vetoed, disapproved or reduced by the Governor.

SENATE CONCURRENT RESOLUTION NO. 40

(By Mr. Brotherton, Mr. President)

[Adopted March 9, 1975]

Expanding the reasons for the extension of the first regular session of the Sixty-second Legislature of West Virginia.

WHEREAS, By the adoption of Senate Concurrent Resolution No. 39 on March 8, 1975, by two thirds of the members elected to each house, the Legislature, pursuant to Section 22, Article VI of the Constitution of the State, extended the first regular session of the Sixty-second Legislature through April 14, 1975; and

WHEREAS, Among the reasons for such extension was to enable the Legislature to consider any supplementary appropriation bills, to reconsider any bills disapproved or vetoed by the Governor and to reconsider any item or part of any supplementary appropriation bill or bills vetoed, disapproved or reduced by the Governor, such reasons having been expressed in the exercise of the inherent power of the Legislature to adopt rules governing its proceedings and the conduct of its business; and

WHEREAS, The Legislature desires to express an additional reason for such extension; therefore, be it

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That in the further exercise of the inherent power of the Legislature

to adopt rules governing its proceedings and to arrange calendars and agendas for conducting its business, an additional reason for the extension of the first regular session of the Sixty-second Legislature of West Virginia and an additional matter for legislative action during such extension shall be the consideration of conference reports on bills in conference on March 8, 1975, and action on such reports and the bills in conference on such date.

LEGISLATURE OF WEST VIRGINIA

ACTS

SECOND EXTRAORDINARY SESSION, 1974

CHAPTER 1

(S. B. 31—Originating in the Senate Committee on Finance)

[Passed June 28, 1974; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections nine-a and nineteen-a, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for continued and additional increases in the price of alcoholic liquors sold at state stores on and after the twentieth day of February, one thousand nine hundred seventy-five, for the purpose of paying into the veterans bonus bond sinking fund for retirement of the Vietnam veterans bonus bonds and relating to payments into such sinking fund.

Be it enacted by the Legislature of West Virginia:

That sections nine-a and nineteen-a, 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.

§60-3-9a. Additional price increase for payment of Korean veterans bonus bonds, state building revenue bonds and Vietnam veterans bonus bonds.

§60-3-19a. Payment into veterans bonus sinking fund for retirement of Korean veterans bonus bonds; payment into special fund for retirement of state building revenue bonds; and payment into veterans bonus sinking fund for retirement of Vietnam veterans bonus bonds.

§60-3-9a. Additional price increase for payment of Korean veterans bonus bonds, state building revenue bonds and Vietnam veterans bonus bonds.

1 For the purpose of providing revenue for the payment of
2 bonds issued under and by virtue of said "Korean Veterans
3 Bonus Amendment" of one thousand nine hundred fifty-
4 six, the commissioner in the exercise of his authority under
5 section nine of this article is hereby directed to increase
6 the price of alcoholic liquors in addition to the price in-
7 crease provided in said section nine hereof, on or before
8 the last day of June, one thousand nine hundred fifty-
9 seven, in an amount sufficient to produce an additional
10 revenue of one million eight hundred thousand dollars
11 on an annual volume of business equal to the average for
12 the last three years. Whenever in any fiscal year the
13 amount of money accumulated in the veterans bonus sink-
14 ing fund for the retirement of Korean veterans bonus
15 bonds shall be sufficient to pay at maturity all outstanding
16 bonus bonds issued under said "Korean Veterans Bonus
17 Amendment" of one thousand nine hundred fifty-six, to-
18 gether with the interest due or payable thereon, then the
19 commissioner is hereby directed to continue in effect the
20 aforesaid price increase of alcoholic liquors and further in-
21 crease the same as necessary for such continued increase
22 together with such further increase to equal an amount
23 sufficient to provide revenue of three million six hundred
24 thousand dollars on an annual volume of business equal to
25 the average for the last three years for the purpose of pro-
26 viding revenue to be paid into a special fund hereby
27 created in the office of the state treasurer for the purpose
28 of the payment of principal and interest on bonds of the
29 state known as the "State Building Revenue Bonds," and
30 for which payment, to the extent that the state building
31 commission of West Virginia has available space in build-
32 ings operated by it in excess of revenue-producing uses,
33 said commissioner shall provide at its established rates
34 and charges such available excess space for use by such
35 officers, departments or agencies of the state as the com-
36 missioner of finance and administration or such other of-

37 ficer, agency or department as shown from time to time
38 have the duty to arrange for office space for officers, de-
39 partments or agencies of the state, shall specify.

40 For the purpose of providing revenue for the payment
41 of any bonds issued under and by virtue of the "Vietnam
42 Veterans Bonus Amendment" of one thousand nine hun-
43 dred seventy-three, the commissioner is hereby directed,
44 on and after the twentieth day of February, one thousand
45 nine hundred seventy-five, to continue in effect all prior
46 price increases of alcoholic liquors with the excess rev-
47 enues generated from such continued price increases con-
48 stituting additional charges or increases, such prices other-
49 wise being subject to reduction but for such continuation;
50 and further increase prices if necessary after consider-
51 ation of all revenue requirements and obligations as set
52 forth in this article, including the revenue requirement
53 and obligation herein provided, so as to equal an amount
54 sufficient to provide for full payment of all interest and
55 principal payments as the same shall accrue, on an annual
56 volume of business equal to the average for the last three
57 years; and such additional charges or price increases so
58 collected shall be irrevocably dedicated for the payment
59 of principal of and interest on such Vietnam veterans
60 bonus bonds until such bonds are finally paid and dis-
61 charged. Whenever in any fiscal year the amount of
62 money accumulated in the special fund for the retire-
63 ment of the state building revenue bonds shall be suffi-
64 cient to pay at maturity all outstanding state building rev-
65 enue bonds, together with the interest due or payable
66 thereon, and the amount of money accumulated in the
67 veterans bonus sinking fund for the retirement of Viet-
68 nam veterans bonus bonds shall be sufficient to pay at
69 maturity all outstanding bonus bonds issued under said
70 "Vietnam Veterans Bonus Amendment" of one thousand
71 nine hundred seventy-three, together with the interest
72 due or payable thereon, the provision herein made for
73 continuing in effect the aforesaid price increases and the
74 provision herein for a further price increase shall become
75 ineffective at the end of such fiscal year.

§60-3-19a. Payment into veterans bonus sinking fund for retirement of Korean veterans bonus bonds; payment into special fund for retirement of state building revenue bonds; and payment into veterans bonus sinking fund for retirement of Vietnam veterans bonus bonds.

1 On and after the first day of July, one thousand nine
2 hundred fifty-seven, from receipts in excess of the require-
3 ments of the operating fund of the commissioner, the sum
4 of four hundred fifty thousand dollars shall, upon requis-
5 tion of the governor, be paid each quarter into the veterans
6 bonus sinking fund to be used for the purpose of retiring
7 bonds issued under said "Korean Veterans Bonus Amend-
8 ment" of one thousand nine hundred fifty-six. Whenever,
9 in any fiscal year, the amount of money accumulated in
10 the veterans bonus sinking fund for the retirement of
11 said Korean veterans bonus bonds shall be sufficient to
12 pay at maturity all outstanding bonus bonds issued under
13 the "Korean Veterans Bonus Amendment" of one thou-
14 sand nine hundred fifty-six, together with interest due
15 or payable thereon, no further transfer to such sinking
16 fund shall be made after the end of such fiscal year. There-
17 after, from receipts in excess of the requirements of the
18 operating fund of the commissioner, the sum of nine
19 hundred thousand dollars shall be paid by the commis-
20 sioner each quarter into the special fund created in section
21 nine-a of this article for the purpose of retiring bonds
22 of the state known as the "State Building Revenue Bonds."
23 It shall be the duty and responsibility of the state trea-
24 surer to pay the principal and interest on said bonds as
25 they become due and payable. Whenever, in any fiscal
26 year, the amount of money accumulated in the special
27 fund for the retirement of said "State Building Revenue
28 Bonds" is sufficient to pay at maturity all of the outstand-
29 ing bonds, together with interest due or payable thereon,
30 no further transfers to such special fund shall be made
31 after the end of such fiscal year.

32 On and after the twentieth day of February, one thou-
33 sand nine hundred seventy-five, from receipts in excess of
34 the requirements of the operating fund of the commis-

35 sioner, the amount sufficient to provide for full payment
36 of all interest and principal as the same shall accrue, shall,
37 upon requisition of the governor, be paid each quarter
38 into the veterans bonus sinking fund to be used for the
39 purpose of retiring bonds issued under said "Vietnam
40 Veterans Bonus Amendment" of one thousand nine hun-
41 dred seventy-three. Whenever, in any fiscal year, the
42 amount of money accumulated in the veterans bonus
43 sinking fund for the retirement of said Vietnam veterans
44 bonus bonds shall be sufficient to pay at maturity all out-
45 standing bonus bonds issued under the "Vietnam Veterans
46 Bonus Amendment" of one thousand nine hundred
47 seventy-three, together with interest due or payable
48 thereon, no further transfer to such sinking fund shall be
49 made after the end of such fiscal year.

50 Nothing in section nine-a of this article or in this section
51 nineteen-a contained shall be taken as limiting the power
52 and authority of the Legislature to at any time appropriate
53 the aforesaid receipts for some other purpose than the
54 special fund for the retirement of said "State Building
55 Revenue Bonds" or make other direction or provision
56 respecting receipts devoted to such purpose.

CHAPTER 2

(Com. Sub. for S. B. 9—By Mr. Brotherton, Mr. President)

[Passed July 3, 1974; in effect July 1, 1974. Approved by the Governor July 15, 1974, after reducing certain items, deleting certain items and portions, and making other modifications. Subsequently, in a mandamus proceeding in the Supreme Court of Appeals the Court was petitioned to direct the Clerk of the House of Delegates to publish the bill as passed by the Legislature as the true Budget Act. 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: In a mandamus proceeding styled State ex rel William T. Brotherton, Jr., etc. et al. v. C. A. Blankenship, Clerk, etc., on the 6th day of November, 1974, by order made and entered, the Supreme Court of

Appeals issued a writ of mandamus compelling the Clerk of the House of Delegates to publish the true Budget Act as found by the Court, which true Budget Act was by the order found by the Court to be as follows:

“(1) Wherein the Governor has not altered, disapproved or reduced the Budget Act, it shall be published as enacted by the Legislature.

“(2) Wherein the Governor has altered, disapproved or reduced the Budget Act, and the Governor’s veto actions have not been overridden by the Legislature or objected to herein by the relators, the Budget Act shall be published as altered, disapproved or reduced by the Governor.

“(3) The following accounts shall be published as altered and approved by the Governor: Nos. 101, 102, 295, 350, 485, 670, “Sec. 3. **Classification of Appropriations**—An appropriation for: ‘Personal services’ etc.”, and “Sec. 5. **Appropriations from Revenue Sharing Trust Fund**, Item IV—Department of Natural Resources . . .”.

“(4) The following accounts shall be published or deleted as modified by this order of Court:

“No. 103 shall be increased from a total of \$2,030,513.00 to \$2,280,513.00 by the addition of an unclassified appropriation of \$250,000.00; the Governor’s veto action being invalid in respect thereto as it purports to prevent the Legislature’s right to increase or decrease amounts within its own budget.

“No. 641 shall be deleted from the Budget Act; the Governor’s action in respect thereof having the effect of a total item veto and ineffective, therefore, in the attempt to veto part of an item in the Act.”

The actions of the Governor with respect to this bill, together with his objections, are contained in a letter directed to the Honorable Lewis N. McManus, Speaker, West Virginia House of Delegates, bearing date of July 15, 1974. For the communication of the Governor to the Speaker, see Journal of the House of Delegates of July 29, 1974.

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-five.

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

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

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

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

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

1 **Sec. 3. Classification of Appropriations.**—An appropri-
2 ation 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, and such classification of ap-
6 propriations, for fiscal year one thousand nine hundred
7 seventy-five:

14 *Provided*, That from the appropriations made to the spend-
15 ing units of State Government, there may be transferred
16 upon approval of the Governor, to a special account an
17 amount sufficient to match Federal Funds under any Fed-
18 eral Acts.

19 Unless otherwise specified, appropriations for personal
20 services shall include salaries of heads of spending units;

21 "Current Expenses" shall be expended only for operating
22 costs other than personal services or capital outlay;

23 "Repairs and Alterations" shall include all expenditures
24 for materials, supplies and labor used in repairing and
25 altering buildings, grounds and equipment, other than per-
26 sonal services;

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

30 "Buildings" shall include construction and alteration of
31 structures and the improvements of lands, sewer and water
32 improvements, and shall include shelter, support, storage,
33 protection, or the improvement of a natural condition;

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

36 Appropriations otherwise classified shall be expended
37 only where the distribution of expenditures for different
38 purposes cannot well be determined in advance or it is
39 necessary or desirable to permit the spending unit free-
40 dom to spend an appropriation for more than one of the
41 above purposes.

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

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- \$14. Total appropriations.
- \$15. General school fund.

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

LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Year</i> 1974-75
1 Compensation of Members	\$ 155,000
2 Compensation and per diem of officers and 3 employees	450,000
4 Expenses of Members	113,500
5 Current Expenses and Contingent Fund	150,000
6 To pay cost of printing the 1974 edition of 7 Blue Book	87,000

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

14 The appropriations for the Senate for the
15 fiscal year 1973-74 are to remain in full force
16 and effect, and are hereby reappropriated to
17 June 30, 1975.

18 Any balances so reappropriated may be trans-
19 ferred and credited to the 1974-75 accounts.

24 The Clerk of the Senate with approval of the
25 President is authorized to draw his requisitions
26 upon the Auditor, payable out of the Current
27 Expenses and Contingent Fund of the Senate,
28 for any bills for supplies and services that may
29 have been incurred by the Senate and not in-
30 cluded in the appropriation bill, for supplies and
31 services incurred in preparation for the opening,
32 the conduct of the business and after adjourn-
33 ment of any regular or extraordinary session,
34 and for the necessary operation of the Senate
35 offices, the requisition for same to be accom-
36 panied by the bills to be filed with the Auditor.

37 The President of the Senate shall have au-
38 thority to employ such staff personnel during
39 any session of the Legislature as shall be need-
40 ed in addition to staff personnel authorized by
41 Senate resolution adopted during any such ses-
42 sion. The President of the Senate shall have
43 authority to employ such staff personnel be-
44 tween sessions of the Legislature as shall be
45 needed, the compensation of all staff personnel
46 during and between sessions of the Legislature,
47 notwithstanding any such Senate resolution,
48 to be fixed by the President of the Senate. The
49 Clerk is hereby authorized to draw his requisi-
50 tions for the payment of all such staff person-
51 nel upon the State Auditor, payable out of the
52 appropriation for Compensation and per diem
53 of officers and employees or Current Expenses
54 and Contingent Fund of the Senate for such
55 services.

56 For duties imposed by law and by the Senate,
 57 the Clerk of the Senate shall be paid a month-
 58 ly salary of two thousand five hundred eighty-
 59 five dollars, payable from the amount appro-
 60 priated for Compensation and per diem of offi-
 61 cers and employees.

2—*House of Delegates*

Acct. No. 102

1 Compensation of Members	\$ 420,000
2 Compensation and per diem of officers and 3 employees	320,000
4 Expenses of Members	260,000
5 Current Expenses and Contingent Fund	280,000

6 The appropriations for the House of Dele-
 7 gates for the fiscal year 1973-74 are to remain
 8 in full force and effect, and are hereby reap-
 9 propriated to June 30, 1975.

10 Any balances so reappropriated may be trans-
 11 ferred and credited to the 1974-75 accounts.

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

30 For duties imposed by law and by the House
 31 of Delegates, including salary allowed by law
 32 as keeper of the rolls, the Clerk of the House of
 33 Delegates shall be paid a monthly salary as pro-
 34 vided in House Resolution No. 8 adopted Janu-

35 ary 15, 1974, payable from the Per Diem of
 36 Officers and Employees Fund or the Contingent
 37 Fund of the House of Delegates, and the full-
 38 time employees of the Clerk's office shall be
 39 paid at the salaries provided in said resolution.

40 The Speaker of the House of Delegates, upon
 41 recommendation of the Chairman of the Fi-
 42 nance Committee, shall have authority to em-
 43 ploy such staff personnel during and between
 44 sessions of the Legislature as shall be needed,
 45 and the Clerk of the House is hereby autho-
 46 rized to draw requisitions upon the State Audi-
 47 tor, payable out of the appropriation for Con-
 48 tingent Expenses for such services.

3—*Joint Expenses*

Acct. No. 103

1 To pay the cost of legislative printing	\$	400,000
2 Commission on Interstate Cooperation		35,000
3 Joint Committee on Government and Finance		1,835,513
4 Other Legislative Committees		10,000

5 The appropriations for Joint Expenses for
 6 the fiscal year 1973-74 are to remain in full
 7 force and effect and are hereby reappropriated
 8 to June 30, 1975. Any balances so reappropri-
 9 ated may be transferred and credited to the
 10 1974-75 accounts.

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1 Salaries of Judges	\$	162,500
2 Other Personal Services		310,544
3 Current Expenses		68,400
4 Equipment		259,500
5 Total	\$	800,944

5—*Judicial—Auditor's Office*

Acct. No. 111

1	Salaries of Judges _____	\$	867,000
2	Other Personal Services _____		183,400
3	Current Expenses _____		80,400
4	Judges Retirement System _____		450,000
5	Criminal Charges _____		700,000
6	Total _____	\$	2,280,800
7	This appropriation shall be administered by the		
8	State Auditor who shall draw his requisition		
9	for warrants in payments of salaries in the		
10	form of payrolls, making deductions there-		
11	from as required by law, for taxes and other		
12	items. The appropriation for Judges Retire-		
13	ment System is to be transferred to the		
14	Judges Retirement Fund, in accordance with		
15	the law relating thereto, upon requisition of		
16	the State Auditor.		

6—*State Law Library*

Acct. No. 114

1	Personal Services _____	\$	73,204
2	Current Expenses _____		12,650
3	Equipment _____		78,000
4	Total _____	\$	163,854

7—*Judicial Council*

Acct. No. 118

1	To pay expenses of Members of the Council....	\$	12,000
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EXECUTIVE8—*Governor's Office*

Acct. No. 120

1	Salary of Governor _____	\$	35,000
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2	Other Personal Services	195,360
3	Current Expenses	60,000
4	Equipment	15,000
5	Total	\$ 305,360
6	Any unexpended balance remaining at the	
7	close of the fiscal year 1973-74 for "Publica-	
8	tion of Governor's Papers and Inaugural Ex-	
9	pense" is hereby reappropriated for expendi-	
10	ture during the fiscal year 1974-75.	

9—*Governor's Office—Custodial Fund*

Acct. No. 123

1	Total	\$ 77,500
2	To be used for current general expenses, in-	
3	cluding compensation of employees, house-	
4	hold maintenance, cost of official functions,	
5	and any additional household expenses occa-	
6	sioned by such official functions.	

10—*Governor's Office—Civil Contingent Fund*

Acct. No. 124

1	Total	\$ 250,000
2	Of this appropriation there may be expended,	
3	at the discretion of the governor, an amount	
4	not to exceed \$1,000 as West Virginia's	
5	contribution to the Interstate Oil Compact	
6	Commission.	
7	Any unexpended balance remaining in this	
8	appropriation at the close of the fiscal year	
9	1973-74 is hereby reappropriated for expendi-	
10	ture during the fiscal year 1974-75.	

11—*Governor's Office—Federal-State Coordination*

Acct. No. 125

1	Federal-State Coordination	\$ 1,500,000
2	Governor's Committee on Crime, Delinquency	
3	and Correction	575,000

4	Regional Councils—To Match Federal Funds ...	220,000
5	Total.....	\$ 2,295,000
6	Any unexpended balance remaining in ac-	
7	counts "Federal-State Coordination" and	
8	"Governor's Committee on Crime, Delin-	
9	quency and Correction" at the close of the	
10	fiscal year 1973-74 is hereby reappropriated	
11	for expenditure during the fiscal year 1974-75.	

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

Acct. No. 126

1	Total.....	\$ 50,000
2	To match and aid Federal Programs, and any	
3	part of this appropriation may be transferred	
4	to any department for such purposes.	

13—*West Virginia Commission on Energy,
Economy and Environment*

Acct. No. 129

1	Total.....	\$ 300,000
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14—*Office of Emergency Services*

Acct. No. 130

1	Personal Services	\$ 130,000
2	Current Expenses	35,000
3	Equipment	6,000
4	Total.....	\$ 171,000

FISCAL

15—*Auditor's Office—General Administration*

Acct. No. 150

1	Salary of State Auditor.....	\$ 22,500
2	Other Personal Services	682,140
3	Current Expenses	210,000

4	Equipment	39,700
5	Microfilm Program	10,000
6	Total	\$ 964,340

16—*Auditor's Office—Social Security*

Acct. No. 151

1	To match contributions of state employees for	
2	social security	\$ 6,700,000

3 The above appropriation is intended to cover
 4 the state's share of social security costs for
 5 those spending units operating from Gen-
 6 eral Revenue Fund. The State Department
 7 of Highways, Department of Motor Vehicles,
 8 Workmen's Compensation Commission, Pub-
 9 lic Service Commission, and other depart-
 10 ments operating from Special Revenue Fund
 11 and/or Federal Funds shall pay their propor-
 12 tionate share of the social security cost for
 13 their respective divisions.

14 Any unexpended balance remaining in this
 15 appropriation at the close of the fiscal year
 16 1973-74 is hereby reappropriated for expendi-
 17 ture during the fiscal year 1974-75.

17—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer	\$ 22,500
2	Other Personal Services	217,780
3	Current Expenses	42,945
4	Equipment	28,875
5	.....	0,000
6	Total	\$ 312,100

18—*Treasurer's Office—School Building Sinking Fund*

Acct. No. 165

1	Total	\$ 0,000,000
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- 9 Any unexpended balance remaining in the
 10 "School Building Sinking Fund" at the close
 11 of the fiscal year 1973-74 is hereby reappro-
 12 priated for expenditure during the fiscal
 13 year 1974-75.

19—*Treasurer's Office—Vietnam
 Veterans Bonus Fund*

Acct. No. 166

- 1 Total\$ 10,000,000
 2 The above appropriation is for payment of a
 3 cash bonus to veterans of the Vietnam conflict.

20—*Sinking Fund Commission*

Acct. No. 170

- 1 Personal Services\$ 41,980
 2 Current Expenses 3,300
 3 Equipment 8,000
 4 Total\$ 53,280

21—*State Tax Department*

Acct. No. 180

- 1 Personal Services\$ 2,764,080
 2 Current Expenses 1,880,000
 3 Equipment 56,070
 4 Circuit Breaker Reimbursement 200,000
 5 Total\$ 4,900,150

- 6 The above appropriation "Circuit Breaker
 7 Reimbursement" is to be used in accord-
 8 ance with Engrossed House Bill No. 751, 1972
 9 Regular Session of the Legislature.

22—*State Tax Department—
 Property Appraisal*

Acct. No. 185

- 1 Personal Services\$ 1,068,350

2	Other Expenses	719,735
3	Reimbursement to Counties	80,000
4	Total	\$ 1,868,085

5 Any balance remaining in the "Property Appraisal Account" at the close of the fiscal year 1973-74 is hereby reappropriated for expenditure during the fiscal year 1974-75.

23—*State Commissioner of Public Institutions*

Acct. No. 190

1	Salary of Commissioner	\$ 20,000
2	Salaries of Board Members—Board of Probation and Parole	40,500
3	Other Personal Services	575,168
4	Current Expenses	157,400
5	Equipment	4,000
6	Total	\$ 797,068

24—*Department of Finance and Administration*

Acct. No. 210

1	Personal Services	\$ 1,105,288
2	Current Expenses	665,070
3	Repairs and Alterations	79,700
4	Equipment	21,560
5	Postage	420,000
6	Records Management	54,605
7	State Agency Surplus Property	72,615
8	Repairs and Alterations (Transportation Garage)	25,000
9	Fire Service Fee	73,965
10	Supplies	25,000
11	Total	\$ 2,542,803

13 The Workmen's Compensation Commission, Department of Welfare, Public Service Commission, Department of Natural Resources,

16 Department of Motor Vehicles, State Department
17 of Highways, State Health Department
18 and State Tax Department—Income Tax
19 Division shall reimburse the postage appro-
20 priation of the Department of Finance and
21 Administration monthly for all meter service.
22 Any spending unit operating from Special
23 Revenue or receiving reimbursement for
24 postage costs from the Federal Government
25 shall refund to the postage account of the
26 Department of Finance and Administration
27 such amounts. Should this appropriation for
28 postage be insufficient to meet the mailing
29 requirements of the State spending units as
30 set out above, any excess postage meter ser-
31 vice requirements shall be a proper charge
32 against the units, and each spending unit
33 shall refund to the postage appropriation of
34 the Department of Finance and Administra-
35 tion any amounts required for that depart-
36 ment for postage in excess of this appropria-
37 tion.

38 Any unexpended balance remaining in the
39 "Postage Account" at the close of the fiscal
40 year 1973-74 is hereby reappropriated for
41 expenditure during the fiscal year 1974-75.
42 Any unexpended balance remaining at the close
43 of the fiscal year 1973-74 for "Major Building
44 Repairs" is hereby reappropriated for ex-
45 penditure during the fiscal year 1974-75.
46 (Major Building Repairs to include mainte-
47 nance and repairs to Governor's Mansion).
48 State Department of Highways shall reimburse
49 the appropriation of the Department of
50 Finance and Administration monthly for all
51 actual expenses incurred pursuant to the
52 provisions of Chapter 17, Article 2A, Sec-
53 tion 13 of the Code of West Virginia.

54 There also is appropriated for the State Agency
55 for Surplus Property all sums of money

56 collected by that agency from the sale of
 57 surplus state property which has been de-
 58 clared expendable by the director of the
 59 Purchasing Division, and a special account
 60 created for expenditure for the purchase of
 61 operating equipment.

25—State Board of Insurance

Acct. No. 225

1 Personal Services _____	\$	38,315
2 Current Expenses _____		10,585
3 Equipment _____		625
4 Self-Insurance Fund		445,000
5 Combined Insurance Premiums _____		705,000
6 Total _____	\$	1,199,525

7 The above appropriation on line 5 is for the
 8 purpose of paying premiums for fire, auto-
 9 mobile and bonds for the various state
 10 agencies. Should this appropriation be in-
 11 sufficient to meet the premium requirements
 12 of the state spending units, any excess
 13 premium requirements shall be a proper
 14 charge against the units and each spending
 15 unit shall reimburse to the Board of Insur-
 16 ance any amounts required for that depart-
 17 ment for premiums in excess of this appro-
 18 priation.

19 Any unexpended balance remaining in the ap-
 20 propriation for "Self-Insurance Fund" at the
 21 close of the fiscal year 1973-74 is hereby re-
 22 appropriated for expenditure during the fiscal
 23 year 1974-75.

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

LEGAL

26—Attorney General

Acct. No. 240

1	Salary of Attorney General _____	\$	22,500
2	Other Personal Services _____		774,285
3	Current Expenses _____		95,700
4	Equipment _____		16,000
5	Buffalo Creek Legal Expenses _____		89,487
6	To protect the resources or tax structure of		
7	the State in controversies or legal proceedings		
8	affecting same _____		3,250
9	Consumer Protection _____		100,000
10	Total _____	\$	1,101,222

11 When legal counsel or secretarial help is ap-
 12 pointed by the Attorney General, for any
 13 state spending unit, this account shall be re-
 14 imburged from such unit's appropriated ac-
 15 count in an amount agreed upon by the At-
 16 torney General and the proper authority of
 17 said spending unit.

27—Commission on Uniform State Laws

Acct. No. 245

1	Total _____	\$	7,000
2	To pay expenses of members of the Commis-		
3	sion on Uniform State Laws.		

INCORPORATING AND RECORDING

28—Secretary of State

Acct. No. 250

1	Salary of Secretary of State _____	\$	22,500
2	Other Personal Services _____		155,000
3	Current Expenses _____		42,478
4	Equipment _____		6,000
5	Total _____	\$	225,978

EDUCATIONAL

29—State Department of Education

Acct. No. 277

1 Teacher Education Program _____\$ 125,000

30—West Virginia Board of Regents (Control)

Acct. No. 279

1	Personal Services _____	\$ 60,631,313
2	Current Expenses _____	7,545,690
3	Repairs and Alterations _____	2,400,000
4	Equipment _____	3,100,000
5	Oak Wilt Research _____	10,500
6	Veterinary Tuition _____	220,160
7	Optometry Tuition _____	54,000
8	Educational T.V. _____	686,576
9	Bureau for Coal Research _____	410,000
10	Forestry Products _____	131,500
11	Regional Research Institute _____	87,600
12	Agricultural Experimental Station—Intensive	
13	Horticulture Demonstration _____	27,700
14	Intensive Agricultural-Demonstration Trial _____	30,000
15	Podiatry Tuition _____	5,000
16	Title I—Matching Funds _____	130,000
17	Awareness Program _____	50,000
18	Scholarship Program _____	1,500,000
19	Facilities and Scholarship Administration _____	50,964
20	Greenbrier School of Osteopathic Medicine—	
21	Scholarship Program—In-state Students _____	425,000
22	Center for Economic Action _____	48,750
23	Community & Development Research _____	24,500
24	Individual Accreditation _____	165,000
25	New Programs _____	300,000
26	Unclassified _____	300,000
27	Total _____	\$ 78,334,253

28 Any unexpended balance remaining at the
 29 close of the fiscal year 1973-74 for "establish-
 30 ing on the campus of or property owned by

31 Marshall University, a track field" is hereby
 32 reappropriated for expenditure during the
 33 fiscal year 1974-75.

31--*West Virginia Board of Regents*

Acct. No. 280

1	Personal Services	\$	348,270
2	Current Expenses		109,026
3	Equipment		3,600
4	Total	\$	460,896

32--*West Virginia University—Medical School*

Acct. No. 285

1	Personal Services	\$	5,017,273
2	Current Expenses		598,000
3	Repairs and Alterations		263,200
4	Equipment		128,900
5	Intern and Residency Support Programs for		
6	Community Hospitals		315,000
7	Total	\$	6,322,373
8	To be transferred to the West Virginia Univer-		
9	sity—Medical School Fund upon the requisiti-		
10	tion of the Governor.		

33--*Department of Education*

Acct. No. 286

1	Personal Services	\$	756,543
2	Current Expenses		212,000
3	Equipment		11,000
4	National Defense Education Act		400,000
5	Statewide Testing Program		125,000
6	Safety Education—Aid to Counties		210,000
7	State Aid to Children's Homes		50,000
8	Regional Educational Service Agency		420,000
10	Total	\$	2,184,543

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

14 Any part or all of the appropriation for "Na-
 15 tional Defense Education Act" may be trans-
 16 ferred to a Special Revenue Fund for the
 17 purpose of matching Federal Funds for this
 18 program.

34—*State Department of Education—School Lunch Program*

Acct. No. 287

1	Personal Services	\$	106,256
2	Current Expenses		26,853
3	Aid to Counties—Includes hot lunches and can-		
4	ning for hot lunches		850,000
5	Total	\$	983,109

35—*State Board of Education—Vocational Division*

Acct. No. 289

1	Personal Services	\$	148,225
2	Current Expenses		46,600
3	Equipment		3,575
4	Vocational Aid		6,245,000
5	Adult Basic Education		250,000
6	Total	\$	6,693,400

36—*Educational Broadcasting Authority*

Acct. No. 291

1	Personal Services	\$	46,602
2	Current Expenses		28,900
3	Equipment		2,500
4	Regional ETV		1,240,788
5	Total	\$	1,318,790

6 For participation in the construction and opera-
 7 tion of Regional ETV stations by Marshall

8 University, Concord College, Bluefield State
 9 College, West Virginia Institute of Tech-
 10 nology and West Virginia State College and
 11 may be transferred to special revenue ac-
 12 counts for matching County and/or Federal
 13 Funds.

37—*State Board of Education—Vocational Division*

Acct. No. 293

1 Manpower Development Training Act—Total—\$ 100,000

38—*State Board of Education—Vocational Division*

Acct. No. 294

1 Total _____ \$ 200,000

2 Any unexpended balance remaining in the ap-
 3 propriation "Aid to Counties" at the close of
 4 the fiscal year 1973-74 is hereby reappro-
 5 priated for expenditure during the fiscal year
 6 1974-75.

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

Acct. No. 295

1	Professional Services _____	\$157,873,599
2	Salaries—Other Personnel _____	32,111,690
3	Fixed Charges* _____	14,625,351
4	Transportation Charges _____	5,421,927
5	Administration _____	1,435,060
6	Other Current Expenses _____	17,220,855
7	Conversion Costs _____	414,709
8	National Average Attainment _____	2,978,385
9	Program Improvement _____	1,630,068
10	Increased Enrollment _____	700,000
11	Sub Total _____	\$234,411,644
12	Less Local Share _____	40,465,325
13	Total _____	\$193,946,319

14 * This figure includes necessary increase for
 15 Social Security, Workmen's Compensation
 16 and other fixed charges.

40—*Department of Education—Aid for Exceptional Children*

Acct. No. 296

1	Personal Services	\$ 159,940
2	Current Expenses	38,435
3	Out-of-State Instruction	150,000
4	Aid to Counties	4,285,150
5	Total	\$ 4,633,525

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

41—*State Board of Education—Early Childhood Aides*

Acct. No. 297

1	Early Childhood Aides	\$ 2,596,378
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42—*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

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

Acct. No. 333

1	Personal Services	\$	1,457,568
2	Current Expenses		355,130
3	Repairs and Alterations		79,800
4	Equipment		67,000
5	Total	\$	1,959,498
6	Any unexpended balance remaining in the ap-		
7	propriation "Environmental Replacement-		
8	Heating Conversion" at the close of the fiscal		
9	year 1973-74 is hereby reappropriated for		
10	expenditure during the fiscal year 1974-75.		

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

Acct. No. 336

1	Personal Services	\$	76,110
2	Current Expenses		13,650
3	Repairs and Alterations		19,750
4	Equipment		19,200
5	Total	\$	128,710

45—*Department of Archives and History*

Acct. No. 340

1	Personal Services	\$	119,828
2	Current Expenses		51,650
3	Equipment		30,000
4	Total	\$	201,478

46—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$	449,000
2	Current Expenses		150,000
3	Repairs and Alterations		3,500
4	Equipment		5,000
5	Books and Periodicals		60,000

6	Grants-in-Aid		800,000
7	Library Matching Fund	_____	1,500,000
			—
17	Total	_____	\$ 2,967,500

18 Any unexpended balance remaining in the ap-
 19 propriation "Library Matching Fund" at the
 20 close of the fiscal year 1973-74 is hereby re-
 21 appropriated for expenditure during the fis-
 22 cal year 1974-75.

CHARITIES AND CORRECTION

47—West Virginia Industrial School for Boys

Acct. No. 370

1	Personal Services	Total	\$ 962,520
2	Regular	_____	716,520
3	Anthony Correctional	_____	246,000
4	Current Expenses	Total	360,100
5	Regular	_____	260,100
6	Anthony Correctional	_____	100,000
7	Repairs and Alterations	Total	78,200
8	Regular	_____	63,650
9	Anthony Correctional	_____	14,550
10	Equipment	Total	60,700
11	Regular	_____	45,700
12	Anthony Correctional	_____	15,000
13	Total	_____	\$ 1,461,520

48—Forestry Camp for Boys No. 1 (Davis)

Acct. No. 371

1	Personal Services	_____	\$ 241,187
2	Current Expenses	_____	117,232
3	Repairs and Alterations	_____	16,065
4	Equipment	_____	21,500
5	Septic System Repairs	_____	15,000
6	Total	_____	\$ 410,984

49—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services	\$	400,503
2	Current Expenses		131,565
3	Repairs and Alterations		34,900
4	Equipment		45,000
5	Vocational Training		5,000
6	Total	\$	616,968

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

Acct. No. 373

1	Personal Services	\$	240,112
2	Current Expenses		128,625
3	Repairs and Alterations		24,450
4	Equipment		22,000
5	Total	\$	415,187

51—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services	\$	128,339
2	Current Expenses		59,256
3	Repairs and Alterations		20,050
4	Equipment		12,600
5	Total	\$	220,245

52—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services	\$	1,741,100
2	Current Expenses		875,000
3	Repairs and Alterations		157,300
4	Equipment		200,000
5	Total	\$	2,973,400
6	Any unexpended balance remaining in the ac-		
7	counts "Replacement of Sanitary System		

8 (Sewers) and Construction of Boiler Plant";
 9 and "Purchase of building and land" at the
 10 close of the fiscal year 1973-74 is hereby re-
 11 appropriated for expenditure during the
 12 fiscal year 1974-75.
 13 Any or all of the account "Replacement of
 14 Sanitary System (Sewers) and Construction
 15 of Boiler Plant" may be used to match and
 16 aid Federal Funds.

53—*Huttonsville Correctional Center*

Acct. No. 376

1	Personal Services	\$	1,082,837
2	Current Expenses		393,000
3	Repairs and Alterations		76,603
4	Equipment		19,000
5	Total	\$	1,571,440

54—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services	\$	120,400
2	Current Expenses		59,850
3	Repairs and Alterations		14,000
4	Equipment		14,600
5	Sprinkler System		15,000
6	Total	\$	223,850

55—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services	\$	579,980
2	Current Expenses		265,000
3	Repairs and Alterations		40,000
4	Equipment		62,500
5	Total	\$	947,480

56—*State Health Department*

Acct. No. 400

1	Personal Services	\$ 1,268,822
2	Current Expenses	223,800
3	Equipment	37,500
4	Emergency Medical Services	45,000
5	Cancer Control and Treatment	241,500
6	Local Health Services	1,500,000
7	Dental Clinics	151,334
8	Heart Disease Control	134,375
9	Maternal and Child Healthmobile Medical	
10	Examination Clinic	441,250
11	Home Health Services ...	41,000
12	Mobile Chest X-Ray & Diagnostic Services for	
13	Tuberculosis Control	82,000
14	Hospital and Medical Facilities Construction	
15	Program	17,500
16	Special Project for Eradication of Tubercu-	
17	losis	250,000
18	Environmental Health Services	184,500
19	Nursing Home Inspection Unit	86,000
20	Biologicals for Immunization and Venereal	
21	Disease	75,000
22	Regional Health Services	214,000
23	Early Childhood Development Program	195,000
24	Total	\$ 5,188,581

57—*Commission on Post-mortem Examination*

Acct. No. 401

- 1 Any unexpended balance remaining in the ap-
- 2 propriation "Commission on Post-mortem Ex-
- 3 amination" at the close of the fiscal year
- 4 1973-74 is hereby reappropriated for expendi-
- 5 ture during the fiscal year 1974-75.

58—*Department of Veterans Affairs*

Acct. No. 403

1	In aid of Veterans Day Patriotic Exercises.....	\$ 5,000
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- 2 To be expended subject to the approval of the
 3 Department of Veterans Affairs upon pres-
 4 entation of satisfactory plans by the Grafton
 5 G.A.R. Post, American Legion, Veterans of
 6 Foreign Wars and Sons of Veterans.

59—*Department of Veterans Affairs*

Acct. No. 404

1	Personal Services _____	\$	350,280
2	Current Expenses _____		75,700
3	Equipment _____		5,100
4	Administration of Vietnam Veterans Bonus _____		130,000
5	Total _____	\$	561,080
6	Any unexpended balance remaining in the ap-		
7	propriation "To Provide Educational Oppor-		
8	tunities for Children of War Veterans" at the		
9	close of the fiscal year 1973-74 is hereby re-		
10	appropriated for expenditure during the fiscal		
11	year 1974-75.		

60—*Department of Welfare*

Acct. No. 405

1	Personal Services _____	\$	4,491,519
2	Current Expenses _____		1,840,606
3	Equipment _____		47,935
4	Public Assistance Grants (Classified Aid) _____		11,804,677
5	Services to Children, Aged, Blind and Disabled _____		4,827,263
6	Emergency Assistance Program _____		1,550,000
7	Social Security Matching Fund _____		441,027
8	Total _____	\$	25,003,027

61—*State Commission on Aging*

Acct. No. 406

1	Personal Services _____	\$	50,200
2	Current Expenses _____		38,115
3	Equipment _____		525

4	Programs for Elderly _____	250,000
5	Total _____	\$ 338,840

62—Department of Welfare—Food Stamp and
Government Donated Food

Acct. No. 407

1	Personal Services _____	\$ 1,217,492
2	Current Expenses _____	377,018
3	Equipment _____	12,500
4	Total _____	\$ 1,607,010

63—Department of Welfare—Medical Program

Acct. No. 408

1	Personal Services _____	\$ 1,885,515
2	Current Expenses _____	1,014,550
3	Equipment _____	12,480
4	Direct Services _____	18,507,037
5	Total _____	\$ 21,419,582

64—Department of Mental Health

Acct. No. 410

1	Personal Services _____	\$ 820,000
2	Current Expenses _____	205,692
3	Equipment _____	13,000
4	Research and Training _____	10,000
5	Civil Service Costs _____	85,000
6	Division of Health Education _____	20,000
7	Community Mental Retardation Program _____	750,000
8	Alcohol and Drug Abuse Program _____	400,000
9	Community Mental Health Programs _____	1,600,000
10	Total _____	\$ 3,903,692

11 Any unexpended balance remaining in the ac-
12 count "Mental Health Center—Princeton" at
13 the close of the fiscal year 1973-74 is hereby
14 reappropriated for expenditure during fiscal
15 year 1974-75.

65—*Commission On Mental Retardation*

Acct. No. 411

1 Personal Services	\$	48,600
2 Current Expenses		16,770
3 Equipment		2,000
4 Total	\$	67,370

66—*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
5 Total	\$	900,000

67—*Roney's Point Branch Hospital*

Acct. No. 417

1 Personal Services	\$	186,082
2 Current Expenses		55,125
3 Repairs and Alterations		20,000
4 Equipment		3,750
5 Total	\$	264,957

68—*Guthrie Center*

Acct. No. 418

1 Personal Services	\$	482,598
2 Current Expenses		200,000
3 Repairs and Alterations		45,000
4 Equipment		35,000
5 Total	\$	762,598

69—*Colin Anderson Center*

Acct. No. 419

1 Personal Services	\$	3,280,000
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2	Current Expenses	517,595
3	Repairs and Alterations	89,150
4	Equipment	120,000
5	Total	\$ 4,006,745

70—Weston State Hospital

Acct. No. 420

1	Personal Services	\$ 4,433,125
2	Current Expenses	1,467,530
3	Repairs and Alterations	143,325
4	Equipment	114,450
5	Psychiatric Training Center for Student Nurses	150,000
6	Total	\$ 6,308,430

71—Spencer State Hospital

Acct. No. 421

1	Personal Services	\$ 2,584,046
2	Current Expenses	866,650
3	Repairs and Alterations	85,000
4	Equipment	75,000
5	Total	\$ 3,610,696

6 Any unexpended balance remaining in "Boiler
7 Plant" at the close of fiscal year 1973-74, is
8 hereby reappropriated for expenditure dur-
9 ing fiscal year 1974-75.

72—Huntington State Hospital

Acct. No. 422

1	Personal Services	\$ 3,044,455
2	Current Expenses	950,000
3	Repairs and Alterations	150,000
4	Equipment	90,000
5	Student Nurse Affiliation Program	43,000
6	Total	\$ 4,277,455

- 7 Any unexpended balance remaining in the ap-
 8 propriation "Boiler Plant — Replacement of
 9 Existing Boiler" at the close of fiscal year
 10 1973-74 is hereby reappropriated for expendi-
 11 ture during the fiscal year 1974-75.

73—*Lakin State Hospital*

Acct. No. 423

1	Personal Services	\$	1,529,300
2	Current Expenses		425,000
3	Repairs and Alterations		100,000
4	Equipment		65,000
5	Total	\$	2,119,300

6 Any unexpended balance remaining in the ap-
 7 propriation—"Renovate Classroom Building,
 8 Construct Ward Building," at the close of the
 9 fiscal year 1973-74 is hereby reappropriated
 10 for expenditure during the fiscal year 1974-75.

74—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services	\$	891,250
2	Current Expenses		221,700
3	Repairs and Alterations		22,000
4	Equipment		25,000
5	Total	\$	1,159,950

75—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services	\$	394,625
2	Current Expenses		148,750
3	Repairs and Alterations		15,350
4	Equipment		17,600
5	Total	\$	576,325

76—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services	\$ 696,500
2	Current Expenses	271,005
3	Repairs and Alterations	75,000
4	Equipment	70,000
5	Total	\$ 1,112,505

77—*Hopemont State Hospital*

Acct. No. 430

1	Personal Services	\$ 2,500,000
2	Current Expenses	490,000
3	Repairs and Alterations	60,000
4	Equipment	75,000
5	Total	\$ 3,125,000

78—*Pinecrest State Hospital*

Acct. No. 431

1	Personal Services	\$ 2,179,000
2	Current Expenses	612,785
3	Repairs and Alterations	40,350
4	Equipment	43,650
5	Total	\$ 2,875,785

79—*Denmar State Hospital*

Acct. No. 432

1	Personal Services	\$ 1,533,000
2	Current Expenses	401,000
3	Repairs and Alterations	42,000
4	Equipment	85,000
5	Total	\$ 2,061,000

80—*State Board of Education—Rehabilitation Division*

Acct. No. 440

1	Personal Services	\$ 829,480
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APPROPRIATIONS

[Ch. 2

2	Current Expenses	272,400
3	Rehabilitation Center	801,400
4	Case Services	1,566,150
5	Supervisory Services for Vending Stand Pro-	
6	gram for the Blind	71,200
7	Training and Special Projects	170,338
8	Social Security Matching Fund	72,000
9	Total	\$ 3,782,968

BUSINESS AND INDUSTRIAL RELATIONS

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

Acct. No. 450

1	Personal Services	\$ 675,000
2	Current Expenses	230,875
3	Equipment	12,970
4	Total	\$ 918,845

82—*Interstate Mining Compact Commission*

Acct. No. 451

1	Total	\$ 10,000
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83—*Department of Mines*

Acct. No. 460

1	Personal Services	\$ 1,802,880
2	Current Expenses	356,275
3	Equipment	53,025
4	Miner Training, Education and Certification ...	200,000
5	Special Mine Drainage	50,000
6	Subsidence—Federal Matching Funds.....	250,000
7	Total	\$ 2,712,180

84—*Department of Commerce*

Acct. No. 465

1	Personal Services	\$ 557,477
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2	Current Expenses	1,400,000
3	Equipment	47,000
4	Arts and Humanities Fund	276,759
5	Industrial Development Revolving Fund	500,000
6	W. Va. Historical Drama Association	55,000
7	Mt. State Forest Festival	25,000
8	Alpine Festival	7,500
9	New Martinsville Regatta	2,500
10	Braxton County Regatta	4,000
11	Mothers Day Founders Festival	5,000
12	Sternwheel Regatta	1,000
13	Sistersville Outboard Regatta	1,000
14	White Water Weekend	3,000
15	Cherry River Festival	2,000
16	Oil and Gas Festival	2,500
17	West Virginia Water Festival	7,500
18	Mt. Heritage Arts and Crafts Fair	5,000
19	Calhoun County Wood Festival	2,500
20	Wellsburg July 4th Celebration	1,000
21	Ohio River Festival	1,000
22	National Youth Science Camp	100,000
23	West Virginia's Participation National Bicen-	
24	ennial	109,500
25	King Coal Festival	700
26	Independence Hall, Wheeling, West Virginia...	125,000
27	U. S. Track & Field Hall of Fame	50,000
28	Total	\$ 3,291,936

29 The above appropriations, Mt. State Forest Fes-
30 tival, Alpine Festival, New Martinsville Re-
31 gatta, Braxton County Regatta, Mothers Day
32 Founders Festival, Sternwheel Regatta, Sis-
33 tersville Outboard Regatta, White Water
34 Weekend, Cherry River Festival, Oil and Gas
35 Festival, West Virginia Water Festival, Mt.
36 Heritage Arts and Crafts Fair, Calhoun
37 County Wood Festival, Wellsburg July 4th
38 Celebration, Ohio River Festival, King Coal
39 Festival and West Virginia Historical Drama
40 Association shall be expended only upon au-
41 thorization of the Commerce Commissioner

42 and in accordance with the provisions of
43 Chapter 5A of the Code of West Virginia.

52 All Federal moneys received as reimbursements
53 to the Department of Commerce, for moneys
54 expended from the General Revenue fund
55 for Arts and Humanities are hereby reappro-
56 priated for the purposes as originally made,
57 including Personal Services, Current Ex-
58 penses and Equipment.

59 Any unexpended balance remaining in the ap-
60 propriation "Independence Hall, Wheeling,
61 West Virginia" at the close of the fiscal year
62 1973-74 is hereby reappropriated for expendi-
63 ture during the fiscal year 1974-75.

64 Any unexpended balance remaining in the ac-
65 count "National Youth Science Camp" at the
66 close of the fiscal year 1973-74 is hereby re-
67 appropriated for expenditure during the fiscal
68 year 1974-75.

69 Any unexpended balance remaining in the ac-
70 count "West Virginia Bicentennial" at the
71 close of the fiscal year 1973-74 is hereby re-
72 appropriated for expenditure during the fiscal
73 year 1974-75.

85—*Ohio River Basin Commission*

Acct. No. 469

1	Total	_____	\$	20,500
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86—*State Commission on Manpower, Technology
and Training*

Acct. No. 470

1	Personal Services	_____	\$	24,518
2	Current Expenses	_____		7,600
3	Equipment	_____		1,100
4	Total	_____	\$	33,218

87—*Council of State Governments*

Acct. No. 472

1	Total	\$	21,900
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88—*Interstate Commission on Potomac River Basin*

Acct. No. 473

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

89—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

1	West Virginia's contribution to the Ohio River		
2	Valley Water Sanitation Commission	\$	23,951

90—*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 Gov-		
4	ernor.		

91—*West Virginia Air Pollution Control Commission*

Acct. No. 476

1	Personal Services	\$	378,125
2	Current Expenses		120,900
3	Equipment		9,325
4	Total	\$	508,350

92—*Interstate Education Compact*

Acct. No. 477

1	West Virginia's contribution to Interstate Edu-		
2	cation Compact	\$	9,500

93—*Antiquities Commission*

Acct. No. 478

1	Personal Services	\$	22,278
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2	Current Expenses	----	7,500
3	Equipment		2,000
4	Total	-----	\$ 31,778

94—Department of Banking

Acct. No. 480

1	Personal Services	-----	\$ 237,700
2	Current Expenses	-----	131,125
3	Equipment	-----	3,900
4	Total	-----	\$ 372,725

95—West Virginia State Aeronautics Commission

Acct. No. 485

1	Personal Services	-----	\$ 32,220
2	Current Expenses	-----	20,655
3	Equipment	-----	2,000
4	Aerial Markers	-----	1,200
5	Civil Air Patrol Expenses	-----	18,500
6	Airport Matching	---	1,500,000
13	Total	-----	\$ 1,574,575

14 Any unexpended balance remaining in the ap-
 15 propriation "Airport Matching Fund" at the
 16 close of the fiscal year 1973-74 is hereby re-
 17 appropriated for expenditure during fiscal
 18 year 1974-75.

96—West Virginia Nonintoxicating Beer Commissioner

Acct. No. 490

1	Personal Services	-----	\$ 202,116
2	Current Expenses	-----	72,200
3	Equipment	-----	3,000
4	Total	-----	\$ 277,316

97—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services	\$	314,117
2	Current Expenses		45,141
3	Equipment		2,000
4	Total	\$	361,258

AGRICULTURE

98—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner	\$	22,500
2	Other Personal Services		1,064,448
3	Current Expenses		550,052
4	Equipment		28,000
5	Marijuana and Multiflora Rose Eradication		
6	Program		35,000
7	Total	\$	1,700,000
8	Out of the above funds a sum may be used to		
9	match Federal Funds for the eradication and		
10	control of pest and plant diseases.		
12	Any unexpended balance remaining in "Era-		
13	dication Program" and "Laboratory Facility"		
14	at the close of fiscal year 1973-74 is hereby re-		
15	appropriated for expenditure during fiscal		
16	year 1974-75.		

99—*Department of Agriculture—Soil Conservation
Committee*

Acct. No. 512

1	Personal Services	\$	190,000
2	Current Expenses		56,253
3	Watershed Program		300,000
4	Mud River Flood Control Project		100,000
5	Channelization of Kellys Creek		50,000
6	Total	\$	696,253

7 Any unexpended balance remaining in the
 8 "Watershed Program" at the end of the fiscal
 9 year 1973-74 is hereby reappropriated for ex-
 10 penditure during fiscal year 1974-75.

100—*Department of Agriculture—Division of Rural Resources*

Acct. No. 513

1 Matching Fund _____\$ 500,000

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

101—*Department of Agriculture—Meat Inspection*

Acct. No. 514

1 Unclassified _____\$ 344,000

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

6 Any unexpended balance remaining in the ap-
 7 propriation "Meat Inspection" at the close of
 8 the fiscal year 1973-74 is hereby reappro-
 9 priated for expenditure during the fiscal
 10 year 1974-75.

102—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1 West Virginia State Fair _____	\$ 35,000
2 Agricultural Awards _____	45,000
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 _____	2,500
8 Webster Logging Festival _____	2,000
9 Paden City Labor Day Festival _____	2,000
10 Jackson County Junior Fair _____	1,500

11	Buckwheat Festival	3,500
12	Clay County Golden Delicious Festival	1,500
13	Potato Festival	1,500
14	Lincoln County Tomato Festival	1,000
15	Mason County Fair	3,500
16	West Virginia Sports Festival	1,500
17	Tyler County Fair	2,500
18	Virginia Point Days (Wayne County)	1,500
19	Wyoming County Youth Camp Awards	2,500
20	Wood County Fair	3,000
21	Braxton Fair Association	2,000
22	Huntington River Day Fair	1,000
23	Pocahontas County Pioneer Days	1,000
24	Mannington District Fair	1,000
25	Paw Paw District Fair	1,000
26	Winfield District Fair	1,000
27	Putnam County Midway Fair	1,000
28	Monroe County Farmers Day (Union)	1,500
29	Total.....	\$ 131,950

CONSERVATION AND DEVELOPMENT

103—*Geological and Economic Survey Commission*

Acct. No. 520

1	Personal Services	\$ 435,625
2	Current Expenses	134,137
3	Repairs and Alterations	9,500
4	Equipment	56,673
5	Cooperative Mapping Program	225,000
6	Coal Quality and Reserve Study	200,000
7	Archaeological Dig Blennerhassett Island	40,000
8	Total.....	\$ 1,100,935

9 Out of the above appropriation for "Cooperative
 10 Mapping Program", the sum of \$65,000 may
 11 be used to cooperate with the United States
 12 Geological Survey in Ground Waters Re-
 13 sources Study.

104—*Water Development Authority*

Acct. No. 563

1	Total	\$ 120,000
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105—*Department of Natural Resources*

Acct. No. 565

1	Personal Services	\$ 3,429,370
2	Current Expenses	968,785
3	Repairs and Alterations	308,380
4	Equipment	418,950
5	Subsistence for Conservation Officers	342,188
6	Debt Service	675,000
7	Special Works Program	293,000
8	A.R.A.-E.D.A. Park Program	100,840
9	Clarke-McNary Fire Prevention	300,000
10	Wonderful West Virginia	150,000
11	Water Resources Board	13,802
12	U.S. Geological Survey	52,500
13	Rabies Control	34,302
14	French Creek Game Farm	78,977
15	Berkeley Springs Resort	113,071
16	Reclamation Board of Review	15,000
17	Coal Refuse Disposal and Dam Control Act	207,320
18	Pipestem State Park (operation)	375,000
19	Bluestone State Park	75,000
20	Panther State Forest	200,000
21	Tomlinson Run State Park	265,000
22	Pleasant Creek Rifle Range	10,000
23	Total	\$ 8,426,485

24 Out of the above appropriation for "Subsistence
 25 for Conservation Officers," subsistence shall
 26 be paid at the rate of two hundred twenty-
 27 eight dollars (\$228.00) per month to the chief
 28 conservation officer and each full-time uni-
 29 formed conservation officer, under his direct
 30 supervision, whose primary duties and re-
 31 sponsibilities are law enforcement.

32 Any or all funds appropriated for "Clarke-Mc-
 33 Nary Fire Prevention" may be transferred
 34 to a special fund to match and aid Federal
 35 Funds.

36 Any unexpended balance remaining in the ap-
 37 propriations "Capital Improvements, State
 38 Parks," "Cacapon State Park Golf Course,"
 39 "Grave Creek Mound Park," "Panther State
 40 Forest," "Piney Creek Watershed," "Pur-
 41 chase of Land-Pipestem State Park," "Land
 42 Purchase and Development — (Sandstone
 43 Falls)" and "Land Purchase and Upgrading
 44 Facilities—Laurel Creek" at the close of the
 45 fiscal year 1973-74, is hereby reappropriated
 46 for expenditure during the fiscal year 1974-75.

47 Any or all of the appropriation "Capital Im-
 48 provements, State Parks" may be used to
 49 match and aid Federal Funds.

106—*Public Land Corporation*

Acct. No. 566

1 Any unexpended balance remaining in the ap-
 2 propriation for "Public Land Corporation" at
 3 the close of the fiscal year 1973-74 is hereby
 4 reappropriated for expenditure during the
 5 fiscal year 1974-75.

PROTECTION

107—*Department of Public Safety*

Acct. No. 570

1 Personal Services	\$ 6,044,519
2 Current Expenses	2,400,000
3 Repairs and Alterations	143,850
4 Equipment	787,900
5 Emergency Fund	5,000
6 Arrest and Witness Fee	225,000
7 Total	\$ 9,606,269

108—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services	\$	123,942
2	Current Expenses		250,000
3	Repairs and Alterations		24,500
4	Equipment		7,200
5	Compensation of Commanding Officers, Cleri-		
6	cal Allowances and Uniform Allowances		96,040
7	Property Maintenance		300,240
8	State Armory Board		1,100,573
9	Total	\$	1,902,495

109—*West Virginia State Board of Land Surveyors*

Acct. No. 585

1	To pay the per diem of members and other		
2	general expenses	\$	7,000
3	From Collections		7,000

110—*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

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

Acct. No. 587

1	To pay the per diem of members and other		
2	general expenses	\$	41,000
3	From Collections		41,000

112—*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

113—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses _____	\$	42,000
3 From Collections _____		42,000

114—*State Board of Osteopathy*

Acct. No. 591

1 To pay the per diem of members and other		
2 general expenses _____	\$	4,145
3 From Collections _____		4,145

115—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1 To pay the per diem of members and other		
2 general expenses _____	\$	30,000
3 From Collections _____		30,000

116—*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

117—*State Board of Architects*

Acct. No. 595

1 To pay the per diem of members and other		
2 general expenses _____	\$	14,000
3 From Collections _____		14,000

118—*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

119—*State Board of Law Examiners*

Acct. No. 597

1	To pay the per diem of members and other		
2	general expenses _____	\$	8,000

120—*Human Rights Commission*

Acct. No. 598

1	Personal Services _____	\$	175,813
2	Current Expenses _____		70,000
3	Equipment _____		3,700
4	Total _____	\$	249,513

121—*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

122—*West Virginia Public Employees Retirement Board*

Acct. No. 614

1	Employers Accumulation Fund _____	\$	750,000
2	Expense Fund _____		85,000
3	Total _____	\$	835,000

4 The above appropriation is intended to cover
5 the state's share of the West Virginia Pub-
6 lic Employees Retirement cost in accord-
7 ance with Chapter 5, Article 10 of the Code
8 of West Virginia for those departments
9 operating from General Revenue Fund. The
10 State Department of Highways, Depart-
11 ment of Motor Vehicles, State Tax Depart-
12 ment—Gasoline Tax Division, Workmen's
13 Compensation Commission, Public Service
14 Commission, and other departments oper-
15 ating from Special Revenue Funds and/or
16 Federal Funds shall pay their proportionate

17 share of the retirement costs for their re-
 18 spective divisions. When specific appropria-
 19 tions are not made such payments may be
 20 made from the balances in the various Special
 21 Revenue Funds in excess of specific appro-
 22 priations.

123—*West Virginia Public Employees Insurance Board*

Acct. No. 615

1 Expense Fund	\$	96,000
2 Public Employees Health Insurance—State Con- 3 tribution		679,000
4 Total	\$	775,000

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

21 Any or all of the above appropriation may be
 22 transferred to a Special Revenue account for
 23 disbursement.

124—*Insurance Commissioner*

Acct. No. 616

1 Personal Services	\$	461,000
2 Current Expenses		130,000
3 Repairs and Alterations		5,000

4	Equipment	5,800
5	Total	\$ 601,800

125—*State Department of Highways*

Acct. No. 641

126—*State Department of Highways*

Acct. No. 645

1	Total	\$ 25,000
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1 **Sec. 2. Appropriations from Other Funds.**—From the
 2 funds designated there is hereby appropriated condition-
 3 ally upon the fulfillment of the provisions set forth in
 4 Chapter 5A, Article 2 of the Code of West Virginia the
 5 following amounts, as itemized, for expenditure during
 6 the fiscal year one thousand nine hundred seventy-five.

127—*State Department of Highways*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

4	Federal Aid Programs	227,000,000
9	General Operations	159,100,000
13	Total	\$386,100,000

14 It is the intent to appropriate and make avail-
 15 able for expenditure, the balances and all
 16 revenues and income of the state road fund,
 17 including the proceeds from the sale of bonds,
 18 for the maintenance, construction and re-
 19 construction of state roads and for other pur-
 20 poses in accordance with the provisions of
 21 Chapter 17, Code of West Virginia, one thou-
 22 sand nine hundred thirty-one, as amended.

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

27 The State Commissioner of Highways shall
 28 have the authority to operate revolving funds
 29 within the state road fund for the operation
 30 and purchase of various types of equipment
 31 used directly and indirectly in the construc-
 32 tion and maintenance of roads and for the
 33 purchase of inventories and materials and
 34 supplies: *Provided, however,* That the opera-
 35 tion of such revolving funds shall not cause
 36 expenditures in excess of the foregoing ap-
 37 propriations.

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

128—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1 Personal Services	\$ 1,025,000
2 Current Expenses	1,225,000
3 Equipment	30,000
4 Purchase of License Plates	300,000
5 Social Security Matching Fund	66,700
6 Public Employees Retirement Matching Fund	109,000
7 Public Employees Health Insurance	36,300
8 Total	\$ 2,792,000

129—*State Tax Department—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1 Personal Services	\$ 311,998
2 Current Expenses	125,000
3 Equipment	4,800

4	Social Security Matching Fund	20,000
5	Public Employees Health Insurance	16,000
6	Total	\$ 477,798

130—*Department of Education—Veterans Education*

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 115,800
2	Other Expenses	39,600
3	Total	155,400

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

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

131—*Treasurer's Office*

Acct. No. 800

TO BE PAID FROM SPECIAL REVENUE FUND

1	Abandoned and Unclaimed Property—Trust 2 and Expense Fund	\$ 29,620
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132—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 70,820
2	Current Expenses	24,450
3	Equipment	4,000
4	Social Security Matching Fund	4,500

5	Public Employees Retirement Matching Fund	5,200
6	Public Employees Health Insurance	1,800

7	Total	\$ 110,770
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8 The total amount of this appropriation shall
9 be paid out of collections of license fees as
10 provided by law.

133—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1	Medical Expenses	\$ 5,000
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2 The total amount of this appropriation shall
3 be paid from Special Revenue Fund out of
4 collections of license fees and fines as pro-
5 vided by law.

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

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

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 29,161
2	Current Expenses	8,800
3	Microfilm Program	5,000
4	Public Employees Health Insurance	1,200
5	Total	\$ 44,161

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

9 Special funds in excess of the amounts herein
10 appropriated may be made available by bud-
11 get amendments upon request of the State
12 Auditor and the approval of the Governor.

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

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 234,240
2 Current Expenses	13,545
3 Equipment	6,500
4 Social Security Matching Fund	14,860
5 Public Employees Retirement Matching Fund..	22,500
6 Public Employees Health Insurance	13,170
7 Total.....	\$ 304,815

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

12 The above appropriation includes salaries and
13 operating expenses.

14 There is hereby appropriated from this fund,
15 in addition to the above appropriation, the
16 necessary amount for the purchase of sup-
17 plies for resale.

18 Special funds in excess of the amounts here-
19 by appropriated may be made available by
20 budget amendments upon request of the De-
21 partment of Finance and Administration and
22 approval of the Governor.

136—*Department of Finance and Administration—
Information System Services Division Fund*

Acct. No. 8151

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 1,936,840
2 Current Expenses	2,819,550
3 Equipment	100,600
4 Social Security Matching Fund	122,850

5	Public Employees Retirement Matching Fund ..	179,500
6	Public Employees Health Insurance	66,150
7	Total	\$ 5,225,490

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

137—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 249,769
2	Current Expenses	36,245
3	Equipment	12,000
4	Social Security Matching Fund	14,000
5	Public Employees Retirement Matching Fund	23,000
6	Public Employees Health Insurance	10,000
7	Total	\$ 345,014

8 The total amount of this appropriation shall be
 9 paid from Special Revenue Fund out of col-
 10 lections made by the Department of Agricul-
 11 ture as provided by law. It is the intention
 12 that special funds in excess of the amounts
 13 hereby appropriated may be made available
 14 by budget amendments upon request of the
 15 Commissioner of Agriculture, and approval of
 16 the Governor.

138—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 82,600
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2	Current Expenses	38,670
3	Equipment	1,050
4	Social Security Matching Fund	4,738
5	Public Employees Retirement Matching Fund	7,987
6	Public Employees Health Insurance	1,732
7	Total	\$ 136,777

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

139—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners	\$ 60,000
2	Other Personal Services	1,017,380
3	Current Expenses	240,750
4	Equipment	17,085
5	Social Security Matching Fund	53,500
6	Public Employees Retirement Matching Fund	100,000
7	Public Employees Health Insurance	39,060
8	Total	\$ 1,527,775

9 The total amount of this appropriation shall
 10 be paid from Special Revenue Fund out of
 11 collections for special license fees from pub-
 12 lic service corporations as provided by law.
 13 Out of the above appropriation \$5,000 may
 14 be transferred to the State Water Resources
 15 Commission of the Department of Natural
 16 Resources for use in cooperation with the
 17 U. S. Geological Survey in a program of
 18 stream gauging.

140—*Public Service Commission—Gas Pipeline Division*

Acct. No. 8285

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 82,573
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2	Current Expenses	39,650
3	Equipment	5,000
4	Social Security Matching Fund	4,000
5	Public Employees Retirement Matching Fund	7,906
6	Public Employees Health Insurance	2,940
7	Total	\$ 142,069

8 The total amount of this appropriation shall
 9 be paid from Special Revenue Fund out of re-
 10 cepts collected for or by the Public Service
 11 Commission pursuant to and in the exercise
 12 of regulatory authority over pipeline com-
 13 panies.

141—*Public Service Commission—Motor Carrier Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 378,138
2	Current Expenses	167,500
3	Equipment	5,060
4	Social Security Matching Fund	21,800
5	Public Employees Retirement Matching Fund	33,417
6	Public Employees Health Insurance	16,800
7	Total	\$ 622,715

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

142—*Department of Natural Resources*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 1,780,000
2	Current Expenses	655,000
3	Repairs and Alterations	127,000

4	Equipment	207,215
5	Social Security Matching	112,182
6	Public Employees Health Insurance	85,000
7	Land Purchase and Buildings	326,300
8	Public Employees Retirement Matching Fund....	170,000
9	Total	\$ 3,462,697

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

143—Department of Public Safety—Inspection Fees

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 197,190
2	Current Expenses	111,125
3	Repairs and Alterations	8,200
4	Equipment	14,530
5	Social Security Matching Fund	1,622
6	Public Employees Health Insurance	7,500
7	Total	\$ 340,167

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

12 Special Funds in excess of the amounts here-
 13 by appropriated may be made available by
 14 budget amendment upon request of the De-
 15 partment of Public Safety and approval of

- 16 the Governor for the purpose of repairs to,
17 or construction of police barracks.

144—*West Virginia Alcohol Beverage Control Commissioner*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Commissioner	\$	20,000
2	Other Personal Services		5,350,085
3	Current Expenses		2,275,000
4	Repairs and Alterations		40,000
5	Equipment		112,500
6	Social Security Matching Fund		334,000
7	Public Employees Retirement Matching Fund...		530,000
8	Public Employees Health Insurance		240,000
9	Automation and Conversion of A.B.C. State		
10	Stores		300,000
11	Total	\$	9,201,585

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

15 The above appropriation includes the salaries
16 of store personnel, store inspectors, store
17 operating expenses and equipment; and
18 salaries, expenses and equipment of adminis-
19 tration offices.

20 There is hereby appropriated from liquor reve-
21 nues, in addition to the above appropriation,
22 the necessary amount for the purchase of
23 liquor, as provided by law.

145—*West Virginia Civil Service System*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	320,000
2	Current Expenses		135,000
3	Social Security Matching Fund		20,000

4	Public Employees Retirement Matching Fund...	32,000
5	Public Employees Health Insurance.....	12,000
6	Total	\$ 519,000

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

11 The Governor is hereby authorized to make
 12 available by budget amendment, upon re-
 13 quest of the Civil Service Commission, funds
 14 in excess of the amounts hereby appropriated.

146—*Board of Regents—West Virginia University—
 Special Capital Improvement Fund*

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1	Debt Service	\$ 550,818
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2 The total amount of this appropriation shall be
 3 paid from the nonrevolving Capital Im-
 4 provement Fund created by the 1959 Legisla-
 5 ture, as amended.

6 Any unexpended balances remaining in the ap-
 7 propriations "Miscellaneous Small Projects,
 8 Creative Arts, Utilities, Roads and Parking,
 9 and Medical Center—Repairs and Altera-
 10 tions" at the close of the fiscal year 1973-74
 11 are hereby reappropriated for expenditure
 12 during fiscal year 1974-75.

147—*Board of Regents—State System
 Special Capital Improvement Fund*

Acct. No. 8535

TO BE PAID FROM SPECIAL REVENUE FUND

1	Marshall University, Campus Development	\$ 3,556,800
2	(Convert West Hall to educational facility,	
3	complete outdoor athletic facilities develop-	

4	ment, construct women's gymnasium, and	
5	parking)	
6	West Virginia University, Campus Development	7,971,000
7	(Renovation Martin Hall, Woodburn Hall,	
8	Chitwood Hall, and Stansbury Hall; convert	
9	old law building to other use; construct facili-	
10	ties for library and computer; bull perform-	
11	ance testing facility; and property acquisi-	
12	tion)	
13	Potomac State College of West Virginia Uni-	
14	versity	
15	Davis Hall (Dormitory): Remodel, install re-	
16	quired fire prevention devices, etc.	254,000
17	Install storm drains, curbing, blacktop, for	
18	parking lot	25,000
19	Bluefield State College, Campus Develop-	
20	ment	1,080,000
21	(Convert Mahood Hall to educational facility	
22	and renovate Conley Hall)	
23	Fairmont State College, Field House De-	
24	velopment	3,000,000
25	Shepherd College, Campus Development	1,534,000
26	(Academic Building "B" development and	
27	planning for Academic Building "C")	
28	Shepherd College—Sewage System	100,000
29	West Liberty State College, Campus Develop-	
30	ment	1,174,000
31	(Renovate Main Hall, library alterations,	
32	parking, planning new field house, etc.)	
33	West Virginia Institute of Technology, Campus	
34	Development	2,535,550
35	(Conley Hall alteration, new maintenance	
36	building, property acquisition, planning new	
37	science lab, parking and roads, and planning	
38	remodeling old Science Hall)	

39	Southern West Virginia Community College,	
40	Campus Development	715,000
41	(Temporary facilities and planning for addi-	
42	tional facilities—Logan, air-condition Wil-	
43	liamson building, and bridge development—	
44	Williamson)	
45	West Virginia Northern Community College,	
46	Campus Development	1,850,000
47	(Educational facility — Wheeling, temporary	
48	facilities — Weirton, and planning for addi-	
49	tional educational facilities)	
50	Debt Service and Debt Service Reserve	1,900,000
51	Miscellaneous Projects	600,000
52	Fairmont State College, Parking and Field De-	
53	velopment, Phase 2 of 2	95,000
54	Glennville State College, Outdoor Athletic Facil-	
55	ities, Phase 3 of 3	290,000
56	Glennville State College, Complete Verona	
57	Mapel Hall Alterations and Renovate Ad-	
58	ministration Building Basement	180,000
59	Parkersburg Community College, Learning Re-	
60	sources Center and Technical Instructional	
61	Facility, Phase 3 of 3	247,000
62	Concord College, Campus Development, Phase	
63	1 of 3	500,000
64	West Virginia State College, Campus Develop-	
65	ment, Phase 1 of 4	595,000

66 The above projects are listed in a stated order
67 of priority. Projects on lines 1 through 49
68 are to be paid from proceeds from revenue
69 bonds issued as authorized by law. Projects
70 on lines 50 through 65 are to be paid on a cash
71 basis. It is intended that only complete and
72 usable projects be constructed and then
73 only in the listed order of priority: *Provided,*
74 *however,* That whenever the amount in the

75 special capital improvement fund, including
 76 both the proceeds of bonds sales and cash
 77 collections, shall be sufficient to cover all
 78 capital expenditures authorized above, then
 79 the listed projects shall be considered of
 80 equal priority and all of them, or any one
 81 or more, may be undertaken as soon as plans
 82 can be prepared and contracts let therefor.

83 The total amount of this appropriation shall
 84 be paid from the Special Capital Improve-
 85 ment Fund created by the 1971 Legislature.

86 Any unexpended balances remaining in prior
 87 years and in the 1973-74 appropriation are
 88 hereby reappropriated for expenditure dur-
 89 ing fiscal year 1974-75.

148—*Board of Regents—Special Capital Improvement Fund*

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service\$ 1,896,000

2 The total amount of this appropriation shall be
 3 paid from the nonrevolving Capital Im-
 4 provement Fund created by the 1959 Legis-
 5 lature, as amended.

6 Any unexpended balances remaining in prior
 7 years and 1973-74 appropriations are hereby
 8 reappropriated for expenditure during fiscal
 9 year 1974-75.

149—*West Virginia University—Medical School*

Acct. No. 873

TO BE PAID FROM MEDICAL SCHOOL FUND

1 Personal Services	\$ 17,777,174
2 Current Expenses	5,854,262
3 Repairs and Alterations	884,473
4 Equipment	1,456,876

5	Intern and Residency Support Program for	
6	Community Hospitals	315,000
7	Total	\$ 26,287,785

8 Special funds in excess of the amounts here-
 9 by appropriated may be made available by
 10 budget amendment upon request of the Board
 11 of Regents and approval of the Governor.

150—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services	\$ 1,950,000
2	Current Expenses	934,000
3	Equipment	65,000
4	Social Security Matching Fund.....	95,000
5	Public Employees Retirement Matching Fund...	160,000
6	Public Employees Health Insurance.....	46,000
7	Implementation of Eng. Com. Sub. for House	
8	Bill No. 821	250,000
9	Total	\$ 3,500,000

10 The money appropriated on line numbers 7 and
 11 8 shall be expended only for the purpose of
 12 assisting in defraying the additional expenses
 13 which are anticipated due to the enactment
 14 of Eng. Com. Sub. for House Bill No. 821,
 15 relating to Compulsory Workmen's Compen-
 16 sation Coverage.

17 There is hereby authorized to be paid out of the
 18 above appropriation for "Current Expenses"
 19 the amount necessary for the premiums on
 20 bonds given by the State Treasurer as bond
 21 custodian for the protection of the Workmen's
 22 Compensation Fund. This sum shall be trans-
 23 ferred to the Board of Insurance.

1 **Sec. 3. Awards for Claims Against the State.**—From the
 2 funds designated there are hereby appropriated for pay-

3 ment of claims against the state, the following amounts as
4 itemized:

5	(a) Claim versus the Board of Regents:	
6	(To be paid from General Revenue Fund)	
7	(1) John G. McGuffey	\$ 269.00
8	(b) Claims versus the Department of Natural	
9	Resources:	
10	(To be paid from General Revenue Fund)	
11	(1) Richard M. Forney, Jr.	14,900.00
12	(2) Hans Peter Moss	21,500.00
13	(c) Claim versus the Office of the Governor:	
14	(To be paid from General Revenue Fund)	
15	(1) Joe L. Smith, Jr., Inc., d/b/a Biggs-	
16	Johnston-Withrow	27,180.96
17	(d) Claims versus the Department of Mental	
18	Health:	
19	(To be paid from General Revenue Fund)	
20	(1) Ronald E. House, Administrator of the	
21	Estate of Edward P. House, deceased	12,000.00
22	(2) Exxon Company, U.S.A.	183.38
23	(3) Eaton Laboratories	47.81
24	(e) Claims versus the Board of Vocational	
25	Education, Division of Vocational Reha-	
26	ilitation:	
27	(To be paid from General Revenue Fund)	
28	(1) University Hospital, Albert B. Chand-	
29	ler Medical Center, University of	
30	Kentucky	2,029.06
31	(2) Physician Accounts Department, Al-	
32	bert B. Chandler Medical Center, Uni-	
33	versity Hospital, University of Ken-	
34	tucky	1,375.00
35	(f) Claims versus the Adjutant General:	
36	(To be paid from General Revenue Fund)	
37	(1) F. B. Amburgey, Trustee for Hensley	
38	Heights Maintenance Fund	1,308.47

39	(g)		
42	(1)	.....	000,000.00
43	(h)	Claims versus the Department of High-	
44		ways:	
45		(To be paid from State Road Fund)	
46	(1)	Joel V. Pauley	469.80
47	(2)	Meade J. Moore	1,292.14
48	(3)	John S. Haines	750.00
49	(4)	W. Dale Enochs	175.27
50	(5)	General Telephone Company of the	
51		Southeast	235.40
52	(6)	William C. McIver and Wilma L. Mc-	
53		Iver	1,000.00
54	(7)	Earnest R. White and Jo Ann White..	7,500.00
55	(8)	John A. Bacon	145.83
56	(9)	Donald E. Blackwell	50.83
57	(10)	Monongahela Power Company	200.66
58	(11)	Monongahela Power Company	26.63
59	(12)	Monongahela Power Company	128.71
60	(13)	Monongahela Power Company	65.04
61	(14)	Ruth Young	7,300.00
62	(15)	Swift & Company, Inc.	633.30
63	(16)	James Hodge	162.20
64	(17)	Laura Osborne	2,163.00
65	(18)	Robert Cantley, Jr.	250.00
66	(i)	Claims versus the Department of Finance	
67		and Administration:	
68		(Transportation Division)	
69		(To be paid from Special Revenue Fund)	
70	(1)	Helen Forney	1,593.24
71	(2)	Lenwood J. Moss	3,508.43
72	(j)	Claim versus the Office of Federal-State	
73		Relations:	
74		(To be paid from Special Revenue Fund)	
75	(1)	Emma Gas Company	550.62
76	(k)	Claim versus the State Building Commis-	
77		sion:	
78		(To be paid from Special Revenue Fund)	
79	(1)	Orpha E. Jones	6,480.00

1 **Sec. 4.—Reappropriations.**—The date for expiring the
 2 unexpended balances, if any, in Items I, II, III, IV, V, VI,
 3 VII, VIII, IX, X, XI, XII, XIII and XIV in the appropria-
 4 tions made by and under the authority of Section 4 of the
 5 1972 Budget Act and reappropriated under Section 7 of the
 6 1973 Budget Act is hereby extended to June 30, 1975 and is
 7 hereby reappropriated to June 30, 1975.

Item VI. Mental Health

1	6. Roney's Point Center	\$	140,000
2	as herein reappropriated, may be used for:		
3	6. Region Ten (10) Mental Retardation		
4	Center	\$	140,000

5 Day Care and Workshop for the Mentally Re-
 6 tarded. Provide day care and rehabilitation
 7 services for Wheeling area. Federal Funds
 8 have been allocated for the construction of
 9 this project and construction can start as
 10 soon as additional State funds are available.
 11 The estimated cost of this project is \$843,096
 12 and \$140,000 of State funds are necessary for
 13 matching funds and to cover miscellaneous
 14 costs.

Item IX. Department of Natural Resources

1	3. Cabwaylingo State Forest	\$	180,000
2	as herein reappropriated, may be used for:		
3	3. Cabwaylingo State Forest	\$	180,000

4 Correct poor drinking water condition by de-
 5 veloping approved water supply, reservoir
 6 and treatment system. Improvements to
 7 campground area, rock basing and draining
 8 road, and approved restroom facilities.
 9 Construct two reservoirs to handle water
 10 storage needs. Group camp improvements.
 11 Replace a storage, garage and office build-
 12 ing. (The building to be replaced was de-
 13 stroyed by fire during the fall of 1973 and
 14 is considered a priority item.)

15	15. Beech Fork Lake (State Park)	\$	100,000
16	as herein reappropriated, may be used for:		
17	15. Beech Fork Lake (State Park)	\$	100,000
18	Land purchase or park improvements. (This		
19	is a project in cooperation with the Corps of		
20	Engineers, and park improvements are neces-		
21	sary prior to acquiring additional land.)		
22	17. Greenbrier State Forest	\$	125,000
23	as herein reappropriated, may be used for:		
24	17. Greenbrier State Forest	\$	125,000
25	Develop water and filtering system so as to pro-		
26	vide acceptable water for all forest needs.		
27	Water drainage correction in cabin area and		
28	winterize cabins. Office building in cabin		
29	area. Expansion of campground area and		
30	playground development (Kate's Mountain).		
31	The date for expiring the unexpended balances, if any,		
32	in Items I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII,		
33	XIII, XIV, XV, XVI and XVII in the appropriations made		
34	by and under the authority of Section 4 of the 1973 Budget		
35	Act, are hereby reappropriated for expenditure during		
36	the fiscal year 1974-75.		

Item XV. *Department of Natural Resources*

1	A. Cass Scenic Railroad		
2	Land Purchase	\$	210,000
5	A. Cass Scenic Railroad,		
6	Land purchase	\$	210,000
7	(as recommended in the feasibility study,		
8	1973).		

1 **Sec. 5. Appropriations from Revenue Sharing Trust Fund.**
 2 —The following items are hereby appropriated from the
 3 Revenue Sharing Trust Fund to be available for expendi-
 4 ture during the fiscal year 1974-75, and none of the moneys
 5 herein appropriated to be used to match Federal Funds.

Item I—*West Virginia Public Employees Retirement Board*
 Acct. No. 614

1	Employers Accumulation Fund	\$	0,000,000
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Item II—*West Virginia Public Employees Insurance Board*

Acct. No. 615

1	Public Employees Health Insurance — State	
2	Contribution	\$ 00,000,000
Item III— <i>Welch Emergency Hospital</i>		\$ 200,000
1	New Hydraulic Elevator (installed)	
2	Hospital Proper	30,000
3	Two (2) Diesel Stand-by Generators	
4	(installed)	40,000
5	Changing all the windows and instal-	
6	ling Tile replacement windows with	
7	insulated glass and full screens	38,880
8	Trimming all windows with aluminum	
9	baked on enamel, white	6,373
10	Covering the overhang with baked on	
11	aluminum, white	24,617
12	Installing aluminum siding on rest of	
13	wood on hospital	5,130
14	Furnishing aluminum siding on all the	
15	wood on the nursing home, including	
16	all trim	2,795
17	Overhang on Nursing Home	4,927
18	Installing new replacement windows on	
19	Nursing Home	14,675
20	Trimming all windows with aluminum	
21	(Nursing Home)	2,603
22	Rewiring Hospital Building—replacing	
23	Neon Sign and Alarm System	27,000
24	Installing Bathroom—Pediatrics	3,000
Item IV— <i>Department of Natural Resources</i>		\$ 3,395,200
1	Babcock State Park (Fayette)	49,000
2	Improve 2.7 miles of Sewel Road	
3	Bluestone State Park (Summers)	215,500
4	Parking and boat launch area	
4a	#1	43,000
5	Parking and boat launch area	
5a	#2	12,500
6	Bluestone development of pic-	
7	nic sites, etc.	160,000

8	Big Spring Trout Rearing Station (Mer-		
8a	cer)	120,000	
9	Little Beaver State Park (Raleigh)	265,700	
10	Pave east access road	25,000	
11	Pave east lake front road.....	16,700	
12	Pave west access road	24,000	
13	To build swimming pool	200,000	
14	Tygart Lake State Park (Taylor)		
15	Repair slide near lodge	50,000	
16	Pricketts Fort State Park (Marion)		
17	Reconstruct Fort	200,000	
18	Cacapon State Park—Completion of		
19	tennis courts, cart paths on golf		
20	course and purchase of golf carts	100,000	
21	Hawks Nest recreation and improve-		
21a	ments	100,000	
22	Canaan Valley	715,000	
26	Grave Creek Mound State Park—To		
27	complete development	750,000	
28	Twin Falls State Park	300,000	
31	Valley Falls—Land purchase, construc-		
32	tion of garage and workshop	230,000	
33	Holly River State Park—capital im-		
34	provements and improvements to		
34a	swimming pool	100,000	
35	Grandview State Park—Water project	200,000	
Item V— <i>Board of Regents—West Virginia Univer-</i>			
<i>sity Medical School</i>		\$	3,124,000
1	Educational Facility Development		
2	Medical Center — Charleston Di-		
3	vision	\$3,000,000	
4	Planning Addition at Medical Cen-		
5	ter Required with Development of		
6	Charleston Division	124,000	
Item VI— <i>Governor's Office — Horticultural En-</i>			
<i>vironmental Lectotype Laboratorium</i>		\$	410,000
Item VII— <i>West Virginia Penitentiary</i>		\$	375,000
1	Construction of Heating Plant (to be construct-		
2	ed outside prison wall)		

Item VIII— <i>State Building Commission</i>	\$ 1,000,000
1 (Establish cafeteria in the Main Unit of the	
2 Capitol Building in the Capitol complex)	
Item IX— <i>Department of Commerce</i>	\$ 300,000
1 Independence Hall, Wheeling, W. Va.	
Item X— <i>Feasibility Study—Seneca Trails</i>	\$ 25,000
1 Scenic Highway (Route 219)	

1 **Sec. 6. Reappropriations—“Revenue Sharing Trust**
2 **Fund.”**—Any unexpended balances in the appropriations
3 made by and under Section 8, of the 1973 Budget Act and
4 Supplementary Acts to Chapter 10, Acts of the Legislature,
5 Regular Session 1973, are hereby reappropriated for ex-
6 penditure during the fiscal year 1974-75.

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

16 (a) An estimate of the amount and sources of all reve-
17 nues accruing to such fund;

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

1 **Sec. 8. 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 ac-
5 count, and shall be expended according to the provisions of
6 Chapter 12, Article 3 of the Code of West Virginia.

1 **Sec. 9. Appropriations 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
11 originally paid.

1 **Sec. 10. 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
15 interest at the rate carried by the bonds for which the
16 advance was made.

1 **Sec. 11. Appropriations from Taxes and License Fees.**—
2 There is hereby appropriated from the soft drinks tax
3 revenues for administration and enforcement of the law
4 relating to said tax, a sum not to exceed two and one-half
5 percent of the total revenues collected. All such salaries
6 and expenses, authorized by law as aforesaid, shall be paid
7 by the tax commissioner through the state treasury out
8 of gross collections.

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
15 out of gross collections.

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

1 **Sec. 13. Appropriations for Local Governments.**—
2 There is hereby appropriated for payment to counties, dis-
3 tricts, and municipal corporations such amounts as will be
4 necessary to pay taxes due county, district, and municipal
5 corporations and which have been paid into the treasury:

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

1 **Sec. 14. Total Appropriations.**—Where only a total
2 sum is appropriated to a spending unit that total sum shall
3 include personal services, current expenses, and capital
4 outlay, except as otherwise provided in TITLE I, Section 3.

1 **Sec. 15. General School Fund.**—The balance of the
2 proceeds of the general school fund remaining after the
3 payment of the appropriations made by this act is appro-
4 priated for expenditure in accordance with Chapter 18,
5 Article 9A, Section 16 of the Code of West Virginia.

TITLE 3. ADMINISTRATION.

- §1. Appropriations conditional.
- §2. Constitutionality.

1 **Section 1. Appropriations Conditional.**—The expendi-
2 ture of the appropriations made by this act, except those
3 appropriations made to the legislative and judicial
4 branches of the state government, are conditioned upon
5 the compliance by the spending unit with the require-

6 ments of Chapter 5A, Article 2 of the Code of West
7 Virginia.

8 Where former spending units have been absorbed by or
9 combined with other spending units by acts of this Legisla-
10 ture, it is the intent of this act that reappropriation shall
11 be to the succeeding or later spending unit created unless
12 otherwise indicated.

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

CHAPTER 3

(S. B. 32—Originating in the Senate Committee on Finance)

[Passed July 3, 1974; 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:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the department of highways; office of federal-state relations; state building commission; department of natural resources; department of finance and administration; board of regents; the governor; department of mental health; board of vocational education, division of vocational rehabilitation; and the adjutant general, 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

3 concerning various claims against the state and agencies
 4 thereof, and in respect to each of the following claims
 5 the Legislature adopts those findings of fact as its own,
 6 and hereby declares it to be the moral obligation of the
 7 state to pay each such claim in the amount specified
 8 below, and directs the auditor to issue warrants for the
 9 payment thereof out of any fund appropriated and avail-
 10 able for the purpose.

11 (a) **Claims against the Department of High-**
 12 **ways:**

13	(1)	Joel V. Pauley	\$ 469.80
14	(2)	Meade J. Moore	\$ 1,292.14
15	(3)	John S. Haines	\$ 750.00
16	(4)	W. Dale Enochs	\$ 175.27
17	(5)	General Telephone Company of the	
18		Southeast	\$ 235.40
19	(6)	William C. McIver and Wilma L.	
20		McIver	\$ 1,000.00
21	(7)	Earnest R. White and Jo Ann	
22		White	\$ 7,500.00
23	(8)	John A. Bacon	\$ 145.83
24	(9)	Donald E. Blackwell	\$ 50.83
25	(10)	Monongahela Power Company	\$ 200.66
26	(11)	Monongahela Power Company	\$ 26.63
27	(12)	Monongahela Power Company	\$ 128.71
28	(13)	Monongahela Power Company	\$ 65.04
29	(14)	Ruth Young	\$ 7,300.00
30	(15)	Swift & Company, Inc.	\$ 633.30
31	(16)	James Hodge	\$ 162.20
32	(17)	Laura Osborne	\$ 2,163.00
33	(18)	Robert Cantley, Jr.	\$ 250.00

34 (b) **Claim against the Office of Federal-State**
 35 **Relations:**

36	(1)	Emma Gas Company	\$ 550.62
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37 (c) **Claim against the State Building Com-**
 38 **mission:**

39	(1)	Orpha E. Jones	\$ 6,480.00
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40	(d)	Claims against the Department of Nat-	
41		ural Resources:	
42	(1)	Richard M. Forney, Jr.	\$ 14,900.00
43	(2)	Hans Peter Moss	\$ 21,500.00
44	(e)	Claims against the Department of Fi-	
45		nance and Administration:	
46	(1)	Helen Forney	\$ 1,593.24
47	(2)	Lenwood J. Moss	\$ 3,508.43
48	(3)	Russell Transfer, Inc.	\$ 44,825.17
49	(f)	Claim against the Board of Regents:	
50	(1)	John G. McGuffey	\$ 269.00
51	(g)	Claim against the Office of the Gover-	
52		nor:	
53	(1)	Joe L. Smith, Jr., Inc. d/b/a Biggs-	
54		Johnston-Withrow	\$ 27,180.96
55	(h)	Claims against the Department of Men-	
56		tal Health:	
57	(1)	Ronald E. House, Administrator of	
58		the estate of Edward P. House,	
59		deceased	\$ 12,000.00
60	(2)	Exxon Company, U.S.A.	\$ 183.38
61	(3)	Eaton Laboratories	\$ 47.81
62	(i)	Claims against the Board of Vocational	
63		Education, Division of Vocational Re-	
64		habilitation:	
65	(1)	University Hospital, Albert B.	
66		Chandler Medical Center, Uni-	
67		versity of Kentucky	\$ 2,029.06
68	(2)	Physician Accounts Department,	
69		Albert B. Chandler Medical Cen-	
70		ter, University Hospital, Univer-	
71		sity of Kentucky	\$ 1,375.00

72	(j) Claim against the Adjutant General:	
73	(1) F. B. Amburgey, Trustee for Hens-	
74	ley Heights Maintenance Fund.....\$	1,308.47
75	Total of all claims	\$160,299.95

76 The Legislature finds that the above moral obligations
 77 and the appropriations made in satisfaction thereof shall
 78 be the full compensation for all claimants, and that prior
 79 to the payments to any claimant provided for in this bill,
 80 the court of claims shall receive a release from said
 81 claimant releasing any and all claims for moral obliga-
 82 tions arising from the matters considered by the Legisla-
 83 ture in the finding of the moral obligations and the mak-
 84 ing of the appropriations for said claimant. The court of
 85 claims shall deliver all releases obtained from claimants
 86 to the department against which the claim was allowed.

CHAPTER 4

(Com. Sub. for H. B. 114—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 24, 1974; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty, relating to crimes against public policy, failure of employers to provide certain benefits for employees; penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-20. Failure of employers to provide certain benefits for employees.

1 In addition to any other penalty or punishment otherwise

2 prescribed by law, any employer who is party to an agreement
3 to pay or provide benefits or wage supplements and who with-
4 out reasonable justification willfully fails or refuses to pay the
5 amount or amounts necessary to provide such benefits or fur-
6 nish such supplements within thirty days after such payments
7 are required to be made, shall be guilty of a misdemeanor, and,
8 upon conviction thereof, shall be fined not less than one hun-
9 dred dollars nor more than five hundred dollars. When such
10 employer is a corporation, the president, secretary, treasurer or
11 officer exercising responsibility for such nonpayment shall be
12 guilty of the offense prohibited by this section.

CHAPTER 5

(Com. Sub. for H. B. 122—By Mr. Seibert)

[Passed July 3, 1974; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding there- to a new article, designated article seventeen, establishing the West Virginia commission on energy, economy and environ- ment; setting forth certain legislative findings in connection therewith; providing legislative objectives and purposes; relat- ing to the composition of such commission and the terms and qualifications of citizen representatives on such commission; va- cancies, office space, the office of chairman, meetings and quorum; providing for a coordinator and other personnel of such commission; relating to the powers and duties of such coordinator; the expenses of members, the coordinator and oth- er personnel; regional and local offices of such commission; setting forth the powers and authority of such commission; pro- viding an expiration date for such article; requiring reports to the joint committee on government and finance; and relating to construction of article and the severability thereof.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended by adding thereto a new article, designated article seventeen, to read as follows:

ARTICLE 17. WEST VIRGINIA COMMISSION ON ENERGY, ECONOMY AND ENVIRONMENT.

- §5-17-1. Legislative purpose and findings.
- §5-17-2. Creation and composition.
- §5-17-3. Terms of citizen representatives; vacancies.
- §5-17-4. Office space, officers; meetings.
- §5-17-5. Expenses of commission members.
- §5-17-6. Coordinator; compensation and general powers; personnel; establishment of regional offices.
- §5-17-7. Commission powers.
- §5-17-8. Expiration of article.
- §5-17-9. Reports to joint committee on government and finance.
- §5-17-10. Construction; severability.

§5-17-1. Legislative purpose and findings.

1 The Legislature declares that given the increasing demand
2 for energy resources concurrent with the constriction of supply
3 and assured availability thereof, given the fundamental depen-
4 dence of economic growth and social progress upon the supply
5 of energy resources, given the economic and social hardships
6 coincident with energy shortages and given the abundant fossile
7 fuel reserves located within our state, the Legislature finds that
8 West Virginia must play a significant role in helping to alle-
9 viate critical energy problems throughout the nation. In order
10 to fulfill that role, the Legislature finds it necessary and desir-
11 able to create an agency within the state government, the
12 functions of which shall be to actively promote and foster re-
13 search designed to achieve cleaner and more efficient fuels, to
14 ascertain the volume of natural resources now existing in West
15 Virginia, to categorize these fuels according to their importance
16 and their potential uses, to insure the equitable allocation of
17 specific petroleum products and other fuels, to advise the var-
18 ious state governmental units having energy related responsibil-
19 ities, to provide a mechanism for citizen participation in the
20 overall development of statewide energy policies and to begin
21 the formulation of specific proposals for future legislative con-
22 sideration with respect to a state energy policy and program.

§5-17-2. Creation and composition.

1 There is hereby created the “West Virginia Commission on
2 Energy, Economy and Environment,” hereinafter referred to as
3 the “commission.” The commission shall consist of nineteen
4 members, as follows: Eleven members, herein referred to as
5 government representatives, who shall be the tax commissioner,
6 the commissioner of commerce, the finance and administration
7 commissioner, the oil and gas conservation commissioner, the
8 director of the department of mines, the director of the depart-
9 ment of natural resources, the director of the geological and
10 economic survey commission, the director of the air pollu-
11 tion control commission, the chairman of the public service
12 commission, a representative from the board of regents, and a
13 representative of the governor; and eight additional citizens of
14 the state, herein referred to as citizen representatives, no more
15 than four of whom shall belong to the same political party.
16 The president of the Senate and the speaker of the House of
17 Delegates shall appoint the eight citizen representative mem-
18 bers of the commission.

§5-17-3. Terms of citizen representatives; vacancies.

1 The citizen representatives shall be appointed for terms of
2 one year each, and until their successors have been appointed
3 and have qualified. Any vacancy as to a citizen representative
4 shall be filled by appointment by the president of the Senate
5 and the speaker of the House of Delegates, for the unexpired
6 term of such citizen representative.

§5-17-4. Office space, officers; meetings.

1 The commission shall be supplied with necessary office space
2 at the seat of government. A majority of the members of the
3 commission shall constitute a quorum for the transaction of its
4 business. The governor shall appoint, from among the mem-
5 bers, a chairman of the commission who shall call meetings.
6 The chairman may call and preside over a meeting of the com-
7 mission at any time, and he shall call a meeting of the com-
8 mission upon the written request of the coordinator. A ma-
9 jority of the commission members present at a meeting shall
10 be required to determine any issues brought before it.

§5-17-5. Expenses of commission members.

1 Each member of the commission shall be reimbursed for all
2 reasonable and necessary expenses actually incurred in the per-
3 formance of his duties as a member of the commission. Requi-
4 sition for such expenses shall be accompanied by a sworn and
5 itemized statement which shall be filed with the auditor.

§5-17-6. Coordinator; compensation and general powers; personnel; establishment of regional offices.

1 (a) The commission shall appoint a coordinator of the com-
2 mission, fix his salary and instruct him regarding his duties and
3 authority under this article. The coordinator is hereby empow-
4 ered and it shall be his duty to execute and carry out, adminis-
5 ter and enforce the provisions of this article in the manner pro-
6 vided herein. The coordinator may, subject to the approval of
7 the commission, employ such personnel as may be necessary
8 for the effective and orderly performance of the functions and
9 services of the commission. The coordinator and other com-
10 mission personnel shall be reimbursed for all reasonable and
11 necessary expenses actually incurred in the performance of
12 commission services upon presentation of properly verified
13 expense accounts as prescribed by law.

14 (b) The commission may establish, maintain and staff re-
15 gional and local offices within the state as determined by the
16 commission to be necessary for the effective and orderly per-
17 formance of the functions and services of the commission.

§5-17-7. Commission powers.

1 The commission is hereby authorized and empowered to:

2 (1) Evaluate and assess energy policies and their impact
3 upon the economy and the environment and make recommen-
4 dations thereon to the governor and the Legislature;

5 (2) Promote energy conservation measures;

6 (3) Cooperate and work with federal, state and local
7 governmental officers, units, activities and agencies in the
8 promotion and attainment of the goals of the commission;

9 (4) Enlist the cooperation of public utilities, civic and
10 community organizations, industrial and commercial organi-
11 zations, labor organizations and other identifiable groups
12 in order to develop and implement programs which further
13 the goals of the commission;

14 (5) Advise all state departments and agencies in energy
15 related activities;

16 (6) Fund the state fuels allocation program;

17 (7) Allocate all energy as required by now existing or
18 hereafter enacted federal regulations or laws, and in con-
19 nection therewith, to receive, investigate and pass upon fuel
20 allocation petitions, requests and complaints as set forth in
21 now existing or hereafter enacted federal regulations or laws;

22 (8) Establish procedures for the fair and equitable review
23 of such fuel allocation petitions, requests and complaints;

24 (9) Hold and conduct public hearings on requests, petitions,
25 complaints, matters and questions before the commission,
26 where jurisdiction has not been assumed by any other state
27 agency;

28 (10) Delegate to the coordinator powers necessary for the
29 effective and orderly performance of his duties;

30 (11) Fund and initiate research and development efforts
31 related to energy, economy or the environment;

32 (12) Fund and initiate economic and geological surveys
33 and studies;

34 (13) For the purposes of this article, accept contributions
35 and gifts and seek and accept aid, grants and other financial
36 assistance from any source whatsoever; and

37 (14) Seek and gather information and data necessary for
38 the formulation of energy, economic and environmental
39 policies.

§5-17-8. Expiration of article.

1 Unless hereafter extended by the Legislature, the provisions
2 of this article shall expire on and be of no further force and
3 effect on and after June thirtieth, one thousand nine hundred
4 seventy-five.

§5-17-9. Reports to joint committee on government and finance.

1 In order for the Legislature to determine whether the pro-
2 visions of this article should be extended beyond June thir-
3 tieth, one thousand nine hundred seventy-five, the commis-
4 sion shall, on or before January twentieth, one thousand nine
5 hundred seventy-five, submit to the joint committee on govern-
6 ment and finance a report of its activities, projects and accom-
7 plishments and of its planned future activities and projects.
8 A final report of the commission's activities, projects and ac-
9 complishments to June thirtieth, one thousand nine hundred
10 seventy-five, shall be submitted to the joint committee on gov-
11 ernment and finance on or before July twenty-first, one thou-
12 sand nine hundred seventy-five.

§5-17-10. Construction; severability.

1 The provisions of this article shall be liberally construed to
2 accomplish its objectives and purposes. If any section, sub-
3 section, subdivision, subparagraph, sentence, or clause of this
4 article is adjudged to be unconstitutional or invalid, such in-
5 validity or unconstitutionality shall not affect the validity of
6 the remaining portions of this article and, to this end, the
7 provisions of this article are hereby declared to be severable.

◇

CHAPTER 6**(Com. Sub. for S. B. 18—By Mr. Hubbard)****[Passed June 25, 1974; in effect from passage. Approved by the Governor.]**

AN ACT to amend and reenact section five, article six, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the legal rate of interest; specifying a minimum charge for the loan or forbearance of money or other thing; relating to the authorization of a higher interest rate by contract in writing; prescribing an alternative contract rate of interest for a loan of money for certain residential real estate purposes,

subject to certain restrictions, conditions and limitations; defining the term "points"; and directing the commissioner of banking to require banking institutions, savings and loan associations and other financial institutions to file certain quarterly reports with respect to loans of money for certain residential real estate purposes.

Be it enacted by the Legislature of West Virginia:

That section five, article six, 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 6. MONEY AND INTEREST.

§47-6-5. Legal rate of interest; agreements in writing fixing rate of interest; agreements in writing fixing rate of interest for residential real estate purposes; providing there may be no penalty upon prepayment; quarterly reports required.

1 (a) Except in cases where it is otherwise specially
2 provided by law, legal interest shall continue to be at the
3 rate of six dollars upon one hundred dollars for a year,
4 and proportionately for a greater or less sum, or for a
5 longer or shorter time, and no person upon any contract
6 other than a contract in writing shall take for the loan or
7 forbearance of money, or other thing, above the value of
8 such rate: *Provided*, That a charge of one dollar may
9 be made for any loan or forbearance of money or other
10 thing, where the interest at the rate aforesaid would not
11 amount to that sum, and the same shall not be a usurious
12 charge or rate of interest.

13 (b) Parties may contract in writing for the payment
14 of interest for the loan or forbearance of money at a rate
15 not to exceed eight dollars upon one hundred dollars for
16 a year, and proportionately for a greater or less sum, or
17 for a longer or shorter time, including points expressed
18 as a percentage of the loan divided by the number of
19 years of the loan contract.

20 (c) As an alternative to the interest rate authorized by
21 the provisions of subsections (a) or (b) of this section
22 and any interest rate authorized by any other provision
23 of this code, where a loan of money is made for the pur-

24 pose of purchasing real estate upon which is situate a
25 single family or multi-family residential unit or units, or
26 for the construction of a single family or multi-family
27 residential unit or units upon real estate, or additions or
28 improvements thereto, or for the purpose of the payment
29 of a loan theretofore made for the construction of a
30 single family or multi-family residential unit or units
31 upon real estate, and any such loan is secured by a first
32 mortgage or first deed of trust upon such real property,
33 after the effective date of this section and until the first
34 day of July, one thousand nine hundred seventy-five, the
35 parties may contract in writing for the payment of interest
36 for such loan of money at a rate not to exceed nine dollars
37 upon one hundred dollars for a year and proportionately
38 for a greater or less sum, or for a longer or shorter time,
39 including points expressed as a percentage of the loan
40 divided by the number of years of the loan contract, and
41 such maximum rate shall be valid for the term of such
42 contract: *Provided*, That the parties may contract in
43 writing for the payment of interest for such loan of money
44 at the rate specified in this subsection (c) only if such
45 contract in writing also specifies that there shall be no
46 penalty whatever for prepayment of the loan in whole
47 or in part by cash, a new loan or otherwise, and such
48 contract provision prohibiting any such penalty shall
49 govern and control notwithstanding any other provision
50 of this code to the contrary, whether such other provision
51 was enacted before or after the enactment of this section:
52 *Provided, however*, That no such contract shall contain
53 an escalation of interest clause which would allow an
54 increase in the rate of interest being charged.

55 (d) For the purpose of subsections (b) and (c) of this
56 section, the term "points" is defined as the amount of
57 money, or other consideration, received by the lender,
58 from whatever source, as a consideration for making the
59 loan and not otherwise expressly permitted by statute.

60 (e) In order for the Legislature to determine whether
61 the period of time during which parties may enter into a
62 contract for the payment of the maximum rate of interest
63 authorized in subsection (c) of this section should be

64 extended beyond the thirtieth day of June, one thousand
65 nine hundred seventy-five, the commissioner of banking
66 shall promulgate rules and regulations requiring all bank-
67 ing institutions, savings and loan associations and other
68 financial institutions making loans in this state of the type
69 specified in said subsection (c) to file with him quarterly
70 reports as to the number and amount of loans of the
71 type specified in said subsection (c) made during the
72 preceding quarter, and such quarterly reports shall con-
73 tain sufficient detail for the Legislature to ascertain
74 whether the authorization of the maximum interest rate
75 provided in said subsection (c) has resulted in the making
76 of more loans of the type specified in said subsection (c).
77 The first such report shall cover the quarter which began
78 on the first day of April, one thousand nine hundred
79 seventy-four.

CHAPTER 7

(Com. Sub. for H. B. 130—By Mr. Brende and Mr. Donley)

[Passed July 3, 1974; in effect July 1, 1974. Approved by the Governor.]

AN ACT to amend and reenact article twenty-four, chapter seven-
teen of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to abandoned motor vehicles,
junked motor vehicles, old vehicle tires and abandoned or
inoperative household appliances; setting forth certain legislative
findings and a declaration of public policy with respect thereto;
defining terms used in said article twenty-four; prohibiting the
abandonment of a motor vehicle in certain places, the placing or
depositing of a junked motor vehicle in certain places, and the
placing or depositing of an old vehicle tire or inoperative
or abandoned household appliance in certain places; providing
criminal offenses and penalties; placing supervision of program
for removal of all such items in the department of highways;
authorizing rules and regulations; empowering and authorizing
enforcement agencies to take all such items into custody and
possession and dispose of the same; requiring notice to owner of

and lienholders with respect to any abandoned motor vehicle or junked motor vehicle taken into custody and possession; relating to the method, form and contents of such notice; providing for the disposal of all such items taken into custody and possession; relating to the handling, disposition and use of proceeds from the sale of all such items taken into custody and possession, and to licensed salvage yards and demolishers; establishing the "abandoned and junked property fund" in the state treasury; providing for a portion of certain fees and for other moneys and proceeds to be deposited therein; relating to transfers from such special fund and expenditures thereof; authorizing injunctive relief; and providing a rule of construction and severability clause.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 24. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, OLD VEHICLE TIRES AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.

- §17-24-1. Legislative findings; statement of policy.
- §17-24-2. Definitions.
- §17-24-3. Abandonment of motor vehicle prohibited; penalty.
- §17-24-4. Junked motor vehicles prohibited in certain places; penalty.
- §17-24-5. Old vehicle tires and inoperative or abandoned household appliances in certain places prohibited; penalty.
- §17-24-6. Department of highways to administer funds for removal of abandoned and junked property; rules and regulations authorized; existing or new division; duties of supervisor.
- §17-24-7. Authority to take possession of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.
- §17-24-8. Notification to motor vehicle owner and lienholders.
- §17-24-9. Disposal of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.
- §17-24-10. Proceeds from sale of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.
- §17-24-11. Collection of portion of fee on issuance of certificate of title to new motor vehicles for deposit in abandoned and junked property fund; establishment of such fund; audit.
- §17-24-12. Injunctive relief; additional remedy.
- §17-24-13. Construction; severable provisions.

§17-24-1. Legislative findings; statement of policy.

1 The Legislature recognizes and declares that abandoned
2 motor vehicles, junked motor vehicles, old vehicle tires and
3 certain abandoned or inoperative household appliances are and
4 constitute a public nuisance and hazard to both adults and
5 children and therefore are dangerous and constitute a clear
6 and present danger; that said abandoned motor vehicles,
7 junked motor vehicles, old vehicle tires and certain abandoned
8 or inoperative household appliances serve as harborage and
9 breeding places for rodents, mosquitoes, fleas, ticks, mice,
10 rats and other insects, pests and flies injurious to the public
11 health, safety and general welfare; that abandoned motor
12 vehicles and junked motor vehicles serve frequently as tem-
13 porary or permanent places of human residence uncondusive
14 to public health, safety and welfare; that the accumulation and
15 storage of any of such items or parts thereof on private or
16 public property, including but not limited to highways, is
17 hereby found to create a condition tending to reduce the
18 value of private property and to promote blight and deteriora-
19 tion which if permitted to remain will continue to destroy
20 the natural beauty of this state and have adverse economic and
21 social effects; that said abandoned motor vehicles, junked
22 motor vehicles, old vehicle tires and certain abandoned or
23 inoperative household appliances constitute an attractive
24 nuisance creating a hazard to the health and safety of minors;
25 that said items are nearly always located on public highways,
26 rights-of-way, or within sight of such highway rights-of-way
27 and on private property within a reasonable proximity thereto,
28 and when so located the cost of controlling or abating such
29 visual pollution is a cost of maintenance of public highways;
30 that said visual pollution elsewhere located may be controlled
31 or abated by funds made available for such purpose from
32 sources other than those contemplated by section fifty-two,
33 article six of the West Virginia constitution; that all such
34 visual pollution is a deterrent to economic development; and
35 that it is in the public interest and welfare to provide for a
36 program to eliminate the unsightly practice of abandoning
37 motor vehicles, old vehicle tires and certain abandoned or
38 inoperative household appliances. In view of these findings,
39 the Legislature declares it to be the public policy of the

40 state of West Virginia to eliminate the present danger resulting
41 from abandoned motor vehicles, junked motor vehicles, old
42 vehicle tires and certain abandoned or inoperative household
43 appliances and to eliminate the visual pollution resulting from
44 these items, and that in order to provide for the public health,
45 safety and welfare, and quality of life, to enact legislation to
46 that end by providing expeditious means and methods for
47 effecting the disposal of abandoned motor vehicles, junked
48 motor vehicles, old vehicle tires and certain abandoned house-
49 hold appliances. The Legislature further finds and declares
50 that the presence of an abandoned motor vehicle, junked
51 motor vehicle, old vehicle tire or an abandoned or inoperative
52 household appliance, or any part thereof, on private or public
53 property, including but not limited to highways, except as
54 expressly hereinafter permitted, is a public nuisance injurious
55 to the public health, safety and general welfare of the citizens
56 of this state which shall be abated as such by the methods
57 provided in this article.

§17-24-2. Definitions.

1 Unless the context clearly indicates a different meaning, as
2 used in this article:

3 (1) "Abandoned household appliance" means a refri-
4 gerator, deepfreeze, range, stove, automatic dishwasher, clothes
5 washer, clothes dryer, trash compactor, television set, radio,
6 air conditioning unit, commode or bed springs, to which no
7 person claims ownership and which is not in an enclosed
8 building, a licensed salvage yard or the actual possession of
9 a demolisher.

10 (2) "Abandoned motor vehicle" means any motor vehicle,
11 or major part thereof, which is inoperative and which has been
12 abandoned on public or private property for any period of time
13 over five days, other than in an enclosed building or in a
14 licensed salvage yard or at the business establishment of a
15 demolisher, or any motor vehicle, or major part thereof,
16 which has remained illegally on public or private property
17 for any period of time over five days, or any motor vehicle,
18 or major part thereof, which has remained on private property
19 without consent of the owner or person in control of the
20 property for any period of time over three days, or any motor

21 vehicle, or major part thereof, which is unattended, discarded,
22 deserted and unlicensed and is not in an enclosed building, a
23 licensed salvage yard or the actual possession of a demolisher.

24 (3) "Demolisher" means any person licensed by the com-
25 missioner of the department of highways whose business, to any
26 extent or degree, is to convert a motor vehicle or any part
27 thereof or an inoperative household appliance into processed
28 scrap or scrap metal, or into saleable parts, or otherwise to
29 wreck or dismantle vehicles or appliances.

30 (4) "Enclosed building" means a structure surrounded by
31 walls or one continuous wall, and having a roof enclosing
32 the entire structure and includes a permanent appendage
33 thereto.

34 (5) "Enforcement agency" means any of the following or
35 any combination of the following:

36 (a) Public law-enforcement officers of this state, including
37 conservation officers;

38 (b) Public law-enforcement officers of any county, city
39 or town within this state; and

40 (c) The commissioner of the department of highways, his
41 duly authorized agents and employees.

42 (6) "Inoperative household appliance" means a refrigera-
43 tor, deepfreeze, range, stove, automatic dishwasher, clothes
44 washer, clothes dryer, trash compactor, television set, radio,
45 air conditioning unit, commode or bed springs, which by rea-
46 son of mechanical or physical defects can no longer be used
47 for its intended purpose, and which is either not serving a
48 functional purpose or use or is not in an enclosed building, a
49 licensed salvage yard or the actual possession of a demolisher.

50 (7) "Junked motor vehicle" means a motor vehicle, or any
51 part thereof (other than an on-premise farm utility vehicle),
52 which (a) is discarded, wrecked, ruined, scrapped or dis-
53 mantled, (b) cannot pass the state inspection required by
54 article sixteen, chapter seventeen-c of this code and (c) is
55 either not serving a functional purpose or use or is not in an
56 enclosed building, a licensed salvage yard or the actual pos-
57 session of a demolisher.

58 (8) "Licensed salvage yard" means a salvage yard licensed
59 under article twenty-three of this chapter.

60 (9) "Motor vehicle" means a vehicle which is or was self-
61 propelled, including but not limited to automobiles, trucks,
62 buses and motorcycles.

63 (10) "Old vehicle tire" means a pneumatic tire in which
64 compressed air is designed to support a load, but which be-
65 cause of wear, damage or defect can no longer safely be used
66 on a motor vehicle and which is either not serving a functional
67 purpose or use or is not in an enclosed building, a licensed
68 salvage yard or the actual possession of a demolisher.

69 (11) "Person" includes a natural person, corporation, firm,
70 partnership, association or society, and the plural as well as the
71 singular.

§17-24-3. Abandonment of motor vehicle prohibited; penalty.

1 (a) No person shall, within this state, abandon a motor
2 vehicle upon the right-of-way of any public highway, upon
3 any other public property, or upon any private property which
4 he does not own, lease, rent or otherwise control unless it be
5 at a licensed salvage yard or at the business establishment of a
6 demolisher.

7 (b) Any person who violates any provision of subsection
8 (a) of this section shall be guilty of a misdemeanor, and, upon
9 conviction thereof, shall be fined not less than twenty-five
10 dollars nor more than five hundred dollars or imprisoned in
11 the county jail not more than six months, or both fined and
12 imprisoned.

**§17-24-4. Junked motor vehicles prohibited in certain places;
penalty.**

1 No person shall, within this state, place or deposit any
2 junked motor vehicle upon the right-of-way of any public
3 highway or upon any other public property; nor shall any
4 person, within this state, place or deposit any junked motor
5 vehicle upon any private property which he does not own,
6 lease, rent, or otherwise control unless it be at a licensed salvage
7 yard or at the business establishment of a demolisher. Any
8 person who violates any provision of this section shall be

9 guilty of a misdemeanor, and, upon conviction thereof, shall
10 be fined not less than twenty-five dollars nor more than five
11 hundred dollars or imprisoned in the county jail for not more
12 than six months, or both fined and imprisoned.

§17-24-5. Old vehicle tires and inoperative or abandoned household appliances in certain places prohibited; penalty.

1 No person shall, within this state, place or deposit any old
2 vehicle tire or inoperative or abandoned household appliance
3 upon the right-of-way of any public highway or upon any
4 other public property nor abandon the same upon any private
5 property which he does not own, lease, rent or otherwise control,
6 unless it be at a licensed salvage yard or at the business
7 establishment of a demolisher. Any person who violates any
8 provision of this section shall be guilty of a misdemeanor, and,
9 upon conviction thereof, shall be fined not less than twenty-
10 five dollars nor more than five hundred dollars or imprisoned in
11 the county jail for not more than six months, or both fined
12 and imprisoned.

§17-24-6. Department of highways to administer funds for removal of abandoned and junked property; rules and regulations authorized; existing or new division; duties of supervisor.

1 The department of highways shall administer all funds made
2 available to such department for taking abandoned motor
3 vehicles, junked motor vehicles, old vehicle tires and inoperative
4 and abandoned household appliances into custody and possession.
5 The commissioner of the department of highways is
6 hereby authorized and empowered (a) to promulgate reasonable
7 rules and regulations deemed necessary to implement
8 the provisions of this article, and (b) to administer such funds
9 through an existing division of such department or create a
10 new division thereof for such purpose, as he deems appropriate.

11 The supervisor of the responsible division shall also have
12 the following powers and duties:

13 (1) To apply and carry out the provisions of this article
14 and the rules and regulations promulgated hereunder.

15 (2) To investigate from time to time the operation and
16 effect of this article and of the rules and regulations pro-

17 mulgated hereunder and to report his findings and recom-
18 mendations to the commissioner of the department of high-
19 ways and to the governor.

§17-24-7. Authority to take possession of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.

1 Any enforcement agency which has knowledge of or dis-
2 covers or finds any abandoned motor vehicle, any junked
3 motor vehicle, old vehicle tire or inoperative or abandoned
4 household appliance on either public or private property
5 shall take the same into his custody and possession. For that
6 purpose, the enforcement agency may employ its own per-
7 sonnel, equipment and facilities or hire persons, equipment
8 and facilities for the purpose of removing, preserving and
9 storing abandoned motor vehicles, junked motor vehicles,
10 old vehicle tires or inoperative or abandoned household ap-
11 pliances: *Provided*, That before taking any abandoned motor
12 vehicle or junked motor vehicle into custody and possession
13 from private property, the enforcement agency shall give the
14 private property owner and the owner of said motor vehicle,
15 if ascertainable, thirty days' notice by registered or certified
16 mail that such action will be taken unless the said motor
17 vehicle is restored to a functional use.

§17-24-8. Notification to motor vehicle owner and lienholders.

1 (a) The enforcement agency which takes into custody and
2 possession an abandoned motor vehicle or junked motor
3 vehicle shall, within seven days after taking custody and
4 possession thereof, notify the last known registered owner of
5 such motor vehicle and all lienholders of record that such
6 motor vehicle has been taken into custody and possession, such
7 notification to be by registered or certified mail, return receipt
8 requested. The notice shall contain a description of such
9 motor vehicle, including the year, make, model, manufacturer's
10 serial or identification number or any other number which may
11 have been assigned to such motor vehicle by the commissioner
12 of motor vehicles and any distinguishing marks; set forth the
13 location of the facility where such motor vehicle is being
14 held and the location where such motor vehicle was taken into

15 custody and possession; inform the owner and any lienholders
16 of record of their right to reclaim such motor vehicle within
17 ten days after the date notice was received by the owner or
18 lienholders, upon payment of all towing, preservation and stor-
19 age charges resulting from taking and placing such motor
20 vehicle into custody and possession, and state that the failure of
21 the owner or lienholders of record to exercise their right to
22 reclaim such motor vehicle within such ten-day period shall
23 be deemed a waiver by the owner and all lienholders of record
24 of all right, title and interest in such motor vehicle and of
25 their consent to the sale or disposal of the abandoned motor
26 vehicle or junked motor vehicle at a public auction or to a
27 licensed salvage yard or demolisher.

28 (b) If the identity of the last registered owner of the
29 abandoned motor vehicle or junked motor vehicle cannot be
30 determined, or if the certificate of registration or certificate
31 of title contains no address for the owner, or if it is impossible
32 to determine with reasonable certainty the identity and ad-
33 dresses of all lienholders, notice shall be published as a Class I
34 legal advertisement in compliance with the provisions of article
35 three, chapter fifty-nine of this code, and the publication area
36 for such publication shall be the county wherein such motor
37 vehicle was located at the time such enforcement agency took
38 custody and possession thereof, and such notice shall be
39 sufficient to meet all requirements of notice pursuant to this
40 article. Any notice by publication may contain multiple listings
41 of abandoned motor vehicles and junked motor vehicles. The
42 notice shall be published within seven days after such motor
43 vehicle is taken into custody and possession and shall have
44 the same contents required for a notice pursuant to subsection
45 (a) of this section, except that the ten-day period shall run
46 from the date such notice is published as aforesaid.

47 (c) The consequences and effect of failure to reclaim an
48 abandoned motor vehicle or junked motor vehicle within the
49 ten-day period after notice is received by registered or certified
50 mail or within ten days after the notice is published in a news-
51 paper as aforesaid shall be set forth in such notice.

§17-24-9. Disposal of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.

1 (a) If an abandoned motor vehicle or junked motor ve-
2 hicle is not reclaimed as provided for in section eight of this
3 article, the enforcement agency in possession of the abandon-
4 ed motor vehicle or junked motor vehicle shall sell it either
5 at a public auction or to a licensed salvage yard or demolisher.
6 The purchaser of such motor vehicle shall take title to such
7 motor vehicle free and clear of all liens and claims of owner-
8 ship, and shall receive a sales receipt from the enforcement
9 agency which disposed of such motor vehicle. The sales re-
10 ceipt at such sale shall be sufficient title only for purposes of
11 transferring such motor vehicle to a licensed salvage yard or
12 to a demolisher for demolition, wrecking or dismantling, and
13 no further titling of such motor vehicle shall be necessary by
14 either the purchaser at the auction, the licensed salvage yard
15 or the demolisher, who shall be exempt from the payment of
16 any fees and taxes required under article three, chapter seven-
17 teen-a of this code: *Provided*, That the purchaser at the auc-
18 tion must place such motor vehicle in the possession of a
19 licensed salvage yard or demolisher within twenty days from
20 the date he purchased such motor vehicle and the licensed
21 salvage yard or demolisher must demolish, wreck or dismantle
22 such motor vehicle within six months after taking possession
23 of such motor vehicle and if such licensed salvage yard or
24 demolisher does not, such licensed salvage yard or demolisher
25 shall be required to pay all fees and taxes required under
26 article three, chapter seventeen-a of this code.

27 (b) When an enforcement agency has in its custody and
28 possession old vehicle tires or inoperative or abandoned house-
29 hold appliances collected in accordance with section seven of
30 this article, it shall sell such property from time to time at
31 public auction or to a licensed salvage yard or demolisher.

§17-24-10. Proceeds from sale of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.

1 From the proceeds of any such sale, the enforcement agency
2 which sold the abandoned motor vehicle, junked motor vehicle,

3 old vehicle tire or inoperative or abandoned household ap-
4 pliance shall reimburse itself for any expenses it may have
5 incurred in removing, towing, preserving and storing said
6 property and the expenses of conducting any auction and any
7 notice and publication expenses incurred pursuant to this
8 article.

9 Any remainder from the proceeds of such sale shall be de-
10 posited in the state treasury to be kept and maintained as a
11 special revolving account, hereinafter established and desig-
12 nated as the "Abandoned and Junked Property Fund": *Pro-*
13 *vided*, That any remainder from the proceeds of the sale
14 of an abandoned motor vehicle or junked motor vehicle after
15 payment of such expenses shall be held for the last registered
16 owner of such motor vehicle or any lienholder for ninety days,
17 after which time, if no owner or lienholder claims the remain-
18 der, it shall be deposited in said special fund.

19 Any moneys so collected and deposited in said special fund
20 shall be used solely by the department of highways for the
21 payment of auction, towing, removing, preserving, storing,
22 notice and publication costs which results from taking other
23 abandoned motor vehicles, junked motor vehicles, old vehicle
24 tires and inoperative or abandoned household appliances into
25 custody and possession.

**§17-24-11. Collection of portion of fee on issuance of certificate of
title to new motor vehicles for deposit in abandoned
and junked property fund; establishment of such fund;
audit.**

1 One dollar of the fee collected by the department of motor
2 vehicles for the issuance of a certificate of title to a new motor
3 vehicle on and after the effective date of this article and
4 through June thirtieth, one thousand nine hundred seventy-five,
5 shall be transmitted by such department of motor vehicles to
6 the state treasurer and deposited by him in the "Abandoned
7 and Junked Property Fund," hereinafter in this section estab-
8 lished: *Provided*, That no further transmittals shall be made
9 after a total of two hundred thousand dollars has been so col-
10 lected and deposited in such fund.

11 There is hereby established a special fund in the state

12 treasury which is hereby designated the "Abandoned and Junk-
13 ed Property Fund." The state treasurer shall quarterly trans-
14 fer to the account of the department of highways one fourth
15 of all moneys appropriated by the Legislature for implemen-
16 tation of the provisions of this article, and shall quarterly
17 transfer to such account all fees collected and deposited in
18 such special fund, as aforesaid, to the date of such transfer,
19 and the net proceeds deposited in such special fund, as pro-
20 vided in section ten of this article, to the date of such trans-
21 fer. The moneys, fees and net proceeds transferred to the de-
22 partment of highways and any federal moneys made available
23 for such purpose shall be used to defray all costs incurred
24 in the removal and disposal of property as authorized in this
25 article. The legislative auditor shall quarterly conduct an audit
26 of the funds available to the department of highways for im-
27 plementation of the provisions of this article.

§17-24-12. Injunctive relief; additional remedy.

1 In addition to all other remedies provided for in this
2 article, the attorney general of this state, the prosecuting at-
3 torney of any county where any violation of any provision of
4 this article occurs, or any citizen, resident or taxpayer of the
5 county where any violation of any provision of this article
6 occurs, may apply to the circuit court, or the judge thereof in
7 vacation, of the county where the alleged violation occurred,
8 for an injunction to restrain, prevent or abate the maintenance
9 and storage of abandoned motor vehicles, junked motor ve-
10 hicles, old vehicle tires or inoperative or abandoned household
11 appliances, in violation of any provision of this article, or the
12 violation of any other provision of this article.

§17-24-13. Construction; severable provisions.

1 The provisions of this article shall be liberally construed to
2 accomplish the objectives and purposes hereof. If any pro-
3 vision of this article or the application thereof to any person
4 or circumstance be held invalid or unconstitutional by any
5 court of competent jurisdiction, such invalidity or unconsti-
6 tutionality shall not affect or invalidate other provisions or
7 applications, and to this end, all of the provisions of this ar-
8 ticle are hereby declared to be severable.

CHAPTER 8

(Com. Sub. for S. B. 26—By Mr. Hubbard)

[Passed July 3, 1974; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two, three, three-a, four, five, six, seven, eight, eight-a, ten, fourteen, fifteen, seventeen, nineteen, twenty-three and twenty-four, article five-a of said chapter twenty, relating to water resources and water pollution generally; abolishing the water resources board and creating a new water resources board; relating to the composition of such board; establishing limitations as to individuals who may be appointed to or serve upon such board; defining terms and concepts in this regard; relating to the terms, oath, removal, compensation and expenses of the members of such board; vacancies on such board; meetings, officers and quorum of such board; others who are to work with such board and the chief of the water resources division of the department of natural resources; and the records of such board; defining terms used in the water pollution control act; relating to the general powers and duties of the chief of the division of water resources and the water resources board with respect to water pollution; implementation and enforcement of the federal water pollution control act and the state's participation in the national pollutant discharge elimination system; and rules and regulations promulgated by the water resources board; establishing additional requirements as to records, reports, information, monitoring and sampling by owner or operator of any point source of water pollutants; granting to the chief of the division of water resources and his authorized representatives a right of entry and access; relating to water quality standards and effluent limitations; cooperation with other governments and agencies with respect to water pollution and the reduction thereof; and the procedures to be followed and the criteria to be considered in the granting or denial of water pollution control permits;

specifying that other discharge permits or discharge authorization shall not be required, with certain exceptions; relating to confidential information; authorizing an increase in the required fee for a water pollution control permit; relating to the role of other agencies and individuals in the granting of water pollution control permits; requiring that all water pollution control permits have an expiration date not to exceed five years; relating to time standards for action upon an application for a water pollution control permit; the effect of act upon water pollution control permits previously issued and procedures in connection therewith; the revocation, suspension or modification of water pollution control permits; the reissuance of such permits; voluntary water quality monitors and the admissibility into evidence of water samples and analyses; enforcement orders under the water pollution control act; control by state as to pollution of waters; appeals to and before the water resources board; and administrative procedures; authorizing the imposition and collection of civil penalties; relating to injunctive enforcement; establishing prohibitions, criminal offenses and penalties; relating to conflicting provisions; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That section three, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two, three, three-a, four, five, six, seven, eight, eight-a, ten, fourteen, fifteen, seventeen, nineteen, twenty-three and twenty-four, article five-a of said chapter twenty be amended and reenacted, all to read as follows:

Article

5. Water Resources.

5A. Water Pollution Control Act.

ARTICLE 5. WATER RESOURCES.

§20-5-3. Water resources board created; composition and organization; appointment, qualifications, terms, oaths, removal, compensation and expenses of members; others to assist board and division; vacancies; quorum; meetings; records.

1 (a) The state water resources board heretofore created

2 and established as successor to the state water commission
3 and the state water resources commission is hereby
4 abolished. A new state water resources board is hereby
5 created and established as a public corporation. As such
6 the board may sue and be sued, plead and be impleaded,
7 contract and be contracted with, and shall have and use
8 a common seal.

9 (b) The board shall be composed of five members who
10 shall be appointed by the governor with the advice and
11 consent of the Senate. Not more than three members
12 of the board shall be of the same political party. Indi-
13 viduals appointed to the board shall be persons who by
14 reasons of previous training and experience are knowl-
15 edgeable in the husbandry of the state's water resources
16 and with at least one member with experience in indus-
17 trial pollution control: *Provided*, That no member of the
18 board shall receive, or during the two years next pre-
19 ceding his appointment, shall have received a "significant
20 portion of his income" directly or indirectly from a per-
21 mit holder or an applicant for a permit issued under any
22 of the provisions of this chapter. For the purposes of
23 this subsection: (1) The term "significant portion of his
24 income" shall mean ten percent of gross personal income
25 for a calendar year, except that it shall mean fifty per-
26 cent of gross personal income for a calendar year if the
27 recipient is over sixty years of age and is receiving such
28 portion pursuant to retirement, a pension or similar ar-
29 rangement; (2) the term "income" includes retirement
30 benefits, consultant fees and stock dividends; (3) income
31 is not received "directly or indirectly" from "permit
32 holders" or "applicants for a permit" where it is derived
33 from mutual-fund payments or from other diversified
34 investments with respect to which the recipient does not
35 know the identity of the primary sources of income; and
36 (4) the terms "permit holders" and "applicants for a
37 permit" shall not include any university or college oper-
38 ated by this state.

39 (c) The members of the board shall be appointed for
40 overlapping terms of five years, except that the original
41 appointments shall be for terms of one, two, three, four

42 and five years, respectively. Any member whose term
43 expires may be reappointed by the governor. At its organ-
44 izational meeting, one member of the board shall be
45 selected chairman to serve as chairman at the will and
46 pleasure of the members of the board. Members of the
47 board shall, before performing any duty, take and sub-
48 scribe to the oath required by section five, article four of
49 the constitution of West Virginia. Members of the board
50 may be removed only for the same causes and in like
51 manner as elective state officers. Any vacancy in the
52 office of a member of the board shall be filled by appoint-
53 ment by the governor for the unexpired term of the
54 member whose office shall be vacant. Each vacancy
55 occurring in the office of a member of the board shall be
56 filled by appointment within sixty days after such vacancy
57 occurs. Each member of the board shall, out of moneys
58 appropriated for such purposes, be paid as compensation
59 for attending meetings of the board and for necessary
60 travel to and from such meetings forty dollars per day.
61 In addition to such compensation, each member of the
62 board shall be reimbursed, out of moneys appropriated
63 for such purposes, all sums which he necessarily shall
64 expend in the discharge of his duties as a member of such
65 board. The director of the division of sanitary engineer-
66 ing of the state department of health shall perform such
67 services as the board and the chief of the division of
68 water resources may request of him in connection with
69 the discharge of their duties, and he shall be reimbursed,
70 out of moneys appropriated for such purposes, all sums
71 which he necessarily shall expend in the performance of
72 such service. Nothing contained in this article or in
73 article five-a of this chapter, however, shall be construed
74 to limit or interfere with the power of the state depart-
75 ment of health to select, employ and direct the director
76 of the division of sanitary engineering of said department,
77 or any employee thereof who in any way may perform
78 any services for the board or the division of water re-
79 sources. The college of engineering at West Virginia
80 University and the schools and departments of engineer-
81 ing at other institutions of higher education operated by
82 this state, under the direction of the dean or other head

83 thereof, shall, insofar as they can, without interfering
 84 with their usual and regular activities, aid and assist the
 85 board and the division of water resources in the study
 86 and research of questions connected with water pollution
 87 and the control and reduction thereof in accordance with
 88 the provisions of article five-a of this chapter. Such dean
 89 or other head shall be reimbursed, out of moneys appro-
 90 priated for such purposes, all sums which he necessarily
 91 shall expend in the performance of any services he may
 92 render to the board and the division under the provisions
 93 hereof.

94 A majority of the board shall constitute a quorum for
 95 the transaction of business. The board shall meet at such
 96 times and places as it may determine and shall meet on
 97 call of the chairman. It shall be the duty of the chairman
 98 to call a meeting of the board on the written request of
 99 three members thereof. The board shall keep an accurate
 100 record of all of its proceedings and maintain such board
 101 records and make certificates thereof or therefrom as may
 102 be required by law. The board shall employ a secretary
 103 and necessary clerical assistance.

ARTICLE 5A. WATER POLLUTION CONTROL ACT.

§20-5A-2. Definitions.

PART II. CHIEF OF DIVISION OF WATER RESOURCES AND WATER RESOURCES BOARD.

§20-5A-3. General powers and duties of chief and board with respect to
 pollution.

§20-5A-3a. Standards of water quality and effluent limitations.

§20-5A-4. Cooperation with other governments and agencies.

PART III. PERMIT.

§20-5A-5. Prohibitions; permits required.

§20-5A-6. Form of application for permit; information required; fees.

§20-5A-7. Procedure concerning permits required under article; transfer
 of permits; prior permits.

§20-5A-8. Inspections; orders to compel compliance with permits; service of
 orders.

§20-5A-8a. Voluntary water quality monitors; appointment; duties; compen-
 sation.

§20-5A-10. Orders of chief to stop or prevent discharges or deposits or take
 remedial action; service of orders.

§20-5A-14. Control by state as to pollution; continuing jurisdiction.

PART V. APPEAL AND REVIEW PROCEDURES.

§20-5A-15. Appeal to water resources board.

PART VI. ACTIONS.

§20-5A-17. Civil penalties and injunctive relief.

PART VII. VIOLATIONS AND PENALTIES.

§20-5A-19. Violations; criminal penalties.

§20-5A-23. Conflicting provisions.

§20-5A-24. Severability of provisions.

§20-5A-2. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 (a) "Director" shall mean the director of the depart-
4 ment of natural resources;

5 (b) "Board" shall mean the state water resources
6 board;

7 (c) "Chief" shall mean the chief of the division of
8 water resources of the department of natural resources;

9 (d) "Person," "persons" or "applicant" shall mean any
10 industrial user, public or private corporation, institution,
11 association, firm or company organized or existing under
12 the laws of this or any other state or country; state of
13 West Virginia; governmental agency; political subdivision;
14 county court; municipal corporation; industry; sanitary
15 district; public service district; drainage district; soil con-
16 servation district; watershed improvement district; part-
17 nership; trust; estate; person or individual; group of per-
18 sons or individuals acting individually or as a group; or
19 any other legal entity whatever.

20 (e) "Water resources," "water" or "waters" shall mean
21 any and all water on or beneath the surface of the ground,
22 whether percolating, standing, diffused or flowing, wholly
23 or partially within this state, or bordering this state and
24 within its jurisdiction, and shall include, without limiting
25 the generality of the foregoing, natural or artificial lakes,
26 rivers, streams, creeks, branches, brooks, ponds (except
27 farm ponds, industrial settling basins and ponds and water

28 treatment facilities), impounding reservoirs, springs, wells
29 and watercourses;

30 (f) "Pollution" shall mean (1) the discharge, release,
31 escape, deposit or disposition, directly or indirectly, of
32 treated or untreated sewage, industrial wastes, or other
33 wastes, of whatever kind or character, in or near any
34 waters of the state, in such condition, manner or quantity,
35 as does, will, or is likely to (A) contaminate or substan-
36 tially contribute to the contamination of any such waters,
37 or (B) alter or substantially contribute to the alteration
38 of the physical, chemical or biological properties of any
39 such waters, if such contamination or alteration, or the
40 resulting contamination or alteration where a person only
41 contributes thereto, is to such an extent as to make any of
42 such waters (i) directly or indirectly harmful, detrimental
43 or injurious to the public health, safety and welfare, or
44 (ii) directly or indirectly detrimental to existing animal,
45 bird, fish, aquatic or plant life, or (iii) unsuitable for
46 present or future domestic, commercial, industrial, agri-
47 cultural, recreational, scenic or other legitimate uses;
48 and shall also mean, (2) the discharge, release, escape,
49 deposit, or disposition, directly or indirectly of treated or
50 untreated sewage, industrial wastes or other wastes, of
51 whatever kind or character, in or near any waters of the
52 state in such condition, manner or quantity, as does, will
53 or is likely to reduce the quality of the waters of the state
54 below state water quality standards or violate any appli-
55 cable effluent limitations;

56 (g) "Sewage" shall mean water-carried human or
57 animal wastes from residences, buildings, industrial estab-
58 lishments or other places, together with such ground
59 water infiltration and surface waters as may be present;

60 (h) "Industrial wastes" shall mean any liquid, gaseous,
61 solid or other waste substance, or a combination thereof,
62 resulting from or incidental to any process of industry,
63 manufacturing, trade or business, or from or incidental to
64 the development, processing or recovery of any natural
65 resources; and the admixture with such industrial wastes
66 of sewage or other wastes, as hereinafter defined, shall

67 also be considered "industrial wastes" within the meaning
68 of this article;

69 (i) "Industrial user" shall mean those industries identi-
70 fied in the standard industrial classification manual, United
71 States bureau of the budget, 1967, as amended and supple-
72 mented, under the category "division d—manufacturing"
73 and other classes of significant waste producers identified
74 under regulations issued by the board or the administrator
75 of the United States environmental protection agency;

76 (j) "Other wastes" shall mean garbage, refuse, decayed
77 wood, sawdust, shavings, bark and other wood debris and
78 residues, sand, lime, cinders, ashes, offal, night soil, silt,
79 oil, tar, dyestuffs, acids, chemicals and all other materials
80 and substances not sewage or industrial wastes which
81 may cause or might reasonably be expected to cause or
82 to contribute to the pollution of any of the waters of the
83 state;

84 (k) "Establishment" shall mean an industrial estab-
85 lishment, mill, factory, tannery, paper or pulp mill, mine,
86 colliery, breaker or mineral processing operation, quarry,
87 refinery, well, and each and every industry or plant or
88 works or activity in the operation or process of which
89 industrial wastes, or other wastes are produced;

90 (l) "Sewer system" shall mean pipelines or conduits,
91 pumping stations, force mains and all other constructions,
92 facilities, devices and appliances appurtenant thereto,
93 used for collecting or conducting sewage, industrial wastes
94 or other wastes to a point of disposal or treatment;

95 (m) "Treatment works" shall mean any plant, facility,
96 means, system, disposal field, lagoon, pumping station,
97 constructed drainage ditch or surface water intercepting
98 ditch, diversion ditch above or below the surface of the
99 ground, settling tank or pond, earthen pit, incinerator,
100 area devoted to sanitary landfills, or other works not
101 specifically mentioned herein, installed for the purpose of
102 treating, neutralizing, stabilizing, holding or disposing of
103 sewage, industrial wastes or other wastes or for the pur-
104 pose of regulating or controlling the quality and rate of
105 flow thereof;

106 (n) "Publicly owned treatment works" shall mean any
107 treatment works owned by the state or any political sub-
108 division thereof, any municipality or any other public
109 entity, for the treatment of pollutants;

110 (o) "Disposal system" shall mean a system for treating
111 or disposing of sewage, industrial wastes, or other wastes,
112 or the effluent therefrom, either by surface or under-
113 ground methods, and shall be construed to include sewer
114 systems, the use of subterranean spaces, treatment works,
115 disposal wells and other systems;

116 (p) "Outlet" shall mean the terminus of a sewer sys-
117 tem or the point of emergence of any water-carried sew-
118 age, industrial wastes, or other wastes, or the effluent
119 therefrom, into any of the waters of this state, and shall
120 include a point source;

121 (q) "Point source" shall mean any discernible, confined
122 and discrete conveyance, including, but not limited to,
123 any pipe, ditch, channel, tunnel, conduit, well, discrete
124 fissure, container, rolling stock, or vessel or other
125 floating craft, from which pollutants are or may be
126 discharged;

127 (r) "Activity" or "activities" shall mean any activity or
128 activities for which a permit is required by the provisions
129 of section five of this article;

130 (s) "Disposal well" shall mean any well drilled or used
131 for the injection or disposal of treated or untreated
132 sewage, industrial wastes or other wastes into under-
133 ground strata;

134 (t) "Effluent limitation" shall mean any restriction
135 established on quantities, rates and concentrations of
136 chemical, physical, biological and other constituents which
137 are discharged into the waters of this state;

138 (u) "Code" shall mean the code of West Virginia, one
139 thousand nine hundred thirty-one, as amended;

140 (v) "Department" shall mean the department of
141 natural resources; and

142 (w) "Well" shall mean any shaft or hole sunk, drilled,

143 bored or dug into the earth or into underground strata
144 for the extraction or injection or placement of any liquid
145 or gas, or any shaft or hole sunk or used in conjunction
146 with such extraction or injection or placement. The
147 term "well" shall not have included within its meaning
148 any shaft or hole sunk, drilled, bored or dug into the
149 earth for the sole purpose of core drilling or pumping or
150 extracting therefrom potable, fresh or usable water for
151 household, domestic, industrial, agricultural or public use.

PART II. CHIEF OF DIVISION OF WATER RESOURCES AND
WATER RESOURCES BOARD.

**§20-5A-3. General powers and duties of chief and board
with respect to pollution.**

1 (a) In addition to all other powers and duties of the
2 chief of the department's division of water resources, as
3 prescribed in this article or elsewhere by law, the
4 chief, under the supervision of the director, shall have
5 and may exercise the following powers and authority and
6 shall perform the following duties:

7 (1) To perform any and all acts necessary to carry
8 out the purposes and requirements of this article and of
9 the "Federal Water Pollution Control Act Amendments
10 of 1972," relating to this state's participation in the "Na-
11 tional Pollutant Discharge Elimination System" estab-
12 lished under that act;

13 (2) To encourage voluntary cooperation by all persons
14 in controlling and reducing the pollution of the waters
15 of this state, and to advise, consult and cooperate with
16 all persons, all agencies of this state, the federal govern-
17 ment or other states, and with interstate agencies in the
18 furtherance of the purposes of this article, and to this
19 end and for the purpose of studies, scientific or other
20 investigations, research, experiments and demonstrations
21 pertaining thereto, the department may receive moneys
22 from such agencies, officers and persons on behalf of the
23 state. The department shall pay all moneys so received
24 into a special fund hereby created in the state treasury,
25 which fund shall be expended under the direction of the

26 chief solely for the purpose or purposes for which the
27 grant, gift or contribution shall have been made;

28 (3) To encourage the formulation and execution of
29 plans by cooperative groups or associations of municipal
30 corporations, industries, industrial users, and other users
31 of waters of the state, who, jointly or severally, are or
32 may be the source of pollution of such waters, for the
33 control and reduction of pollution;

34 (4) To encourage, participate in, or conduct or cause
35 to be conducted studies, scientific or other investigations,
36 research, experiments and demonstrations relating to
37 water pollution, and the causes, control and reduction
38 thereof, and to collect data with respect thereto, all as
39 may be deemed advisable and necessary to carry out the
40 purposes of this article;

41 (5) To study and investigate all problems concerning
42 water flow, water pollution and the control and reduction
43 of pollution of the waters of the state, and to make
44 reports and recommendations with respect thereto;

45 (6) To collect and disseminate information relating
46 to water pollution and the control and reduction thereof;

47 (7) To develop a public education and promotion pro-
48 gram to aid and assist in publicizing the need of and
49 securing support for pollution control and abatement;

50 (8) To sample ground and surface water with suf-
51 ficient frequency to ascertain the standards of purity or
52 quality from time to time of the waters of the state;

53 (9) To develop programs for the control and reduction
54 of the pollution of the waters of the state;

55 (10) To exercise general supervision over the admin-
56 istration and enforcement of the provisions of this article,
57 and all rules, regulations, permits and orders issued pur-
58 suant to the provisions of this article;

59 (11) In cooperation with the college of engineering
60 at West Virginia University and the schools and depart-
61 ments of engineering at other institutions of higher edu-

62 cation operated by this state, to conduct studies, scientific
63 or other investigations, research, experiments and demon-
64 strations in an effort to discover economical and practical
65 methods for the elimination, disposal, control and treat-
66 ment of sewage, industrial wastes, and other wastes, and
67 the control and reduction of water pollution, and to this
68 end, the chief may cooperate with any public or private
69 agency and receive therefrom, on behalf of the state, and
70 for deposit in the state treasury, any moneys which such
71 agency may contribute as its part of the expenses thereof,
72 and all gifts, donations or contributions received as afore-
73 said shall be expended by the chief according to the
74 requirements or directions of the donor or contributor
75 without the necessity of an appropriation therefor, ex-
76 cept that an accounting thereof shall be made in the
77 fiscal reports of the department;

78 (12) To require the prior submission of plans, speci-
79 fications, and other data relative to, and to inspect the
80 construction and operation of, any activity or activities
81 in connection with the issuance and revocation of such
82 permits as are required by this article or the rules
83 and regulations promulgated hereunder; and

84 (13) To require any and all persons directly or in-
85 directly discharging, depositing or disposing of treated
86 or untreated sewage, industrial wastes, or other wastes,
87 or the effluent therefrom, into or near any waters of the
88 state or into any underground strata, and any and all
89 persons operating an establishment which produces or
90 which may produce or from which escapes, releases or
91 emanates or may escape, release or emanate treated or
92 untreated sewage, industrial wastes or other wastes
93 or the effluent therefrom, into or near any waters
94 of the state or into any underground strata, to file
95 with the division of water resources such informa-
96 tion as the chief may require in a form or manner
97 prescribed by him for such purpose, including, but
98 not limited to, data as to the kind, characteristics, amount
99 and rate of flow of any such discharge, deposit, es-
100 scape, release or disposition.

101 (b) In addition to all other powers and duties of the

102 water resources board, as prescribed in this article or
103 elsewhere by law, the board shall have and may exercise
104 the following powers and authority and shall perform
105 the following duties:

106 (1) To cooperate with any interstate agencies
107 for the purpose of formulating, for submission to
108 the Legislature, interstate compacts and agreements re-
109 lating to the control and reduction of water pollu-
110 tion; and

111 (2) To adopt, modify, repeal and enforce rules and
112 regulations, in accordance with the provisions of chapter
113 twenty-nine-a of this code, (A) implementing and making
114 effective the declaration of policy contained in section
115 one of this article and the powers, duties and responsi-
116 bilities vested in the board and the chief by the pro-
117 visions of this article and otherwise by law; (B) pre-
118 venting, controlling and abating pollution; and (C) estab-
119 lishing standards of quality for the waters of the state
120 under such conditions as the board may prescribe for
121 the prevention, control and abatement of pollution: *Pro-*
122 *vided*, That no such rule and regulation shall specify the
123 design of equipment, type of construction or particular
124 method which a person shall use to reduce the discharge
125 of a pollutant.

126 (c) The board is hereby authorized to hire one or
127 more individuals to serve as hearing examiners on a full
128 or part-time basis. Such individuals may be attorneys
129 at law admitted to practice before any circuit court of
130 this state. All such hearing examiners shall be individuals
131 authorized to take depositions under the laws of this
132 state.

133 (d) Whenever required to carry out the objectives of
134 this article: (A) The chief shall require the owner or
135 operator of any point source to (i) establish and maintain
136 such records, (ii) make such reports, (iii) install, use
137 and maintain such monitoring equipment or methods,
138 (iv) sample such effluents in accordance with such
139 methods, at such locations, at such intervals and in such
140 manner as the chief shall prescribe and (v) provide such

141 other information as he may reasonably require; and
142 (B) the chief or his authorized representative upon
143 presentation of credentials (i) shall have a right of entry
144 to, upon, or through any premises in which an effluent
145 source is located or in which any records required to be
146 maintained under (A) of this subsection are located, and
147 (ii) may at reasonable times have access to and copy any
148 records, inspect any monitoring equipment or method
149 required under (A) of this subsection and sample any
150 streams in the area as well as sample any effluents which
151 the owner or operator of such source is required to
152 sample under (A) of this subsection.

153 (e) The board is hereby authorized and empowered
154 to investigate and ascertain the need and factual basis for
155 the establishment of public service districts as a means
156 of controlling and reducing pollution from unincorpo-
157 rated communities and areas of the state, investigate
158 and ascertain, with the assistance of the public service
159 commission, the financial feasibility and projected finan-
160 cial capability of the future operation of any such public
161 service district or districts, and to present reports and
162 recommendations thereon to the county courts of the
163 areas concerned, together with a request that such county
164 courts create a public service district or districts, as there-
165 in shown to be needed and required and as provided in
166 article thirteen-a, chapter sixteen of this code. In the
167 event a county court shall fail to act to establish a county-
168 wide public service district or districts, the board shall
169 act jointly with the state director of health, the director of
170 the department of natural resources and the chief of the
171 division of water resources to further investigate and
172 ascertain the financial feasibility and projected financial
173 capability and, subject to the approval of the public ser-
174 vice commission, order the county court to take action
175 to establish such public service district or districts as may
176 be necessary to control, reduce or abate the pollution,
177 and when so ordered the county court members must
178 act to establish such a county-wide public service district
179 or districts.

§20-5A-3a. Standards of water quality and effluent limitations.

1 (a) In order to carry out the purposes of this article,
2 the board may promulgate rules and regulations setting
3 standards of water quality and effluent limitations to be
4 applicable to the waters of this state, which standards of
5 quality and effluent limitations shall be such as to protect
6 the public health and welfare, wildlife, fish and aquatic
7 life, and the present and prospective future uses of such
8 waters for domestic, agricultural, industrial, recreational,
9 scenic and other legitimate beneficial uses thereof.

10 (b) In establishing, amending, revising or repealing
11 rules and regulations relating to water quality standards
12 and effluent limitations, the board shall follow all relevant
13 procedures provided by article three, chapter twenty-
14 nine-a of the code..

15 (c) All persons affected by rules and regulations estab-
16 lishing water quality standards and effluent limitations
17 shall promptly comply therewith: *Provided*, That where
18 necessary and proper, the chief may specify a reasonable
19 time for persons not complying with such standards and
20 limitations to comply therewith, and upon the expiration
21 of any such period of time, the chief shall revoke or modify
22 any permit previously issued which authorized the dis-
23 charge of treated or untreated sewage, industrial wastes
24 or other wastes into the waters of this state which result
25 in reduction of the quality of such waters below the
26 standards and limitations established therefor by rules
27 and regulations of the board.

§20-5A-4. Cooperation with other governments and agencies.

1 The division of water resources is hereby designated as
2 the water pollution control agency for this state for all
3 purposes of federal legislation and is hereby authorized
4 to take all action necessary or appropriate to secure to
5 this state the benefits of said legislation. In carrying out
6 the purposes of this section, the chief is hereby authorized
7 to cooperate with the United States environmental pro-
8 tection agency and other agencies of the federal govern-
9 ment, other states, interstate agencies and other interested
10 parties in all matters relating to water pollution, including

11 the development of programs for controlling and reducing
12 water pollution and improving the sanitary conditions of
13 the waters of the state; to apply for and receive, on behalf
14 of this state, funds made available under the aforesaid
15 federal legislation on condition that all moneys received
16 from any federal agency as herein provided shall be paid
17 into the state treasury and shall be expended, under the
18 direction of the chief, solely for purposes for which the
19 grants shall have been made; to approve projects for
20 which applications for loans or grants under the federal
21 legislation are made by any municipality (including any
22 city, town, district or other public body created by or
23 pursuant to the laws of this state and having jurisdiction
24 over the disposal of sewage, industrial wastes or other
25 wastes) or agency of this state or by any interstate agency;
26 and to participate through his authorized representatives
27 in proceedings under the federal legislation to recom-
28 mend measures for the abatement of water pollution
29 originating in this state. The governor is hereby autho-
30 rized, in his discretion, to give consent on behalf of this
31 state to requests by the administrator of the United States
32 environmental protection agency to the attorney general
33 of the United States for the bringing of actions for the
34 abatement of such pollution. Whenever a federal law
35 requires the approval or recommendation of a state agency
36 or any political subdivision of the state in any matter
37 relating to the water resources of the state, the director,
38 subject to approval of the Legislature, is hereby desig-
39 nated as the sole person to give the approval or recom-
40 mendation required by the federal law, unless the federal
41 law specifically requires the approval or recommendation
42 of some other state agency or political subdivision of
43 the state.

PART III. PERMIT.

§20-5A-5. Prohibitions; permits required.

- 1 (a) The chief may, after public notice and opportunity
- 2 for public hearing, issue a permit for the discharge or
- 3 disposition of any pollutant or combination of pollutants
- 4 into waters of this state upon condition that such discharge
- 5 or disposition meets or will meet all applicable state and

6 federal water quality standards and effluent limitations
7 and all other requirements of this article.

8 (b) It shall be unlawful for any person, unless he
9 holds a permit therefor from the department, which is in
10 full force and effect, to:

11 (1) Allow sewage, industrial wastes, or other wastes,
12 or the effluent therefrom, produced by or emanating from
13 any establishment to flow into the waters of this state;

14 (2) Make, cause or permit to be made any outlet, or
15 substantially enlarge or add to the load of any existing
16 outlet, for the discharge of sewage, industrial wastes, or
17 other wastes, or the effluent therefrom, into the waters
18 of this state;

19 (3) Acquire, construct, install, modify or operate a
20 disposal system or part thereof for the direct or indirect
21 discharge or deposit of treated or untreated sewage, in-
22 dustrial wastes, or other wastes, or the effluent therefrom,
23 into the waters of this state, or any extension to or addi-
24 tion to such disposal system;

25 (4) Increase in volume or concentration any sewage,
26 industrial wastes or other wastes in excess of the dis-
27 charges or disposition specified or permitted under any
28 existing permit;

29 (5) Extend, modify or add to any establishment, the
30 operation of which would cause an increase in the volume
31 or concentration of any sewage, industrial wastes or
32 other wastes discharging or flowing into the waters of the
33 state;

34 (6) Open, reopen, operate or abandon any mine, quarry
35 or preparation plant, or dispose of any refuse or industrial
36 wastes or other wastes from any such mine or quarry or
37 preparation plant: *Provided*, That the department's per-
38 mit shall only be required wherever the aforementioned
39 activities cause, may cause or might reasonably be ex-
40 pected to cause a discharge into or pollution of waters of
41 the state: *Provided, however*, That unless waived in writ-
42 ing by the chief, every application for a permit to open,
43 reopen or operate any mine, quarry or preparation plant

44 or to dispose of any refuse or industrial wastes or other
45 wastes from any such mine or quarry or preparation plant
46 shall contain a plan for abandonment of such facility
47 or operation, which plan shall comply in all respects to
48 the requirements of this article. Such plan of abandon-
49 ment shall be subject to modification or amendment upon
50 application by the permit holder to the chief and ap-
51 proval of such modification or amendment by the
52 chief;

53 (7) Operate any disposal well for the injection or
54 reinjection underground of any industrial wastes, includ-
55 ing, but not limited to, liquids or gases, or convert any well
56 into such a disposal well or plug or abandon any such
57 disposal well.

58 (c) Where a person has a number of outlets emerging
59 into the waters of this state in close proximity to one
60 another, such outlets may be treated as a unit for the
61 purposes of this section, and only one permit issued for
62 all such outlets.

**§20-5A-6. Form of application for permit; information re-
quired; fees.**

1 The chief shall prescribe a form of application for all
2 permits for any activity specified in section five of this
3 article and, notwithstanding any other provision of law
4 to the contrary, no other discharge permit or discharge au-
5 thorization from any other state department, agency, com-
6 mission, board or officer shall be required for such activity
7 except that which is required from the department of
8 mines by the provisions of chapter twenty-two of this code.
9 All applications must be submitted on a form as prescribed
10 above. An applicant shall furnish all information reason-
11 ably required by any such form, including without limiting
12 the generality of the foregoing, a plan of maintenance
13 and proposed method of operation of the activity or
14 activities. Until all such required information is fur-
15 nished, an application shall not be considered a complete
16 application. The chief and board shall protect any infor-
17 mation (other than effluent data) contained in such per-
18 mit application form, or other records, reports or plans

19 as confidential upon a showing by any person that such
20 information, if made public, would divulge methods or
21 processes entitled to protection as trade secrets of such
22 person. If, however, the information being considered
23 for confidential treatment is contained in a national pol-
24 lutant discharge elimination form, the chief or board
25 shall forward such information to the regional adminis-
26 trator of the United States environmental protection
27 agency for his concurrence in any determination of con-
28 fidentiality. A filing fee, as determined by rules and regu-
29 lations of the board, but in no case in excess of
30 fifty dollars, shall accompany the application when
31 filed with the division of water resources. The filing fee
32 shall be deposited in the state treasury to the credit of
33 the state general fund. The filing fee shall not be re-
34 turned to the applicant.

**§20-5A-7. Procedure concerning permits required under arti-
cle; transfer of permits; prior permits.**

1 (a) The chief or his duly authorized representatives
2 shall conduct such investigation as is deemed necessary
3 and proper in order to determine whether any such appli-
4 cation should be granted or denied. In making such in-
5 vestigation and determination as to any application per-
6 taining solely to sewage, the chief shall consult with the
7 director of the division of sanitary engineering of the
8 state department of health, and in making such investi-
9 gation and determination as to any application pertaining
10 to any activity specified in subdivision (7), subsection
11 (b), section five of this article, the chief shall consult
12 with the director of the state geological and economic
13 survey and the deputy director of the oil and gas division
14 of the department of mines, and all such persons shall
15 cooperate with the chief and assist him in carrying out
16 the duties and responsibilities imposed upon him under
17 the provisions of this article and the rules and regulations
18 of the board; such cooperation shall include, but not be
19 limited to, a written recommendation approving or dis-
20 approving the granting of the permit and the reason or
21 reasons for such recommendation, which recommendation
22 and the reason or reasons therefor shall be submitted to

23 the chief within the specified time period prescribed by
24 rules and regulations of the board.

25 (b) The department's permit shall be issued upon
26 such reasonable terms and conditions as the chief may
27 direct if (1) the application, together with all supporting
28 information and data and other evidence, establishes that
29 any and all discharges or releases, escapes, deposits and
30 disposition of treated or untreated sewage, industrial
31 wastes, or other wastes, or the effluent therefrom, result-
32 ing from the activity or activities for which the applica-
33 tion for a permit was made will not cause pollution of
34 the waters of this state or violate any effluent limitations
35 or any rules and regulations of the board: *Provided*,
36 That the chief may issue a permit whenever in his judg-
37 ment the water quality standards of the state may be
38 best protected by the institution of a program of phased
39 pollution abatement which under the terms of the permit
40 may temporarily allow a limited degree of pollution of
41 the waters of the state; and (2) in cases wherein it is
42 required, such applicant shall include the name and
43 address of the responsible agent as set forth in section
44 eight-b of this article.

45 (c) Each permit issued under this article shall have a
46 fixed term not to exceed five years. Upon expiration of
47 a permit, a new permit may be issued by the chief upon
48 condition that the discharges or releases, escapes, deposits
49 and disposition thereunder meet or will meet all appli-
50 cable state and federal water quality standards, effluent
51 limitations and all other requirements of this article.

52 (d) An application for a permit incident to remedial
53 action in accordance with the provisions of section eleven
54 of this article shall be processed and decided as any other
55 application for a permit required under the provisions of
56 section five of this article.

57 (e) An application for any permit shall be acted upon
58 by the chief, and the department's permit delivered or
59 mailed, or a copy of any order of the chief denying any
60 such application delivered or mailed to the applicant by
61 the chief, within the specified time period prescribed by

62 rules and regulations of the board, which time period
63 shall not exceed ninety days.

64 (f) When it is established that an application for a
65 permit should be denied, the chief shall make and enter
66 an order to that effect, which order shall specify the
67 reasons for such denial, and shall cause a copy of such
68 order to be served on the applicant by registered or cer-
69 tified mail. The chief shall also cause a notice to be
70 served with the copy of such order, which notice shall
71 advise the applicant of his right to appeal to the board
72 by filing a notice of appeal on the form prescribed by
73 the board for such purpose, with the board, in accordance
74 with the provisions of section fifteen of this article,
75 within thirty days after the date upon which the appli-
76 cant received the copy of such order. However, an appli-
77 cant may alter the plans and specifications for the pro-
78 posed activity and submit a new application for any such
79 permit, in which event the procedure hereinbefore out-
80 lined with respect to an original application shall apply.

81 (g) Upon the sale of property which includes an
82 activity for which the department's permit was granted,
83 the permit shall be transferable to the new owner, but
84 the transfer shall not become effective until the provisions
85 of section eight-b of this article are fully complied with,
86 and until such transfer is made in the records of the
87 division of water resources.

88 (h) . All permits for the discharge of sewage, industrial
89 wastes or other wastes into any waters of the state issued
90 by the water resources board prior to July one, one
91 thousand nine hundred sixty-four, and all permits here-
92 tofore issued under the provisions of this article, and
93 which have not been heretofore revoked, are subject to
94 review, revocation, suspension, modification and reissu-
95 ance in accordance with the terms and conditions of this
96 article and the rules and regulations promulgated there-
97 under. Any order of revocation, suspension or modifica-
98 tion made and entered pursuant to this subsection shall
99 be upon at least twenty days' notice and shall specify the
100 reasons for such revocation, suspension or modification
101 and the chief shall cause a copy of such order, together

102 with a copy of a notice of the right to appeal to the board
103 as provided for in section eight of this article, to be
104 served upon the permit holder as specified in said section
105 eight.

§20-5A-8. Inspections; orders to compel compliance with permits; service of orders.

1 After issuance of the department's permit for any ac-
2 tivity, the chief or his duly authorized representatives
3 may make field inspections of the work on the activity,
4 and, after completion thereof, may inspect the completed
5 activity, and, from time to time, may inspect the mainte-
6 nance and operation of the activity.

7 To compel compliance with the terms and conditions of
8 the department's permit for any activity, the chief is
9 hereby authorized, after at least twenty days' notice, to
10 make and enter an order revoking, suspending or modify-
11 ing such permit for cause including, but not limited to, the
12 following:

- 13 (1) Violation of any term or condition of the permit;
- 14 (2) Obtaining a permit by misrepresentation, or failure
15 to disclose fully all relevant facts; or
- 16 (3) Change in any condition that requires either a
17 temporary or permanent reduction or elimination of the
18 permitted discharge, release, escape, deposit or disposition.

19 The chief shall cause a copy of any such order to be
20 served by registered or certified mail or by a conservation
21 officer or other law-enforcement officer upon the person
22 to whom any such permit was issued. The chief shall also
23 cause a notice to be served with the copy of such order,
24 which notice shall advise such person of his right to appeal
25 to the board by filing a notice of appeal on the form
26 prescribed by the board for such purpose, with the board,
27 in accordance with the provisions of section fifteen of this
28 article, within thirty days after the date upon which such
29 person received the copy of such order.

§20-5A-8a. Voluntary water quality monitors; appointment; duties; compensation.

1 The chief is hereby authorized to appoint voluntary

2 water quality monitors to serve at the will and pleasure
3 of the chief. All such monitors appointed pursuant hereto
4 shall be eighteen years of age or over and shall be bona
5 fide residents of this state.

6 Such monitors are authorized to take water samples of
7 the waters of this state at such times and at such places
8 as the chief shall direct and to forward such water samples
9 to the chief for analysis.

10 The chief is authorized to provide such monitors with
11 such sampling materials and equipment as he deems
12 necessary: *Provided*, That such equipment and materials
13 shall at all times remain the property of the state and
14 shall be immediately returned to the chief upon his direc-
15 tion.

16 Such monitors shall not be construed to be employees of
17 this state for any purpose except that the chief is hereby
18 authorized to pay such monitors a fee not to exceed fifty
19 cents for each sample properly taken and forwarded to
20 him as hereinabove provided.

21 The chief shall conduct schools to instruct said monitors
22 in the methods and techniques of water sample taking
23 and issue to said monitors an identification card or certifi-
24 cate showing their appointment and training.

25 Upon a showing that any water sample as herein pro-
26 vided was taken and analyzed in conformity with standard
27 and recognized procedures, such sample and analysis shall
28 be admissible in any court of this state for the purpose of
29 enforcing the provisions of this article.

**§20-5A-10. Orders of chief to stop or prevent discharges or
deposits or take remedial action; service of orders.**

1 If the chief, on the basis of investigations, inspections
2 and inquiries, determines that any person who does not
3 have a valid permit issued pursuant to the provisions of
4 this article is causing the pollution of any of the waters of
5 the state, or does on occasions cause pollution or is violat-
6 ing any rule or regulation or effluent limitation of the
7 board, he shall, with the consent of the director, either
8 make and enter an order directing such person to stop

9 such pollution or the violation of the rule or regulation
10 or effluent limitation of the board, or make and enter an
11 order directing such person to take corrective or remedial
12 action. Such order shall contain findings of fact upon
13 which the chief based his determination to make and
14 enter such order. Such order shall also direct such person
15 to apply forthwith for a permit in accordance with the
16 provisions of sections five, six and seven of this article.
17 The chief shall fix a time limit for the completion of
18 such action. Whether the chief shall make and enter an
19 order to stop such pollution or shall make and enter an
20 order to take remedial action, in either case the person
21 so ordered may elect to cease operations of the establish-
22 ment deemed to be the source of such discharge or deposits
23 causing pollution, if the pollution referred to in the chief's
24 order shall be stopped thereby.

25 In the sole discretion of the chief, he may postpone
26 issuing any such order if he feels such pollution can best
27 be controlled or reduced by cooperative efforts with the
28 person or persons responsible therefor.

29 The chief shall cause a copy of any such order to be
30 served by registered or certified mail or by a conservation
31 officer or other law-enforcement officer upon such person.
32 The chief shall also cause a notice to be served with the
33 copy of such order, which notice shall advise such person
34 of his right to appeal to the board by filing a notice of
35 appeal, on the form prescribed by the board for such pur-
36 pose, with the board, in accordance with the provisions of
37 section fifteen of this article.

**§20-5A-14. Control by state as to pollution; continuing juris-
diction.**

1 No right to violate the rules and regulations of the
2 board or to continue existing pollution of any of the
3 waters of the state shall exist nor shall such right be or
4 be deemed to have been acquired by virtue of past or
5 future pollution by any person. The right and control of
6 the state in and over the quality of all waters of the state
7 are hereby expressly reserved and reaffirmed. It is recog-
8 nized that with the passage of time, additional efforts may

9 have to be made by all persons toward control and reduc-
10 tion of the pollution of the waters of the state, irrespective
11 of the fact that such persons may have previously compl-
12 ied with all orders of the chief or board. It is also recog-
13 nized that there should be continuity and stability re-
14 specting pollution control measures taken in cooperation
15 with, and with the approval of, the chief, or pursuant to
16 orders of the chief or board. When a person is complying
17 with the terms and conditions of a permit granted pur-
18 suant to the provisions of section seven of this article or
19 when a person has completed remedial action pursuant
20 to an order of the chief or board, additional efforts may
21 be required wherever and whenever the rules and regu-
22 lations of the board or effluent limitations are violated or
23 the waters of the state are polluted by such person.

PART V. APPEAL AND REVIEW PROCEDURES.

§20-5A-15. Appeal to water resources board.

1 (a) Any person adversely affected by an order made
2 and entered by the chief in accordance with the pro-
3 visions of this article, or aggrieved by failure or refusal
4 of the chief to act within the specified time as provided
5 in subsection (e) of section seven of this article on an
6 application for a permit or aggrieved by the terms and
7 conditions of a permit granted under the provisions
8 of this article, may appeal to the water resources board
9 for an order vacating or modifying such order, or for
10 such order, action or terms and conditions as the chief
11 should have entered, taken or imposed. The person
12 so appealing shall be known as the appellant and the
13 chief shall be known as the appellee. If the chief denies
14 a permit because of any disapproval of a permit applica-
15 tion by one or more of the public officers required to
16 review such application under the provisions of subsec-
17 tion (a), section seven of this article, such public officers
18 shall be joined as a coappellee or coappellees with the chief
19 in such appeal.

20 (b) Such appeal shall be perfected by filing a notice
21 of appeal, on the form prescribed by the board for such
22 purpose, with the board within thirty days after date upon

23 which the appellant received the copy of such order or
24 received such permit, as the case may be. The filing of the
25 notice of appeal shall not stay or suspend the execution
26 of the order appealed from. If it appears to the director
27 or the board that an unjust hardship to the appellant will
28 result from the execution of the chief's order pending
29 determination of the appeal, the director or the board
30 may grant a suspension of such order and fix its terms.
31 The notice of appeal shall set forth the order or terms
32 and conditions complained of and the grounds upon which
33 the appeal is based. A copy of the notice of appeal shall
34 be filed by the board with the chief within three days
35 after the notice of appeal is filed with the board.

36 (c) Within seven days after receipt of his copy of the
37 notice of appeal, the chief shall prepare and certify to
38 the board a complete record of the proceedings out of
39 which the appeal arises including all documents and
40 correspondence in the chief's file relating to the matter
41 in question. With the consent of the board and upon such
42 terms and conditions as the board may prescribe, any per-
43 sons affected by any such activity or by such alleged pollu-
44 tion may by petition intervene as a party appellant or
45 appellee. The board shall hear the appeal de novo, and
46 evidence may be offered on behalf of the appellant and
47 appellee, and, with the consent of the board, by any
48 intervenors.

49 (d) All of the pertinent provisions of article five, chap-
50 ter twenty-nine-a of this code shall apply to and govern
51 the hearing on appeal authorized by this section and the
52 administrative procedures in connection with and follow-
53 ing such hearing, with like effect as if the provisions
54 of said article five were set forth in extenso in this sec-
55 tion, with the following modifications or exceptions:

56 (1) Unless the board directs otherwise, the appeal
57 hearing shall be held in the city of Charleston, Kanawha
58 County, West Virginia; and

59 (2) In accordance with the provisions of section one,
60 article five of said chapter twenty-nine-a, all of the testi-
61 mony at any such hearing shall be recorded by steno-

62 graphic notes and characters or by mechanical means.
63 Such reported testimony shall in every appeal hearing
64 under this article be transcribed.

65 (e) Any such appeal hearing shall be conducted by a
66 quorum of the board, but the parties may by stipulation
67 agree to take evidence before a hearing examiner em-
68 ployed by the board. For the purpose of conducting such
69 appeal hearing, any member of the board and the chair-
70 man thereof shall have the power and authority to issue
71 subpoenas and subpoenas duces tecum in the name of
72 the board, in accordance with the provisions of section
73 one, article five, chapter twenty-nine-a of this code. All
74 subpoenas and subpoenas duces tecum shall be issued
75 and served within the time and for the fees and shall be
76 enforced, as specified in section one, article five of said
77 chapter twenty-nine-a, and all of the said section one
78 provisions dealing with subpoenas and subpoenas duces
79 tecum shall apply to subpoenas and subpoenas duces
80 tecum issued for the purpose of an appeal hearing here-
81 under.

82 (f) Any such hearing shall be held within twenty days
83 after the date upon which the board received the timely
84 notice of appeal, unless there is a postponement or con-
85 tinuance. The board may postpone or continue any hear-
86 ing upon its own motion, or upon application of the
87 appellant, the appellee or any intervenors for good cause
88 shown. The chief shall be represented at any such hearing
89 by the attorney general or his assistants. At any such
90 hearing the appellant and any intervenor may represent
91 himself or be represented by an attorney at law admitted
92 to practice before any circuit court of this state.

93 (g) After such hearing and consideration of all of the
94 testimony, evidence and record in the case, the board shall
95 make and enter an order affirming, modifying or vacating
96 the order of the chief, or shall make and enter such order
97 as the chief should have entered, or shall make and enter
98 an order approving or modifying the terms and conditions
99 of any permit issued. In determining its course of action,
100 the board shall take into consideration not only the factors
101 which the chief was authorized to consider in making his

102 order and in fixing the terms and conditions of any permit,
103 but also the economic feasibility of treating and/or con-
104 trolling the sewage, industrial wastes or other wastes
105 involved.

106 (h) Such order shall be accompanied by findings of
107 fact and conclusions of law as specified in section three,
108 article five, chapter twenty-nine-a of this code, and a
109 copy of such order and accompanying findings and con-
110 clusions shall be served upon the appellant, and any inter-
111 venors, and their attorneys of record, if any, and upon the
112 appellee in person or by registered or certified mail.

113 (i) The board shall also cause a notice to be served
114 with the copy of such order, which notice shall advise the
115 appellant, the appellee and any intervenors of their right
116 to judicial review, in accordance with the provisions of
117 section sixteen of this article. The order of the board shall
118 be final unless vacated or modified upon judicial review
119 thereof in accordance with the provisions of section six-
120 teen of this article.

PART VI. ACTIONS.

§20-5A-17. Civil penalties and injunctive relief.

1 Any person who violates any provision of any permit
2 issued under or subject to the provisions of this article
3 shall be subject to a civil penalty not to exceed ten
4 thousand dollars per day of such violation, and any
5 person who violates any provision of this article or of
6 any rule and regulation or who violates any standard
7 or order promulgated or made and entered under the
8 provisions of this article shall, after written notice of
9 such violation from the chief and a reasonable period of
10 time as fixed by the chief to achieve compliance, be sub-
11 ject to a civil penalty not to exceed one thousand dollars
12 per day of such violation. Any such civil penalty may
13 be imposed and collected only by a civil action instituted
14 by the chief in the circuit court of the county in which
15 the violation occurred or is occurring or of the county
16 in which the waters thereof are polluted as the result
17 of such violation.

18 Upon application by the chief, the circuit courts of this
19 state or the judges thereof in vacation may by injunction
20 compel compliance with and enjoin violations of the
21 provisions of this article, the rules and regulations of the
22 board, effluent limitations, the terms and conditions of
23 any permit granted under the provisions of this article,
24 or any order of the chief or board, and the venue of any
25 such action shall be the county in which the violation
26 or noncompliance exists or is taking place or in any
27 county in which the waters thereof are polluted as the
28 result of such violation or noncompliance. The court or
29 the judge thereof in vacation may issue a temporary or
30 preliminary injunction in any case pending a decision on
31 the merits of any injunctive application filed. Any other
32 section of this code to the contrary notwithstanding, the
33 state shall not be required to furnish bond as a pre-
34 requisite to obtaining injunctive relief under this article.
35 An application for an injunction under the provisions
36 of this section may be filed and injunctive relief granted
37 notwithstanding that all of the administrative remedies
38 provided for in this article have not been pursued or
39 invoked against the person or persons against whom
40 such relief is sought and notwithstanding that the person
41 or persons against whom such relief is sought have not
42 been prosecuted or convicted under the provisions of
43 this article.

44 The judgment of the circuit court upon any application
45 filed or in any civil action instituted under the provisions
46 of this section shall be final unless reversed, vacated or
47 modified on appeal to the supreme court of appeals. Any
48 such appeal shall be sought in the manner provided by
49 law for appeals from circuit courts in other civil cases,
50 except that the petition seeking review in any injunctive
51 proceeding must be filed with said supreme court of
52 appeals within ninety days from the date of entry of the
53 judgment of the circuit court.

54 Legal counsel and services for the chief or the board
55 in all civil penalty and injunction proceedings in the
56 circuit courts and in the supreme court of appeals of this
57 state shall be provided by the attorney general or his

58 assistants and by the prosecuting attorneys of the several
59 counties as well, all without additional compensation, or
60 the chief or the board, with the written approval of the
61 attorney general, may employ counsel to represent him
62 or it in a particular proceeding.

PART VII. VIOLATIONS AND PENALTIES.

§20-5A-19. Violations; criminal penalties.

1 Any person who causes pollution or who fails or refuses
2 to discharge any duty imposed upon him by this article
3 or by any rule or regulation of the board, promulgated
4 pursuant to the provisions and intent of this article, or by
5 any order of the chief or board, or who fails or refuses to
6 apply for and obtain a permit as required by the provisions
7 of this article, or who fails or refuses to comply with any
8 term or condition of such permit, shall be guilty of a
9 misdemeanor, and, upon conviction thereof, shall be pun-
10 ished by a fine of not less than one hundred dollars nor
11 more than one thousand dollars, or by imprisonment in
12 the county jail for a period not exceeding six months, or
13 by both such fine and imprisonment.

14 Any person who shall intentionally misrepresent any
15 material fact in an application, record, report, plan or
16 other document filed or required to be maintained under
17 the provisions of this article or any rules and regulations
18 promulgated by the board thereunder shall be guilty of
19 a misdemeanor, and, upon conviction thereof, shall be
20 punished by a fine of not more than ten thousand dollars
21 or by imprisonment in the county jail not exceeding six
22 months or by both such fine and imprisonment.

23 Any person who willfully or negligently violates any
24 provision of any permit issued under or subject to the
25 provisions of this article or who willfully violates any
26 provision of this article or any rule or regulation of the
27 board or any effluent limitation or any order of the chief
28 or board shall be guilty of a misdemeanor, and, upon con-
29 viction thereof, shall be punished by a fine of not less than
30 one thousand dollars nor more than twenty-five thousand
31 dollars per day of violation or by imprisonment in the

32 county jail not exceeding six months or by both such fine
33 and imprisonment.

34 Any such person may be prosecuted and convicted under
35 the provisions of this section notwithstanding that none
36 of the administrative remedies provided for in this article
37 have been pursued or invoked against said person and
38 notwithstanding that a civil action for the imposition and
39 collection of a civil penalty or an application for an injunc-
40 tion under the provisions of this article has not been filed
41 against such person.

42 Where a person holding a permit is carrying out a pro-
43 gram of pollution abatement or remedial action in com-
44 pliance with the conditions and terms of such permit, he
45 shall not be subject to criminal prosecution for pollution
46 recognized and authorized by such permit.

§20-5A-23. Conflicting provisions.

1 In the event of any inconsistency or conflict between
2 any provision of this article and any provision of this
3 chapter, the provisions of this article shall control.

§20-5A-24. Severability of provisions.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such in-
3 validity shall not affect other provisions or applications
4 of the article, and to this end the provisions of this article
5 are declared to be severable.

CHAPTER 9

(Com. Sub. for S. B. 36—By Mr. Hubbard)

[Passed July 3, 1974; in effect July 1, 1974. Approved by the Governor.]

AN ACT to amend and reenact sections nine and thirteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public employees insurance; providing ten thou-

sand dollars life and accidental death insurance for every employee, and providing the percentage of the cost of the employees' total insurance package which shall be paid as the state's contribution for employees of the state and county boards of education.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§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.

§5-16-13. Payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

1 The board is hereby given exclusive authorization to
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 select-
7 ed in accordance with the provisions of this article, such
8 contract or contracts to be executed with one or more
9 agencies, corporations, insurance companies or service
10 organizations licensed to sell group hospital and surgical
11 insurance, group major medical insurance, and group
12 life and accidental death insurance in this state.

13 The group life and accidental death insurance herein
14 provided for shall be in the amount of ten thousand dol-

15 lars for every employee. The amount of the group life
16 and accidental death insurance to which an employee
17 would otherwise be entitled shall be reduced to five thou-
18 sand dollars upon such employee attaining age sixty-five.

19 All of the insurance coverage to be provided for under
20 this article may be included in one or more similar con-
21 tracts issued by the same or different carriers.

22 The provisions of article three, chapter five-a of this
23 code, relating to the division of purchases of the depart-
24 ment of finance and administration, shall not apply to
25 any contracts for any insurance coverage authorized to
26 be executed under the provisions of this article; however,
27 before entering into any contract for any insurance cover-
28 age, as herein authorized, said board shall invite compe-
29 tent bids from all qualified and licensed insurance com-
30 panies or carriers, who may wish to offer plans for the
31 insurance coverage desired. The board shall deal directly
32 with insurers in presenting specifications and receiving
33 quotations for bid purposes. No commission or finder's
34 fee, or any combination thereof, shall be paid to any indi-
35 vidual or agent; but this shall not preclude an under-
36 writing insurance company or companies, at their own
37 expense, from appointing a licensed resident agent, within
38 this state, to service the companies' contracts awarded
39 under the provisions of this article. Commissions reason-
40 ably related to actual service rendered for such agent or
41 agents may be paid by the underwriting company or
42 companies: *Provided*, That in no event shall payment
43 be made to any agent or agents when no actual services
44 are rendered or performed. The board shall award such
45 contract or contracts on a competitive basis. In awarding
46 the contract or contracts the board shall take into account
47 the experience of the offering agency, corporation, insur-
48 ance company or service organization in the group hos-
49 pital and surgical insurance field, group major medical
50 insurance field, and group life and accidental death in-
51 surance field, and its facilities for the handling of claims.
52 In evaluating these factors, the board may employ the
53 services of impartial, professional insurance analysts or
54 actuaries or both. Any contract executed by the board

55 with a selected carrier shall be a contract to govern all
56 eligible employees subject to the provisions of this article.
57 Nothing contained in this article shall prohibit any in-
58 surance carrier from soliciting employees covered here-
59 under to purchase additional hospital and surgical, major
60 medical or life and accidental death insurance coverage.

61 The board may authorize the carrier with whom a
62 primary contract is executed to reinsure portions of such
63 contract with other carriers which elect to be a reinsurer
64 and who are legally qualified to enter into a reinsurance
65 agreement under the laws of this state.

66 Each employee who is covered under any such contract
67 or contracts shall receive a certificate setting forth a fee
68 schedule of the hospital, surgical or medical benefits to
69 which such employee, his spouse and his dependents are
70 entitled hereunder, to whom such benefits shall be pay-
71 able, to whom claims shall be submitted, and a summary
72 of the provisions of any such contract or contracts as they
73 affect the employee, his spouse and his dependents.

74 The board may at the end of any contract period dis-
75 continue any contract or contracts it has executed with
76 any carrier and replace the same with a contract or con-
77 tracts with any other carrier or carriers meeting the
78 requirements of this article.

**§5-16-13. Payment of costs by employer; schedule of insur-
ance; special funds created; duties of treasurer
with respect thereto.**

1 The Legislature shall appropriate annually from the
2 general revenue fund such sums as may be required to
3 pay the state's share of the premium costs of those
4 spending units operating from the general revenue fund,
5 and each spending unit operating from special revenue
6 funds, or federal funds, or both, shall pay to the board
7 their share of premium costs from their personal ser-
8 vices budget. All other employers not operating from
9 the state general revenue fund shall pay to the board
10 their share of premium costs from their respective
11 budgets. The state's contribution for employees of the

12 state of West Virginia, its boards, agencies, commissions,
13 departments, institutions, or spending units and county
14 boards of education, shall be, effective July one, one thou-
15 sand nine hundred seventy-four, all or that portion of the
16 total costs of premiums for each employees' complete
17 insurance and medical benefits package as follows:

18 (a) For each employee who has elected to partici-
19 pate in the plan prior to July one, one thousand nine
20 hundred seventy-four, and is currently employed on and
21 after July one, one thousand nine hundred seventy-four,
22 as an employee of an employer as hereinabove specified,
23 the state's contribution shall be one hundred percent of
24 the total costs of premiums;

25 (b) For all other employees of employers as herein-
26 above specified, who elect to participate in the plan on
27 and after July one, one thousand nine hundred seventy-
28 four, the state's contribution shall be seventy percent
29 of the total costs of premiums for a period of one year
30 from the date of such election and shall be one hundred
31 percent of the total costs of premiums for all periods
32 thereafter.

33 The contribution of other employers (namely: A
34 county, city or town in the state; any separate corpora-
35 tion or instrumentality established by one or more coun-
36 ties, cities or towns, as permitted by law; any corpora-
37 tion or instrumentality supported in most part by coun-
38 ties, cities or towns; any public corporation charged by
39 law with the performance of a governmental function
40 and whose jurisdiction is coextensive with one or more
41 counties, cities or towns; any organization or agency
42 established by, or approved by the department of mental
43 health for the provision of community health or mental
44 retardation services, and which is supported in part by
45 state, county or municipal funds; and a combined city-
46 county health department created pursuant to article
47 two, chapter sixteen of the code) shall be such per-
48 centage of the cost of the employees' insurance package
49 as the employers deem reasonable and proper under
50 their own particular circumstances.

51 The employee's proportionate share of the premium or
52 cost shall be withheld or deducted by the employer from
53 such employee's salary or wages as and when paid and
54 such sums shall be forwarded to the board with such
55 supporting data as the board may require.

56 All moneys received by the board shall be deposited
57 in a special fund or funds as are necessary in the state
58 treasury and the treasurer of the state shall be custodian
59 of such fund or funds and shall administer such fund
60 or funds in accordance with the provisions of this article
61 or as the board may from time to time direct. The trea-
62 surer shall pay all warrants issued by the state auditor
63 against such fund or funds as the board may direct in ac-
64 cordance with the provisions of this article.

CHAPTER 10

(S. B. 38—Originating in the Senate Committee on Finance)

[Passed July 3, 1974; in effect July 1, 1974. 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 twenty-two-a, relating to computation of benefits under the public employees retirement act; granting increases to annuitants who retired prior to the first day of July, one thousand nine hundred seventy-three.

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 twenty-two-a, to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-22a. Supplemental benefits for certain annuitants.

1 As an additional supplement to other retirement allow-

2 ances provided, each annuitant who on July 1, 1974, is
 3 receiving a retirement annuity less than four thousand
 4 two hundred dollars annually, and whose retirement
 5 allowance became effective during the respective dates
 6 indicated in this section shall receive, upon application,
 7 an increased amount, payable monthly, which is the pro-
 8 duct of his present retirement allowance multiplied by
 9 the percentage increase applicable, according to the effec-
 10 tive date of retirement and according to the plan of re-
 11 tirement, as provided by the schedule below.

12 13 14 15	<i>Effective Date of Retirement</i>	<i>Percentage of Retirement Allowance Increase</i>
16	July 1, 1961 through June 30, 1962.....	24.00
17	July 1, 1962 through June 30, 1963.....	22.00
18	July 1, 1963 through June 30, 1964.....	20.00
19	July 1, 1964 through June 30, 1965.....	18.00
20	July 1, 1965 through June 30, 1966.....	16.00
21	July 1, 1966 through June 30, 1967.....	14.00
22	July 1, 1967 through June 30, 1968.....	12.00
23	July 1, 1968 through June 30, 1969.....	10.00
24	July 1, 1969 through June 30, 1970.....	8.00
25	July 1, 1970 through June 30, 1971.....	6.00
26	July 1, 1971 through June 30, 1972.....	4.00
27	July 1, 1972 through June 30, 1973.....	2.00

28 Any additional benefit conferred herein shall not be
 29 retroactive to the time of retirement but shall become
 30 effective the first day of July, one thousand nine hundred
 31 seventy-four.

32 In no event, however, when the amount of an annuity
 33 is affected by this section, shall the total of the additional
 34 benefit herein provided and other retirement allowances
 35 provided elsewhere in this article exceed the sum of four
 36 thousand two hundred dollars annually.

CHAPTER 11

(H. B. 108—By Mr. Seibert)

[Passed June 24, 1974; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-five, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the service required by public employees to become eligible for disability retirement.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article ten, 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 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-25. Disability retirement.

1 (a) Upon the application of a member or former member
2 of the retirement system, or his present or past employing au-
3 thority, any member or former member who (1) is or was in
4 the employ of a participating public employer, (2) has ten or
5 more years of credited service of which three years is contri-
6 buting service, and (3) becomes totally and permanently in-
7 capacitated for employment, by reason of a personal injury or
8 disease, may be retired by the board of trustees if after a medi-
9 cal examination of the said member or former member, made
10 by or under the direction of a medical committee consisting of
11 two physicians, one of whom shall be named by the board, and
12 one by the said member or former member, the said medical
13 committee reports, in writing, to the board that (1) the said
14 member or former member is physically or mentally totally in-
15 capacitated for employment, (2) that such incapacity will prob-
16 ably be permanent, and (3) that the said member or former
17 member should be retired. In the event the two above-men-
18 tioned physicians do not agree in their findings, then the board
19 of trustees may, at its discretion, appoint a third physician to
20 examine said member or former member and, based upon the

21 third physician's report in writing, the board may retire said
22 member or former member.

23 (b) A member with less than ten years of credited service
24 shall have the service requirement provided for in subsection
25 (a) above (including the requirement of three years contribut-
26 ing service) waived in the event (1) the board of trustees finds
27 his total and permanent disability to be the natural and prox-
28 imate result of a personal injury or disease arising out of and in
29 the course of his actual performance of duty in the employ of a
30 participating public employer, and (2) he is in receipt of work-
31 men's compensation on account of such physical or mental
32 disability.

33 (c) For those members or former members retiring and
34 those members retired, as of March one, one thousand nine
35 hundred seventy, he shall receive a straight life annuity com-
36 puted according to section twenty-two hereof and he shall have
37 the right to elect an option provided for in section twenty-four
38 hereof: *Provided*, That his straight life annuity payable to his
39 attainment of age sixty-five years shall not be less than fifty
40 percent of his final average salary; and his said straight life
41 annuity payable from and after his attainment of age sixty-five
42 years shall not be less than twenty percent of his final average
43 salary: *Provided, however*, That his said annuity shall be sub-
44 ject to section twenty-six hereof.

CHAPTER 12

(S. B. 12—By Mr. Hubbard)

[Passed June 24, 1974; in effect from passage. Approved by the Governor.]

AN ACT to amend article three, 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 seven, relating to the abandonment by railroads of service and operation of lines affecting public service and requiring permission therefor.

Be it enacted by the Legislature of West Virginia:

That article three, 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 seven, to read as follows:

**ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES
SUBJECT TO REGULATIONS OF COMMISSION.**

§24-3-7. Permit to abandon service; certificate.

1 No railroad shall abandon all or any portion of its
2 service to the public or the operation of any of its lines
3 which would affect the service it is rendering the public
4 unless and until there shall first have been filed with the
5 public service commission of this state an application
6 for a permit to abandon service and obtained from the
7 commission an order stating that the present and future
8 public convenience and necessity permits such abandon-
9 ment.

CHAPTER 13

(H. B. 102—By Mr. Seibert)

[Passed July 3, 1974; 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 Highways Amendment of 1973, in a total amount not to exceed one hundred fifty million dollars and in several issuances, each in an amount not to exceed fifty million dollars, and with a period of one hundred eighty days to elapse between the first and second issuances and between each and every issuance thereafter, for the sole purpose of raising funds 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 the construction, reconstruction, improving and upgrading of U. S. Route 52 be-

tween Huntington and Bluefield, West Virginia, 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 fund; providing for the disposition and investment of the state road 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 within the state road fund and providing that said account shall contain six (6) subaccounts, their purposes and the percentage amount of the total proceeds of each bond sale to be deposited therein and for expenditures from said account; providing for annual accountability status report; 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; purposes and percentage amounts; 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 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 a separate and distinct account within the state road fund; subaccounts and restriction on transfer of funds; expenditures; investment; annual accountability status report.
- §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; purposes and percentage amounts; when may issue.

1 Bonds of the state of West Virginia, under authority of the
2 Better Highways Amendment of 1973, of the par value not
3 to exceed one hundred fifty million dollars are hereby
4 authorized to be issued and sold for the sole purpose of raising
5 funds for the building, construction, reconstruction, improv-
6 ing, upgrading and completion of state roads and highways and
7 for bridge replacement and improvement as provided for by the
8 constitution and the laws enacted thereunder. The total pro-
9 ceeds of each bond sale shall be deposited in the manner here-
10 inafter provided for in this act and shall be earmarked, desig-
11 nated and used for the following purposes and in the following
12 percentage amounts:

13 (1) Twenty-four (24%) percent for bridge replacement and
14 improvement program;

15 (2) Twenty-six (26%) percent for completion of the Appala-
16 chian highway system;

17 (3) Ten (10%) percent for upgrading sections of trunkline
18 and feeder systems;

19 (4) Ten (10%) percent for upgrading West Virginia State
20 Route 2;

21 (5) Twenty (20%) percent for upgrading state and local
22 service roads;

23 (6) Ten (10%) percent for construction, reconstruction, im-
24 proving and upgrading of U. S. Route 52 between Huntington
25 and Bluefield, West Virginia.

26 Such bonds may be issued by the governor in such amounts, in
27 coupon or registered form, in such denominations, at such
28 time, bearing such date or dates, as the governor may deter-
29 mine, based upon an examination of the West Virginia depart-
30 ment of highways' yearly program which justifies the issuance
31 by the governor of said bonds, and shall become due and pay-
32 able serially, annually or semiannually, in such amounts and
33 mature in such years as the governor may determine: *Provided,*
34 That such bonds be sold in increments not to exceed fifty mil-
35 lion dollars and with a period of one hundred eighty days to
36 elapse between the first and second issuances and between each
37 and every issuance thereafter: *Provided, however,* That such
38 bonds shall mature within and not exceeding twenty-five years
39 from their date: *Provided further,* That the governor must offer
40 said bonds for competitive bids from recognized financial in-
41 vestment 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 such
3 transfer a fee of one dollar shall be charged by and paid to the
4 state of West Virginia, to the credit of the state road
5 fund. Bonds taken in exchange shall be canceled by the auditor
6 and treasurer and be carefully preserved by the treasurer. The
7 treasurer shall make provisions for registering "payable to
8 bearer" bonds, and for each bond registered a fee of one dollar
9 shall likewise be charged by and paid to the state of West
10 Virginia, to the credit of the state road fund. All such
11 bonds shall be payable at the office of the treasurer of the
12 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 gover-
14 nor, 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-
17 annually, to bearer, at the office of the treasurer of the state
18 of West Virginia, at the capitol of the state, or at the banks
19 designated and approved by the governor, upon presentation
20 and surrender of interest coupons then due, in the case of
21 coupon bonds. For the payment of interest on registered bonds,

27 capitol of said state, or, at _____ bank in the city of
 28 New York, or, at _____ bank, at the option of the
 29 holder, the sum of _____ dollars, with interest thereon
 30 at _____ percent a year from the date, payable semian-
 31 nually in like lawful money of the United States of America
 32 at the treasurer's office or banks aforesaid, on the first day of
 33 _____ and the first day of _____ of each
 34 year (and in the case of coupon bonds) according to the tenor
 35 of the annexed coupons bearing the facsimile signature of the
 36 treasurer of the state of West Virginia, upon surrender of
 37 such coupons. This bond (in case of a coupon bond) may be
 38 exchanged for a registered bond of like tenor upon application
 39 to the treasurer of the state of West Virginia.

40 (Redemption provisions, if any, to be inserted here).

41 To secure the payment of the principal and interest of this
 42 bond, the state of West Virginia covenants and agrees with the
 43 holder as follows: (1) That this bond shall constitute a direct
 44 and general obligation of the state of West Virginia; (2) that
 45 the full faith and credit of the state is pledged to secure the
 46 payment of the principal and interest of this bond; (3) that an
 47 annual state tax shall be collected in an amount sufficient to
 48 pay as it may accrue the interest on this bond and the principal
 49 thereof; and (4) that such tax shall be levied in any year only
 50 to the extent that the moneys in the state road fund irrevocably
 51 set aside and appropriated for and applied to the pay-
 52 ment of the interest on and principal of this bond becoming
 53 due and payable in such year are insufficient therefor.

54 This bond is hereby made exempt from any taxation by the
 55 state of West Virginia, or by any county, district or municipal
 56 corporation thereof.

57 In testimony whereof, witness the manual or facsimile sig-
 58 nature of the treasurer of the state of West Virginia, and the
 59 manual or facsimile countersignature of the auditor of the
 60 state, hereto affixed according to law, dated the _____ day of
 61 _____, one thousand nine hundred _____, and
 62 the seal of the state of West Virginia or a facsimile thereof.

63

64

 Treasurer of the State of West Virginia

65 (SEAL)

66 Countersigned:

67 _____

68 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
5 of West Virginia will pay to the bearer, in lawful money of
6 the United States of America, at the office of the treasurer
7 of the state, or, at _____ bank in the
8 city of New York, or, at _____ bank, at the
9 option of the holder, the sum of _____ dollars,
10 the same being semiannual interest on Road Bond No.

11 _____

12 _____

13 _____
Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his facsimile signature and the coupons shall be numbered
16 in the order of their maturity, from number one consecutively.
17 The bonds and coupons may be signed, as provided in this
18 act, by the present treasurer and auditor, or by any of their
19 respective successors in office, and the bonds signed by the
20 persons now in the office may be sold by the governor or his
21 successor in office without being signed by the successor in
22 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, number,
4 character and amount of obligations issued, and in case of
5 registered bonds, the name and post-office address of the
6 person, firm or corporation registered as the owner thereof.

§6. State road fund sources used to pay bonds and interest; investment of remainder.

1 Into the state road fund there shall be paid all

2 money from any and all appropriations made by the state
3 from the state road fund for the purpose of paying the
4 interest on such bonds or paying off and retiring the bonds,
5 from transfer and registration fees as herein provided, and
6 from any other source whatsoever which is made liable by
7 law for the payment of the principal of such bonds or the
8 interest thereon.

9 All such funds shall be kept by the treasurer in a separate
10 account, under the designation aforesaid, and all moneys
11 belonging to the fund shall be deposited in the state treasury
12 to the credit thereof.

13 Such fund shall be applied by the treasurer of the state
14 first to the payment of the semiannual interest on such bonds
15 as it shall become due as herein provided. The remainder
16 of the fund shall be invested by the state treasurer in obli-
17 gations of the government of the United States, bonds of the
18 state of West Virginia, or any political subdivision thereof:
19 *Provided*, That bonds or other obligations so purchased by the
20 state treasurer shall mature so as to provide sufficient money to
21 pay off all bonds herein provided to be issued as they become
22 due; and the money so paid into the state road fund under the
23 provisions of this act shall be expended for the purpose of
24 paying the interest and principal of the bonds hereby provided
25 for as they severally become due and payable.

§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 of
6 the principal and interest of such bonds; (3) that an annual
7 state tax shall be collected in an amount sufficient to pay as it
8 may accrue the interest on such bonds and the principal there-
9 of; and (4) that such tax shall be levied in any year only to
10 the extent that the moneys in the state road fund irrevocably
11 set aside and appropriated for and applied to the payment of
12 the interest on and principal of said bonds becoming due and
13 payable 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, within the specified periods, as he may deter-
3 mine necessary to provide funds for the building, construction,
4 reconstruction, improving, upgrading and completion of state
5 roads and highways, and for bridge replacement and improve-
6 ment as herein provided, upon the recommendation of the
7 West Virginia commissioner of highways, and after reviewing
8 the program of the West Virginia department of highways and
9 subject to the limitations contained in this act. All sales shall
10 be at not less than par and accrued interest. All interest cou-
11 pons becoming payable prior to the sale date shall be cancelled
12 by the treasurer and rendered ineffective before the delivery
13 of the bonds so sold.

§9. Proceeds paid into a separate and distinct account within the state road fund; subaccounts and restriction on transfer of funds; expenditures; investment; annual accountability status report.

1 The proceeds of the sale of each issue of bonds herein autho-
2 rized shall be paid into a separate and distinct account within
3 the state road fund, and in order to control expenditures, said
4 account shall contain six subaccounts to be designated as fol-
5 lows: Bridge replacement and improvement subaccount; Ap-
6 palachian highway system completion subaccount; Trunkline
7 and feeder system upgrading subaccount; State Route 2 up-
8 grading subaccount; State and local service roads upgrading
9 subaccount; Construction, reconstruction, improving, and up-
10 grading of U. S. Route 52 between Huntington and Bluefield
11 subaccount.

12 It is the express intent of the Legislature that when the pro-
13 ceeds of each issue of bonds sold have been deposited, as
14 aforesaid, and distributed to each subaccount in the manner
15 provided for in section one of this act, there shall be no trans-
16 fer of funds thereafter among the six subaccounts. The proceeds
17 of each sale of bonds shall be allocated to the subaccounts, as
18 designated above, and used and appropriated solely for ex-
19 penditure in the manner as hereinbefore directed.

20 Except for such sums necessary for current operating bal-

21 ances, any excess cash in any one or more of said subaccounts
 22 may be combined and shall be invested by the state treasurer
 23 in obligations of the government of the United States, bonds of
 24 the state of West Virginia, or any political subdivision thereof:
 25 *Provided*, That no such investment may adversely offset the
 26 current operating balances of such fund: *Provided, however*,
 27 That all interest accruing from such investment shall be paid
 28 into the state road fund for debt service on the bonds issued.

29 On or before the thirty-first day of January of each year, the
 30 commissioner of the department of highways shall submit to
 31 the legislative auditor an accountability status report of all
 32 moneys received or expended within the state road fund, and
 33 the six separate subaccounts herein provided and any other
 34 information required to fully account in respect to the handling
 35 of bonds issued and moneys expended under the authority of
 36 the "Better Highways Amendment of 1973." No moneys shall
 37 be expended by the commissioner other than as authorized in
 38 said amendment.

§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
 2 bonds issued pursuant to the provisions of this act.

§12. Interim certificates.

1 The governor may authorize the issuance of interim certifi-
 2 cates to be issued to the purchasers of such bonds to be held
 3 by them in lieu of permanent bonds, for a period not to exceed
 4 eighteen months. When interim certificates are so issued, they
 5 shall become full and legal obligations of the state of West
 6 Virginia under all of the provisions of this act just as fully
 7 and completely 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 representative to serve as bond counsel.

1 The attorney general, or his duly appointed legal represen-
2 tive, shall serve as bond counsel and shall be responsible
3 for 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
3 act shall be paid out of the state road fund on warrants of
4 the auditor of the state drawn on the state treasurer.

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CHAPTER 14

(H. B. 131—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed June 26, 1974; in effect from passage. Approved by the Governor.]

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to county boards of education; construction contracts; competitive bidding; rules and regulations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-12a. Competitive bids required for certain construction contracts.

1 County boards may enter into construction contracts of five
2 thousand dollars or less in amount in the open market, but
3 construction contracts of over five thousand dollars in total cost

4 shall be based on competitive bids, except in case of emergency
 5 or except where either no bid or only one bid is received with-
 6 in thirty days after the same has been advertised: *Provided*,
 7 That the foregoing provisions of this section shall not under
 8 any circumstances whatever be construed as in any way
 9 limiting the right of a county board to undertake and complete
 10 any construction project of such board by the use of such
 11 board's own employees.

12 The county board of any county is hereby authorized and
 13 empowered to promulgate rules and regulations governing the
 14 procedure of competitive bids.

CHAPTER 15

(S. B. 1—By Mr. Hubbard)

[Passed July 3, 1974; in effect July 1, 1974. 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-g, 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-g, to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-26g. Supplemental benefits for certain annuitants.

1 From an appropriation of general revenue funds made
 2 annually by the Legislature for this purpose and as an
 3 additional supplement to other retirement allowances,
 4 each annuitant whose retirement allowance became ef-

5 fective during the respective dates indicated in this
 6 section shall receive, upon application, an amount which
 7 is the product of his present retirement allowance, in-
 8 cluding all of the supplemental benefits provided in the
 9 preceding section of this article, multiplied by the per-
 10 centage increase applicable, according to the effective
 11 date of retirement and according to the plan of retire-
 12 ment, as provided by the schedule below.

13	<i>Effective Date</i>		<i>Percentage of</i>
14	<i>of Retirement</i>		<i>Retirement</i>
15			<i>Allowance Increase</i>
16	July 1, 1941 through June 30, 1953	.....	13.50%
17	July 1, 1953 through June 30, 1963	.....	15.25%
18	July 1, 1963 through June 30, 1965	.....	12.25%
19	July 1, 1965 through June 30, 1966	.....	9.00%
20	July 1, 1966 through June 30, 1968	.....	8.75%
21	July 1, 1968 through June 30, 1969	.....	5.50%
22	July 1, 1969 through June 30, 1970	.....	8.25%

23 Any additional benefit conferred herein shall not be
 24 retroactive to the time of retirement, but shall be paid
 25 beginning the first day of July, one thousand nine hundred
 26 seventy-five.

CHAPTER 16

(H. B. 105—By Mr. Seibert)

[Passed June 26, 1974; in effect July 1, 1974. Approved by the Governor.]

AN ACT to amend and reenact section six, article twenty-two-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recipients, awards and distribution of awards of scholarships established and authorized by said article twenty-two-b, and providing limitations on such scholarships.

Be it enacted by the Legislature of West Virginia:

That section six, article twenty-two-b, chapter eighteen of the code

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

ARTICLE 22B. STATE SCHOLARSHIP PROGRAM.

§18-22B-6. Recipients, awards and distribution of awards of scholarships.

1 The scholarship recipient shall be free to attend any ap-
2 proved institution of higher education in this state. The insti-
3 tution is not required to accept the scholarship recipient for
4 enrollment, but is free to exact compliance with its own ad-
5 mission requirements, standards and policies.

6 Scholarship grants shall be made to undergraduate students
7 only.

8 Each scholarship is renewable until the course of study is
9 completed, but not to exceed an additional three academic
10 years beyond the first year of the award. These may not neces-
11 sarily be consecutive years and the scholarship will be termi-
12 nated if the student receives his degree in a shorter period of
13 time. Qualifications for renewal will include maintaining sat-
14 isfactory academic standing, making normal progress toward
15 completion of the course of study and continued eligibility, as
16 determined by the commission.

17 Scholarship awards shall be made without regard to the ap-
18 plicant's race, creed, color, sex, national origin or ancestry; and
19 in making scholarship awards, the commission shall treat all
20 approved institutions of higher education in a fair and equitable
21 manner. The commission from time to time shall identify
22 areas of professional, vocational and technical expertise that
23 are, or will be, of critical need in this state and, to the extent
24 feasible, may direct scholarship grants to students that are
25 pursuing instruction in those areas.

26 Scholarship awards shall be limited to the lesser of the pay-
27 ment of tuition and those related compulsory fees charged by
28 an institution to all West Virginia undergraduate students, or an
29 amount equal to the average state general fund support for
30 each full-time equivalent student in the state four-year colleges
31 for the preceding academic year as calculated by the board of
32 regents.

33 Payments of scholarships shall be made directly to the in-
34 stitution.

35 In the event that a scholarship recipient transfers from one
36 approved institution of higher education to another, his schol-
37 arship shall be transferable only with the approval of the com-
38 mission.

39 Should the recipient terminate his enrollment for any reason
40 during the academic year, the unused portion of the scholarship
41 shall be returned to the commission by the institution accord-
42 ing to the institution's own policy for issuing refunds.

CHAPTER 17

(Com. Sub. for S. B. 19—By Mr. Brotherton, Mr. President)

[Passed June 25, 1974; in effect July 1, 1974. Became a law without the approval of the Governor.]

AN ACT to amend and reenact sections two and eight, article four, chapter eighteen-a 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 eight-a, relating to state minimum salaries for teachers and classification and compensation of school service and auxiliary personnel.

Be it enacted by the Legislature of West Virginia:

That sections two and eight, article four, chapter eighteen-a 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 eight-a, all to read as follows:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-2. State minimum salaries.

§18A-4-8. Minimum monthly pay for service and auxiliary personnel.

§18A-4-8a. Use of foundation allowance.

§18A-4-2. State minimum salaries.

STATE MINIMUM SALARY SCHEDULE

Experi- ence	Fourth Class	Third Class	Second Class	A.B. A.B.	A.B. +15	M.A. M.A.	M.A. +15	M.A. +30	Ph.D.
0	4,453	5,060	5,303	6,455	6,759	7,063	7,365	7,669	7,972
1	4,599	5,206	5,449	6,601	6,905	7,209	7,511	7,815	8,118
2	4,745	5,352	5,595	6,747	7,051	7,355	7,657	7,961	8,264
3	4,891	5,498	5,741	6,893	7,197	7,501	7,803	8,107	8,410
4	5,037	5,644	5,887	7,039	7,343	7,647	7,949	8,253	8,556
5	5,183	5,790	6,033	7,185	7,489	7,793	8,095	8,399	8,702
6	5,329	5,936	6,179	7,331	7,635	7,939	8,241	8,545	8,848
7		6,082	6,325	7,477	7,781	8,085	8,387	8,691	8,994
8		6,228	6,471	7,623	7,927	8,231	8,533	8,837	9,140
9			6,617	7,769	8,073	8,377	8,679	8,983	9,286
10			6,763	7,915	8,219	8,523	8,825	9,129	9,432
11				8,061	8,365	8,669	8,971	9,275	9,578
12				8,207	8,511	8,815	9,117	9,421	9,724
13				8,353	8,657	8,961	9,263	9,567	9,870
14						9,107	9,409	9,713	10,016
15						9,253	9,555	9,859	10,162
16						9,399	9,701	10,005	10,308
17								10,151	10,454
18								10,297	10,600
19								10,443	10,746

§18A-4-8. Minimum monthly pay for service and auxiliary personnel.

1 The purpose of this section is to establish a state mini-
2 mum monthly pay scale and employment term for auxil-
3 iary and service personnel. The employment term for
4 auxiliary and service personnel shall be no less than ten
5 months, a month being defined as twenty employment
6 days: *Provided*, That the county board of education may
7 contract with all or part of such personnel for a longer
8 term. The beginning and closing dates of the ten-month
9 term shall not exceed forty-three weeks. Auxiliary and
10 service personnel employed on a yearly or twelve-month
11 basis may be employed by calendar months. Whenever
12 there is a change in job assignment during the school
13 year, the minimum pay scale and any county supplement
14 shall be applicable.

15 Upon the change in classification or upon meeting the

16 requirements of an advanced classification of or by any
17 employee, his salary shall be made to comply with the
18 requirements of this article, and to any county salary
19 schedule in excess of the minimum requirements of this
20 article, based upon his advanced classification and allow-
21 able years of employment.

22 An employee's contract as provided in sections four
23 and five, article two of this chapter shall state the
24 appropriate monthly salary the employee is to be paid
25 based on the class title as provided in this article and any
26 county salary schedule in excess of the minimum require-
27 ments of this article.

28 The column heads of the state minimum pay scale and
29 class titles, set forth below are defined as follows:

30 "Pay grade" means the monthly salary applicable to
31 class titles of auxiliary and service personnel.

32 "Years of employment" means the number of years
33 which an employee classified as auxiliary or service per-
34 sonnel has been employed by a board of education in any
35 position prior to or subsequent to the effective date of
36 this section and including service in the armed forces of
37 the United States if the employee were employed at the
38 time of his induction. For the purpose of this section,
39 years of employment shall be limited to the number of
40 years shown and allowed under the state minimum pay
41 scale set forth hereinafter.

42 "Class title" means the name of the position or job
43 held by auxiliary and service personnel.

44 "Aide I" means auxiliary personnel as defined in sec-
45 tion one, article one of this chapter.

46 "Aide II" means auxiliary personnel as defined in sec-
47 tion one, article one of this chapter who have completed
48 a training program approved by the state board of edu-
49 cation.

50 "Custodian I" means personnel employed to keep build-
51 ings clean and free of refuse.

52 "Custodian II" means personnel employed as a watch-
53 man or groundsman.

- 54 "Custodian III" means personnel employed to keep
55 buildings clean and free of refuse, to operate the heating
56 or cooling systems and to make minor repairs.
- 57 "Custodian IV" means personnel employed as head
58 custodians. In addition to providing services as defined
59 in "Custodian III", their duties may include supervising
60 other custodian personnel.
- 61 "Carpenter I" means personnel classified as a carpenter's
62 helper.
- 63 "Carpenter II" means personnel classified as a journey-
64 man carpenter.
- 65 "Electrician I" means personnel employed as an ap-
66 prentice electrician and helper or holds an electrician
67 helper license issued by the state fire marshal.
- 68 "Electrician II" means personnel employed as an elec-
69 trician journeyman or holds a journeyman electrician
70 license issued by the state fire marshal.
- 71 "Foreman" means skilled persons employed for super-
72 vision of personnel who work in the areas of repair and
73 maintenance of school property and equipment.
- 74 "General Maintenance" means personnel employed as
75 helpers to skilled maintenance employees and to perform
76 minor repairs to equipment and buildings of a county
77 school system.
- 78 "Groundsmen" means personnel employed to perform
79 duties that relate to the appearance, repair and general
80 care of school grounds in a county school system. Addi-
81 tional assignments may include the operation of a small
82 heating plant and routine cleaning duties in buildings.
- 83 "Handyman" means personnel employed to perform
84 routine manual tasks in any operation of the county
85 school system.
- 86 "Lubrication Man" means personnel employed to lubri-
87 cate and service gasoline or diesel-powered equipment of
88 a county school system.

- 89 "Machinist" means personnel employed to perform
90 machinist tasks which include the ability to operate
91 lathes, planer, shaper, threading machine and wheel press.
92 Such personnel should also have ability to work from
93 blueprints and drawings.
- 94 "Mechanic" means personnel employed who can inde-
95 pendently perform skilled duties in the maintenance and
96 repair of automobiles, school buses and other mechanical
97 and mobile equipment to use in a county school system.
- 98 "Mechanic Assistant" means personnel employed as a
99 mechanic apprentice and helper.
- 100 "Office Equipment Repairman I" means personnel em-
101 ployed as an office equipment repairman apprentice or
102 helper.
- 103 "Office Equipment Repairman II" means personnel re-
104 sponsible for servicing and repairing all office machines
105 and equipment. Such personnel shall be responsible for
106 parts being purchased necessary for the proper operation
107 of a program of continuous maintenance and repair.
- 108 "Painter" means a person employed to perform duties
109 of painting, finishing and decorating of wood, metal and
110 concrete surfaces of buildings, other structures, equip-
111 ment, machinery and furnishings of a county school
112 system.
- 113 "Plumber I" means personnel employed as an apprentice
114 plumber and helper.
- 115 "Plumber II" means personnel employed as a journey-
116 man plumber.
- 117 "Supervisor of Maintenance" means skilled personnel
118 not defined as professional personnel or professional edu-
119 cators as in section one, article one of this chapter. His
120 responsibilities would include directing the upkeep of
121 buildings and shops, issuing instructions to subordinates
122 relating to cleaning, repairs and maintenance of all struc-
123 tures, mechanical and electrical equipment of a board
124 of education.
- 125 "Truck Driver" means personnel employed to operate
126 light or heavy duty gasoline and diesel-powered vehicles.

127 "Watchman" means personnel employed to protect
128 school property against damage or theft. Additional as-
129 signments may include operation of a small heating plant
130 and routine cleaning duties.

131 "Clerk I" means personnel employed to perform clerical
132 tasks.

133 "Clerk II" means personnel employed to perform gen-
134 eral clerical tasks, prepare reports and tabulations and
135 operate office machines.

136 "Secretary I" means personnel employed to transcribe
137 from notes or mechanical equipment, receive callers, per-
138 form clerical tasks, prepare reports and operate office
139 machines.

140 "Secretary II" means personnel employed as school,
141 office or program secretaries to perform general clerical
142 tasks, transcribe, prepare reports, receive callers and refer
143 them to proper persons, operate office machines, keep
144 records and handle routine correspondence.

145 "Secretary III" means personnel assigned to the county
146 board of education office administrators in charge of
147 various departments or have particular responsibilities
148 of purchasing and financial control.

149 "Cafeteria Manager" means personnel employed to di-
150 rect the operation of a food services program in a school,
151 including assigning duties to employees, approving requi-
152 sitions for supplies and repairs, keeping inventories, in-
153 specting areas to maintain high standards of sanitation,
154 preparing financial reports and keeping records pertinent
155 to food services of a school.

156 "Cook I" means personnel employed as a cook's helper.

157 "Cook II" means personnel employed to interpret
158 menus, to prepare and serve meals in a lunch program
159 of a school system.

160 "Cook III" means personnel employed to prepare and
161 serve meals, make reports, prepare requisitions for sup-
162 plies, order equipment and repairs for a lunch program
163 of a school system.

164 "Food Services Supervisor" means qualified personnel
165 not defined as professional personnel or professional edu-
166 cator as in section one, article one of this chapter, em-
167 ployed to manage and supervise a county school system's
168 food service or school lunch program. The duties would
169 include preparing in-service training programs for cooks
170 and food service employees, instructing personnel in the
171 areas of quantity cooking with economy and efficiency,
172 keeping aggregate records and reports.

173 "Bus Operator" means personnel employed to operate
174 school buses and other school transportation vehicles as
175 provided by the state board of education.

176 "School Bus Supervisor" means qualified personnel em-
177 ployed to assist in selecting school bus operators and
178 routing and scheduling of school buses, operate a bus
179 when needed, relay instructions to bus operators, plan
180 emergency routing of buses and promote good relation-
181 ships with parents, pupils, bus operators and other em-
182 ployees.

183 The minimum monthly pay for regular full-time auxil-
184 iary and service personnel as provided in section one (i),
185 article one, chapter eighteen of this code shall be in
186 accordance with the following minimum pay scale:

STATE MINIMUM PAY SCALE

PAY GRADE	YEARS OF EMPLOYMENT										
	0	1	2	3	4	5	6	7	8	9	10
A. Monthly	350	360	370	380	390	400	410	420	430	440	450
B. Monthly	370	380	390	400	410	420	430	440	450	460	470
C. Monthly	410	420	430	440	450	460	470	480	490	500	510
D. Monthly	460	470	480	490	500	510	520	530	540	550	560
E. Monthly	510	520	530	540	550	560	570	580	590	600	610
F. Monthly	570	580	590	600	610	620	630	640	650	660	670
G. Monthly	600	610	620	630	640	650	660	670	680	690	700
H. Monthly	670	680	690	700	710	720	730	740	750	760	770

CLASS TITLE	PAY GRADE	CLASS TITLE	PAY GRADE
Aide I	A	Office Equipment Repairman II	G
Aide II	B	Painter	E
Custodian I	A	Plumber I	G
Custodian II	B	Plumber II	H
Custodian III	C	Supervisor of Maintenance	H
Custodian IV	D	Truck Driver	D
Carpenter I	E	Watchman	B
Carpenter II	F	Clerk I	B
Electrician I	F	Clerk II	C
Electrician II	G	Secretary I	D
Foreman	G	Secretary II	E
General Maintenance	C	Secretary III	F
Groundsman	B	Cafeteria Manager	D
Handyman	B	Cook I	A
Lubrication Man	C	Cook II	B
Machinist	F	Cook III	C
Mechanic	F	Food Services Supervisor	E
Mechanic Assistant	E	Bus Operator	D
Office Equipment Repairman I	F	School Bus Supervisor	E

SCHOOLS

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187 From the effective date of this section, the county
188 boards of education pay scale for each classification of
189 regular full-time auxiliary and service personnel shall
190 not be less than the state minimum pay scale heretofore
191 set forth.

192 Auxiliary and service personnel whose years of employ-
193 ment exceed the number of years shown and provided
194 for under the state minimum pay scale heretofore set
195 forth shall not be paid less than the amount shown for
196 the maximum years of employment shown and provided
197 for in the classification in which he is employed.

198 The county board of education may establish salary
199 schedules which shall be in excess of the state minimum
200 fixed by this article, such county schedules to be uniform
201 throughout the county with regard to any training classi-
202 fications, experience, years of employment, responsibility,
203 duties, pupil participation, pupil enrollment, size of build-
204 ings, operation of equipment or other requirements. Uni-
205 formity shall apply to any additional salary increments
206 or compensation for all persons performing like assign-
207 ments and duties within the county. In establishing such
208 local salary schedules, no county, from the effective date
209 of this article, shall reduce local funds allocated for
210 auxiliary and service personnel salaries used for supple-
211 menting federal and state funds provided for such salaries.

212 The state board of education is hereby authorized to
213 establish other class titles of auxiliary and service per-
214 sonnel positions and jobs not listed in this section. The
215 state board of education is further authorized to provide
216 appropriate pay grades for such positions and jobs but
217 pay shall be established within the minimum salary scale
218 of this section.

219 Any board failing to comply with the provisions of this
220 article may be compelled to do so by mandamus.

221 The provisions of this section shall become effective
222 July one, one thousand nine hundred seventy-five.

§18A-4-8a. Use of foundation allowance.

- 1 The foundation allowance as provided in section five,
- 2 article nine-a, chapter eighteen of the code shall be used

3 for the employment, adjustment of and increase in the
4 pay of such personnel: *Provided*, That in any year when
5 there is a percentage increase in the state minimum salary
6 schedules for teachers as provided for in section two,
7 article four, chapter eighteen-a of this code, the total
8 increase in the allowance for other personnel over the
9 previous year as computed in section five, article nine-a,
10 chapter eighteen of the code, shall be used solely to pro-
11 vide a uniform percentage salary increase of existing
12 salaries for all such personnel included under the pro-
13 visions of this section. Such percentage of salary increase
14 shall be the same as that granted to increase the state
15 minimum salary schedule for teachers as contained in
16 section two of this article.

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CHAPTER 18

(S. B. 30—Originating in the Senate Committee on Finance)

[Passed June 28, 1974; in effect ninety days from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor, on and after the twentieth day of February, one thousand nine hundred seventy-five, of bonds of the state of West Virginia, under authority of the Vietnam Veterans Bonus Amendment of 1973, in an amount not exceeding forty million dollars, less any appropriations of the Legislature made, for the purpose of raising funds, in combination with appropriations of the Legislature, for the payment of a cash bonus to veterans, including the cost of administration necessarily incident thereto; 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; creating the Vietnam veterans bonus sinking fund and stating what moneys shall be paid into such fund, providing for the disposition and investment of the Vietnam veterans bonus sinking fund; providing a covenant between the state and the bondholders; creating the Vietnam veterans bonus fund and providing that all moneys as appropriated and made available by the Legislature and the proceeds from the sale of the bonds shall be paid into such fund, for expenditure from such fund and investment thereof, and disposition of any unexpended balance; 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 Vietnam veterans bonus 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 VIETNAM VETERANS BONUS BONDS.

- \$1. Vietnam veterans bonus bonds; amount; authority to 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. Vietnam veterans bonus sinking fund for payment of bonds and interest; investment thereof.
- \$7. Covenants of state.
- \$8. Sale by governor; minimum price.
- \$9. Legislative appropriations and bond sale proceeds paid into Vietnam veterans bonus fund; expenditures; investment thereof; unexpended balance.
- \$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. Vietnam veterans bonus bonds; amount; authority to issue.

1 Bonds of the state of West Virginia, under authority of
2 the Vietnam Veterans Bonus Amendment of 1973, of the
3 par value not to exceed forty million dollars, less any
4 appropriations of the Legislature made for the payment
5 of a cash bonus to veterans as provided in said amend-
6 ment, are hereby authorized to be issued and sold, on and
7 after the twentieth day of February, one thousand nine
8 hundred seventy-five, for the purpose of raising funds
9 in combination with the appropriations of the Legislature
10 as aforesaid for the payment of a cash bonus to veterans
11 as provided for in said amendment, including the cost of
12 administration necessarily incident thereto. Such bonds
13 may be issued by the governor in such amounts, in coupon
14 or registered form, in such denominations, at such times
15 on and after the twentieth day of February, one thousand
16 nine hundred seventy-five, and bearing such date or dates
17 as the governor may determine, and shall become due and
18 payable serially, annually or semiannually, beginning one
19 year and ending not more than twenty-five years from the
20 date thereof: *Provided*, That the governor must offer such
21 bonds for competitive bids from recognized financial in-
22 vestment 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
5 Vietnam veterans bonus sinking fund. Bonds taken in
6 exchange shall be cancelled by the auditor and treasurer
7 and be carefully preserved by the treasurer. The treasurer
8 shall make provisions for registering "payable to bearer"
9 bonds, and for each bond registered a fee of one dollar
10 shall likewise be charged by and paid to the state of West
11 Virginia, to the credit of the sinking fund. All of 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,
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 ap-
17 proved by the governor. The bonds shall bear interest,
18 payable semiannually, to bearer, at the office of the trea-
19 surer of the state of West Virginia, at the capitol of the
20 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 of 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 be
29 made payable in lawful money of the United States of
30 America and the bonds shall be exempt from taxation
31 by the state of West Virginia, or by any county, district
32 or municipality thereof, which facts shall appear on the
33 face of the bonds as part of the contract with the holder
34 thereof.

§3. **Form of bond.**

1 The bonds 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 or a
4 facsimile thereof, and countersigned by the manual or
5 facsimile signature of the auditor of the state: *Provided*,
6 That one of said signatures on said bonds shall be a
7 manual signature and said bonds shall be in the following
8 form or to the following effect, as nearly as may be,
9 namely:

10 VIETNAM VETERANS BONUS
11 COUPON BOND
12 (Or registered bond, as the case may be)
13 OF THE
14 STATE OF WEST VIRGINIA
15 \$ No.

16 The state of West Virginia, under and by virtue of
17 authority of an amendment to the constitution, which was

18 proposed by House Joint Resolution No. 5, adopted the
 19 fourteenth day of April, one thousand nine hundred seven-
 20 ty-three, and was ratified by a vote of the people at the
 21 special election on the sixth day of November, one thou-
 22 sand nine hundred seventy-three, which is hereby made
 23 a part hereof as fully as if set forth at length herein,
 24 acknowledges itself to be indebted to and hereby promises
 25 to pay to the bearer hereof (in case of a coupon bond)
 26 or to _____ or assigns (the owner of
 27 record, in case of registered bonds) on the _____
 28 day of _____, 19____, in lawful money of
 29 the United States of America at the office of the treasurer
 30 of the state of West Virginia at the capitol of said state, or,
 31 at _____ bank in the city of New York,
 32 or, at _____ bank, within the state, at
 33 the option of the holder the sum of _____dollars,
 34 with interest thereon at _____ percent a year from
 35 the date, payable semiannually in like lawful money of the
 36 United States of America at the treasurer's office or banks
 37 aforesaid, on the first day of _____ and the
 38 first day of _____ of each year (and in the
 39 case of coupon bonds) according to the tenor of the an-
 40 nexed coupons bearing the facsimile signature of the
 41 treasurer of the state of West Virginia, upon surrender
 42 of such coupons. This bond (in case of a coupon bond)
 43 may be exchanged for a registered bond of like tenor upon
 44 application to the treasurer of the state of West Virginia.

45 (Redemption provisions, if any, to be inserted here).

46 This bond is hereby made exempt from any taxation
 47 by the state of West Virginia, or by any county, district
 48 or municipal corporation thereof.

49 In testimony whereof, witness the manual or facsimile
 50 signature of the treasurer of the state of West Virginia,
 51 and the manual or facsimile countersignature of the audi-
 52 tor of the state, hereto affixed according to law, dated the
 53 _____ day of _____, one thousand nine hundred
 54 _____, and the seal of the state of West
 55 Virginia or a facsimile thereof.

56
 57

 Treasurer of the State of West Virginia

58 (SEAL)

59 Countersigned:

60 _____

61 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 state of
6 West Virginia will pay to the bearer, in lawful money of
7 the United States of America, at the office of the treasurer
8 of the state, or, at _____ bank in the city of
9 New York, or, at _____, within the state,
10 at the option of the holder, the sum of _____
11 dollars, the same being semiannual interest on Vietnam
12 Veterans Bonus Bond No. _____.

13

14

Treasurer of the State of West Virginia

15 The signature of the treasurer to such coupon shall be
16 by his facsimile signature and the coupons shall be num-
17 bered in the order of their maturity, from number one
18 consecutively. The bonds and coupons may be signed, as
19 provided in this act, by the present treasurer and auditor,
20 or by any of their respective successors in office, and the
21 bonds signed by the persons now in the office may be sold
22 by the governor or his successor in office without being
23 signed by the successor in office of the present treasurer
24 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. Vietnam veterans bonus sinking fund for payment of bonds and interest; investment thereof.

1 There is hereby created a Vietnam veterans bonus sink-
2 ing fund. Into such fund there shall be paid all moneys
3 received from all taxes or charges made applicable by
4 law to the payment of such bonds or the interest thereon,
5 from transfer and registration fees as herein provided,
6 and from any other source whatsoever which is made
7 liable by law for the payment of the principal of such
8 bonds or the interest thereon.

9 All such funds shall be kept by the treasurer in a
10 separate account under the designation aforesaid, and all
11 money belonging to the fund shall be deposited in the
12 state treasury to the credit thereof.

13 Such fund shall be applied by the treasurer of the state,
14 first to the payment of the principal and semiannual
15 interest on such bonds as it shall become due as herein
16 provided. The remainder of the fund shall be invested by
17 the state treasurer in obligations of the government of the
18 United States, bonds of the state of West Virginia, or
19 any political subdivision thereof. The bonds or other
20 obligations so purchased by the state treasurer shall
21 mature so as to provide sufficient money to pay off all
22 bonds herein provided to be issued as they become due;
23 and the money so paid into the Vietnam veterans bonus
24 sinking fund under the provisions of this act shall be ex-
25 pended for the purpose of paying the interest and princi-
26 pal of the bonds hereby provided for as they severally
27 become due and payable and for no other purpose except
28 that the fund may be invested until needed, as herein
29 provided.

§7. Covenants of state.

1 The state of West Virginia hereby covenants and agrees
2 with the holders of the bonds issued pursuant hereto as
3 follows: (1) That all the provisions of this act shall be
4 and constitute an irrevocable contract with the holders of
5 such bonds from time to time; (2) that the additional
6 charge on the sale of each bottle of alcoholic liquor, other-
7 wise provided by law for payment of such bonds, shall

8 not be reduced so long as any of the bonds, or any interest
9 thereon, are outstanding and unpaid, unless the payment
10 thereof has been adequately provided for; (3) that if in
11 any fiscal year the amount of money derived from such
12 charge is insufficient to meet all principal and interest
13 payments due on such bonds during that year, it will levy
14 and collect such additional charge on alcoholic liquor in
15 such an amount as may be required to produce sufficient
16 revenue to meet such payments as the same shall become
17 due, or that in lieu of such increased charge on alcoholic
18 liquor, it may levy and collect an additional cigarette tax,
19 or a tax on any other tobacco product, or an additional
20 tax on nonintoxicating beer, or an additional general con-
21 sumers sales tax, or a graduated income tax, or any
22 combination of one or more of such taxes and charges, or
23 such other dedicated tax as the Legislature may deter-
24 mine, in such amount as may be required for payment
25 of principal and interest; (4) that all such additional taxes
26 or charges so levied or collected shall be irrevocably
27 dedicated for the payment of the principal of and interest
28 on such bonds until such principal of and interest on such
29 bonds are finally paid and discharged; and (5) to the
30 full extent permitted by the constitution of West Virginia,
31 any of the covenants, agreements or provisions in the
32 acts of the Legislature providing for such levying or
33 collection of such taxes or charges shall be enforceable
34 in any court of competent jurisdiction by any of the
35 holders of such bonds or of any interest coupon appertain-
36 ing thereto.

§8. Sale by governor; minimum price.

1 The governor shall sell the bonds herein authorized at
2 such time or times on and after the twentieth day of Feb-
3 ruary, one thousand nine hundred seventy-five, as he may
4 determine necessary to provide funds for the payment of
5 the bonus as herein provided. All sales shall be at not
6 less than par and accrued interest. All interest coupons
7 becoming payable prior to the sale date shall be cancelled
8 by the treasurer and rendered ineffective, before the
9 delivery of the bonds so sold.

§9. Legislative appropriations and bond sale proceeds paid into Vietnam veterans bonus fund; expenditures; investment thereof; unexpended balance.

1 All moneys as appropriated and made available by the
2 Legislature for the payment of a cash bonus to veterans
3 as provided in said amendmnet and the proceeds of all
4 sales of bonds herein authorized shall be paid into the
5 Vietnam veterans bonus fund which is hereby created
6 in the office of the state treasurer and such fund shall
7 be expended solely for the payment of such veterans
8 bonus and the cost of administration necessarily incident
9 thereto. Except for such sums necessary for current
10 operating balances, such fund shall be invested and re-
11 invested in short-term obligations of the United States
12 treasury: *Provided*, That no such investment or reinvest-
13 ment shall adversely affect the current operating balances
14 of such fund.

15 Any unexpended balance remaining in this fund after
16 payment of all legal bonuses have been made or ade-
17 quately provided for shall be available for further legis-
18 lative appropriation, unless bonds shall have been issued,
19 in which case such unexpended balance shall be trans-
20 ferred to the Vietnam veterans bonus sinking fund and
21 used solely for payment of the bonus bonds.

§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 For the purpose of facilitating the payment of Vietnam
2 veterans bonus awards, prior to the issuance of any per-
3 manent bonds, the governor may authorize issuance by
4 the state treasurer of short-term interim certificates to
5 purchasers, on and after the twentieth day of February,

6 one thousand nine hundred seventy-five, for a period not
7 to exceed eighteen months and in sufficient amount as
8 required to meet bonus award obligations. During the
9 period such interim certificates are outstanding, as speci-
10 fied, it shall be ascertained, as near as may be, the total
11 number of persons entitled to such awards who have not
12 been or cannot be paid out of legislative appropriations
13 for such purpose, the total cost of such awards remaining
14 to be made, and the most favorable time for market and
15 sale of permanent bonds, with sale of permanent bonds
16 to thereupon occur and with the resultant retirement of
17 said interim certificates. The interim certificates, when
18 issued and outstanding, shall be full and legal obligations
19 of the state of West Virginia under all of the provisions
20 of this act just as fully and completely as permanent
21 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 repre-
2 sentative, 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 execution
3 of this act shall be paid out of the Vietnam veterans bonus
4 fund on warrants of the auditor of the state drawn on
5 the state treasurer.

DISPOSITION OF BILLS ENACTED

The first column gives the number of the bill and the second column gives the chapter assigned to it.

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