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LEGISLATIVE DEPARTMENT

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



# ENROLLED

HOUSE BILL No. 2853

(By ~~Mr.~~ Del. Humphreys )



Passed ..... April 8, ..... 1989

In Effect ..... From ..... Passage

**ENROLLED**  
**H. B. 2853**

(By DELEGATE HUMPHREYS)

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[Passed April 8, 1989; in effect from passage.]

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AN ACT to amend and reenact chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to legislative authorization of legislative rules proposed by various executive agencies following review by the legislative rule-making review committee and recommended by the legislative rule-making review committee as filed, with modifications as filed, as amended, or as directed and authorized; declaration by the Legislature of legislative rules authorized as complying with the intent of the statute under which the legislative rule was proposed.

*Be it enacted by the Legislature of West Virginia:*

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

**CHAPTER 64. LEGISLATIVE RULES.**

**ARTICLE 1. GENERAL LEGISLATIVE AUTHORIZATION.**

**§64-1-1. Legislative authorization.**

1 Under the provisions of article three, chapter twenty-  
2 nine-a of the code of West Virginia, the Legislature  
3 expressly authorizes the promulgation of the rules  
4 described in article two of this chapter, subject only to  
5 the limitations set forth with respect to each such rule  
6 in the section or sections of this chapter authorizing its

7 promulgation. The Legislature further declares that all  
8 rules now or hereafter authorized under article two of  
9 this chapter are within the legislative intent of the  
10 statute which the rule is intended to implement, extend,  
11 apply or interpret.

**§64-1-2. Effective date of rules.**

1 The effective date of the legislative rules authorized  
2 in article two of this chapter shall be governed by the  
3 provisions of section thirteen, article three, chapter  
4 twenty-nine-a, unless the agency promulgating the rules  
5 establishes an effective date which is earlier than that  
6 provided by section thirteen, article three, chapter  
7 twenty-nine-a, in which case the effective date estab-  
8 lished by the agency shall control, unless the Legislature  
9 in the bill authorizing the rules establishes an effective  
10 date for such rules in which case the effective date  
11 established by the Legislature shall control.

**§64-1-3. Technical deficiencies waived.**

1 The Legislature further declares each legislative rule  
2 now or hereafter authorized under article two of this  
3 chapter to have been validly promulgated notwithstand-  
4 ing any failure to comply with any requirement of  
5 chapter twenty-nine-a for the promulgation of rules at  
6 any stage of the promulgation process prior to author-  
7 ization by the Legislature in article two of this chapter.

**ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PRO-  
MULGATE LEGISLATIVE RULES.**

**§64-2-1. State board of health; director of health.**

1 (a) The legislative rules filed in the state register on  
2 the second day of June, one thousand nine hundred  
3 eighty-two, relating to the state board of health (waste  
4 water treatment works operations) are authorized.

5 (b) The legislative rules filed in the state register on  
6 the second day of June, one thousand nine hundred  
7 eighty-two, relating to the state board of health  
8 (laboratory reporting of syphilis and gonorrhoea) are  
9 authorized.

10 (c) The legislative rules filed in the state register on

11 the second day of June, one thousand nine hundred  
12 eighty-two, relating to the state board of health (public  
13 water supply operators) with the modification of §11.02  
14 as presented to the legislative rule-making review  
15 committee on the ninth day of November, one thousand  
16 nine hundred eighty-two, are authorized.

17 (d) The legislative rules filed in the state register on  
18 the twenty-second day of October, one thousand nine  
19 hundred eighty-two, relating to the state board of health  
20 (sewage systems) with the modification presented to the  
21 legislative rule-making review committee on the sixth  
22 day of December, one thousand nine hundred eighty-  
23 two, are authorized except lines ten through seventeen,  
24 page eight of the rules shall be stricken in their entirety  
25 and the remaining paragraphs renumbered.

26 (e) The legislative rules filed in the state register on  
27 the second day of June, one thousand nine hundred  
28 eighty-two, relating to the state board of health  
29 (approval of laboratories) are authorized.

30 (f) The legislative rules filed in the state register on  
31 the twenty-fourth day of November, one thousand nine  
32 hundred eighty-two, relating to the state board of health  
33 (permit fees) are authorized.

34 (g) The legislative rules filed in the state register on  
35 the third day of June, one thousand nine hundred eighty-  
36 two, relating to the state board of health (certificate of  
37 need) are authorized.

38 (h) The legislative rules filed in the state register on  
39 the sixteenth day of August, one thousand nine hundred  
40 eighty-two, relating to the state board of health (eyes of  
41 newborn children) are authorized.

42 (i) The legislative rules filed in the state register on  
43 the thirteenth day of August, one thousand nine hundred  
44 eighty-two, and filed with amendments on the eleventh  
45 day of January, one thousand nine hundred eighty-three,  
46 relating to the state board of health (nursing home  
47 licensure), are authorized with the amendment of  
48 §5.15.02 of those rules as set forth below:

49 By striking the word "and" at the end of subdivision

50 (f), by changing the period at the end of subdivision  
51 (g) to a semicolon, and by adding the following after  
52 subdivision (g): "(h) one (1) member who represents  
53 social work services."

54 (j) The legislative rules filed in the state register on  
55 the twenty-fourth day of November, one thousand nine  
56 hundred eighty-two, relating to the state board of health  
57 (guardianship service), are authorized with the excep-  
58 tion of section 9.3 of those rules which may not be  
59 promulgated.

60 (k) The legislative rules filed in the state register on  
61 the third day of June, one thousand nine hundred eighty-  
62 two, relating to the state board of health (controlled  
63 substances research program and certification) are  
64 authorized.

65 (l) The legislative rules filed in the state register on  
66 the fifth day of November, one thousand nine hundred  
67 eighty-two, relating to the state board of health  
68 (chemical test for intoxication) are authorized.

69 (m) The legislative rules filed in the state register on  
70 the nineteenth day of December, one thousand nine  
71 hundred eighty-three, relating to the state board of  
72 health (birthing center licensure) are authorized.

73 (n) The legislative rules filed in the state register on  
74 the fourteenth day of November, one thousand nine  
75 hundred eighty-three, relating to the state board of  
76 health (licensure of behavioral health centers), are  
77 authorized with the amendments set forth below:

78 Page 45, §12.8.2. In the first sentence delete the words  
79 "without delay" and insert in lieu thereof the words  
80 "within twenty-four hours after receiving a report of a  
81 complaint."

82 (o) The legislative rules filed in the state register on  
83 the nineteenth day of December, one thousand nine  
84 hundred eighty-three, relating to the state board of  
85 health (procedures for recovery of corneal tissue for  
86 transplant) are authorized.

87 (p) The legislative rules filed in the state register on

88 the seventh day of September, one thousand nine  
89 hundred eighty-three, relating to the state board of  
90 health (well water regulations) are authorized with the  
91 amendments set forth below:

92 §4.1. In the first sentence delete the word "obtaining"  
93 and insert in lieu thereof the words "applying for." In  
94 the second sentence after "4.3" add "and 4.5."

95 §4.2. At the end of the second sentence, strike the  
96 period and add the words "unless emergency conditions  
97 prevail as noted under §4.3."

98 With the balance of §4.2 and create a new §4.3 with  
99 the following changes: In the first sentence delete the  
100 word "deadline" and insert in lieu thereof the word  
101 "requirements." Add after the first sentence the  
102 sentence, "Emergency conditions and unavoidable  
103 circumstances are those conditions involving acts of God,  
104 water outages or disruption of water service, unsatisfac-  
105 tory water quality or quantity or public health threats."  
106 In the third sentence delete the word "exceed" and insert  
107 in lieu thereof the words "be made in excess of."

108 Renumber §4.3 as §4.4 and add the following two  
109 sentences at the end of the section: "Such standards shall  
110 constitute the minimum standards for the installation,  
111 the alteration or the deepening of water wells. Any plans  
112 approved by the director pursuant to these regulations  
113 shall be in substantial compliance with the heretofore  
114 mentioned standards."

115 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7  
116 as §4.8 and §4.8 as §4.9.

117 §5.2. Delete the words "four (4)" and insert in lieu  
118 thereof the words "two (2)" and delete the words "active,  
119 continuous."

120 (q) The legislative rules filed in the state register on  
121 the third day of October, one thousand nine hundred  
122 eighty-four, relating to the state board of health (trauma  
123 center or facility designation), are authorized.

124 (r) The legislative rules filed in the state register on  
125 the twenty-first day of December, one thousand nine

126 hundred eighty-four, relating to the state board of  
127 health (reportable diseases) are authorized.

128 (s) The legislative rules filed in the state register on  
129 the twenty-first day of December, one thousand nine  
130 hundred eighty-four, relating to the state board of  
131 health (licensure of medical adult day care centers) are  
132 authorized.

133 (t) The legislative rules filed in the state register on  
134 the third day of October, one thousand nine hundred  
135 eighty-four, relating to the state board of health (retail  
136 food store sanitation) are authorized.

137 (u) The legislative rules filed in the state register on  
138 the seventeenth day of December, one thousand nine  
139 hundred eighty-five, modified by the director of health  
140 to meet the objections of the legislative rule-making  
141 review committee and refiled in the state register on the  
142 fifteenth day of January, one thousand nine hundred  
143 eighty-six, relating to the director of health (adult group  
144 home licensure) are authorized.

145 (v) The legislative rules filed in the state register on  
146 the twenty-ninth day of October, one thousand nine  
147 hundred eighty-five, modified by the state board of  
148 health to meet the objections of the legislative rule-  
149 making review committee and refiled in the state  
150 register on the twenty-seventh day of December, one  
151 thousand nine hundred eighty-five, relating to the state  
152 board of health (licensure of hospice care programs) are  
153 authorized.

154 (w) The legislative rules filed in the state register on  
155 the thirty-first day of October, one thousand nine  
156 hundred eighty-five, modified by the director of health  
157 to meet the objections of the legislative rule-making  
158 review committee and refiled in the state register on the  
159 twenty-seventh day of December, one thousand nine  
160 hundred eighty-five, relating to the director of health  
161 (rules governing emergency medical services) are  
162 authorized with the amendments set forth below:

163 On page 3, §3.9 shall read as follows:

164 "3.9 Quorum—When applied to the EMSAC, a major-

165 ity of the members thereof, except in the instance when  
166 at any meeting of the EMSAC, where a quorum is not  
167 present and the director causes to be deposited in the  
168 United States mail, postage prepaid, return receipt  
169 requested, to each member of the EMSAC within three  
170 days, a notice calling a meeting of the EMSAC at some  
171 convenient place in the state of West Virginia two weeks  
172 after the meeting at which no quorum was present.  
173 Quorum means any number of members of the EMSAC  
174 who attend such subsequent meeting. Any member  
175 missing two consecutive meetings shall be removed from  
176 the EMSAC.”

177 On page 6, §4.7.1 shall be deleted in its entirety, and

178 On page 7, §4.10.1 shall read as follows:

179 “4.10.1 every applicant for certification as an EMSP  
180 prior to such certification, shall demonstrate his or her  
181 knowledge and ability by undergoing a written exam-  
182 ination and a demonstration of skills, and by attaining  
183 a passing score on the same. Passing score shall be the  
184 same for all testing programs.

185 (x) The legislative rules filed in the state register on  
186 the fifth day of September, one thousand nine hundred  
187 eighty-five, relating to the state department of health  
188 (revising the list of hazardous substances) are  
189 authorized.

190 (y) The legislative rules filed in the state register on  
191 the thirteenth day of August, one thousand nine hundred  
192 eighty-six, modified by the director of the department  
193 of health to meet the objections of the legislative rule-  
194 making review committee and refiled in the state  
195 register on the sixteenth of October, one thousand nine  
196 hundred eighty-six, relating to the director of the  
197 department of health (hazardous material treatment  
198 information repository), are authorized.

199 (z) The legislative rules filed in the state register on  
200 the seventeenth day of July, one thousand nine hundred  
201 eighty-six, modified by the state board of health to meet  
202 the objections of the legislative rule-making review  
203 committee and refiled in the state register on the

204 sixteenth day of October, one thousand nine hundred  
205 eighty-six, relating to the state board of health (methods  
206 and standards for chemical tests for intoxication) are  
207 authorized.

208 (aa) The legislative rules filed in the state register  
209 on the twenty-first day of November, one thousand nine  
210 hundred eighty-six, modified by the state board of  
211 health to meet the objections of the legislative rule-  
212 making review committee and refiled in the state  
213 register on the twenty-third day of December, one  
214 thousand nine hundred eighty-six, relating to the state  
215 board of health (licensure of behavioral health centers),  
216 are authorized.

217 (bb) The legislative rules filed in the state register on  
218 the eighteenth day of April, one thousand nine hundred  
219 eighty-six, modified by the state board of health to meet  
220 the objections of the legislative rule-making review  
221 committee and refiled in the state register on the  
222 seventeenth day of October, one thousand nine hundred  
223 eighty-six, relating to the state board of health (hospital  
224 licensure), are authorized.

225 (cc) The legislative rules filed in the state register on  
226 the ninth day of December, one thousand nine hundred  
227 eighty-six, modified by the state board of health to meet  
228 the objections of the legislative rule-making review  
229 committee and refiled in the state register on the  
230 twenty-third day of December, one thousand nine  
231 hundred eighty-six, relating to the state board of health  
232 (hospital licensure and allowing hospitals to have  
233 licensed hospital professionals, other than licensed  
234 physicians, on their medical staff), are authorized.

235 (dd) The legislative rules filed in the state register on  
236 the ninth day of December, one thousand nine hundred  
237 eighty-six, modified by the state board of health to meet  
238 the objections of the legislative rule-making review  
239 committee and refiled in the state register on the  
240 twenty-third day of December, one thousand nine  
241 hundred eighty-six, relating to the state board of health  
242 (vital statistics), are authorized.

243 (ce) The legislative rules filed in the state register on

244 the eleventh day of September, one thousand nine  
245 hundred eighty-seven, relating to the director of the  
246 department of health (immunization criteria for  
247 transfer students) are authorized.

248 (ff) The legislative rules filed in the state register on  
249 the sixteenth day of November, one thousand nine  
250 hundred eighty-seven, relating to the director of the  
251 department of health (hazardous substances) are auth-  
252 orized with the amendment set forth below:

253 Page 33, section 8, line 8 (unnumbered) by adding at  
254 the end of section 8 the following proviso: "*Provided,*  
255 That the owner's or operator's submissions are based on  
256 the threshold reporting requirements contained in  
257 section 5, article 31, chapter 16."

258 (gg) The legislative rules filed in the state register on  
259 the eighteenth day of November, one thousand nine  
260 hundred eighty-seven, relating to the director of the  
261 department of health (trauma center or facility desig-  
262 nation) are authorized.

263 (hh) The legislative rules filed in the state register on  
264 the twenty-second day of June, one thousand nine  
265 hundred eighty-eight, modified by the state board of  
266 health to meet the objections of the legislative rule-  
267 making review committee and refiled in the state  
268 register on the fifteenth day of September, one thousand  
269 nine hundred eighty-eight, relating to the state board of  
270 health (licensure of hospice care programs) are  
271 authorized.

272 (ii) The legislative rules filed in the state register on  
273 the fifteenth day of September, one thousand nine  
274 hundred eighty-eight, modified by the state board of  
275 health to meet the objections of the legislative rule-  
276 making review committee and refiled in the state  
277 register on the third day of November, one thousand  
278 nine hundred eighty-eight, relating to the state board of  
279 health (water wells) are authorized with amendment set  
280 forth below:

281 On page 2, §3.8, shall read as follows:

282 3.8 Water Well—Any excavation or penetration in the

283 ground, whether drilled, bored, cored, driven or jetted  
284 that enters or passes through an aquifer for purposes  
285 that may include but are not limited to: a water supply,  
286 exploration for water, dewatering or heat pump wells,  
287 except that this definition shall not include ground  
288 water monitoring activities and all activities for the  
289 exploration, development, production, storage and  
290 recovery of coal, oil and gas and other mineral resources  
291 which are regulated under chapter 22, 22a or 22b of the  
292 code.

293 (jj) The legislative rules filed in the state register on  
294 the twenty-second day of June, one thousand nine  
295 hundred eighty-eight, modified by the state board of  
296 health to meet the objections of the legislative rule-  
297 making review committee and refiled in the state  
298 register on the fifteenth day of September, one thousand  
299 nine hundred eighty-eight, relating to the state board of  
300 health (plumbing requirements) are authorized.

301 (kk) The legislative rules filed in the state register on  
302 the twenty-second day of June, one thousand nine  
303 hundred eighty-eight, modified by the state board of  
304 health to meet the objections of the legislative rule-  
305 making review committee and refiled in the state  
306 register on the fifteenth day of September, one thousand  
307 nine hundred eighty-eight, relating to the state board of  
308 health (public water supply operators) are authorized.

309 (ll) The legislative rules filed in the state register on  
310 the nineteenth day of October, one thousand nine  
311 hundred eighty-eight, modified by the state board of  
312 health to meet the objections of the legislative rule-  
313 making review committee and refiled in the state  
314 register on the twentieth day of December, one thousand  
315 nine hundred eighty-eight, relating to the state board of  
316 health (volatile synthetic organic chemicals) are autho-  
317 rized.

**§64-2-2. State tax commissioner.**

1 (a) The legislative rules filed in the state register on  
2 the fifth day of January, one thousand nine hundred  
3 eighty-four, relating to the state tax commissioner  
4 (appraisal of property for periodic statewide reapprai-

5 sals for ad valorem property tax purposes), are autho-  
6 rized with the amendments set forth below:

7 Page 8, section 11.04 (b)(2), definition of "Active  
8 Mining Property," at the end of the first paragraph  
9 following the "period," by adding the following: "In the  
10 application of the herein provided valuation formula on  
11 'active mining property,' the appropriate formula  
12 calculation will be based upon the actual market to  
13 which the coal from that tract and seam is currently  
14 being sold, whether it is 'metallurgical' or 'steam'."

15 Page 9, section 11.04 (b)(3), definition of "Active  
16 Reserves," at the end of the subsection, following the  
17 "period," by adding the following: "In the application of  
18 the herein provided valuation formula on 'active  
19 reserves,' the appropriate formula calculation will be  
20 based upon the actual market to which the coal from  
21 that tract and seam is currently being sold, whether it  
22 is 'metallurgical' or 'steam'."

23 Page 11, section 11.04 (b)(11), definition of "Mineable  
24 Coal," by striking the subsection and substituting in lieu  
25 thereof the following: "(11) **Mineable Coal.** Coal which  
26 can be mined under present day mining technology and  
27 economics."

28 Page 25, section 11.04 (c)(2)(C), entitled "Property Tax  
29 Component," by striking the subsection and inserting in  
30 lieu thereof the following: "(C) **Property Tax Compo-**  
31 **nent**—This component will be derived by multiplying  
32 the assessment rate by the statewide average of tax  
33 rates on Class III property."

34 Page 30, section 11.04 (c)(4), entitled "Valuation of  
35 Mined-Out/Unmineable/Barren Coal Properties," by  
36 striking the numbers "\$5.00" and inserting in lieu  
37 thereof the following: "\$1.00."

38 Page 31, section 11.04 (c)(5)(B), by striking the words  
39 and numbers "Five Dollars (\$5.00)" and inserting in lieu  
40 thereof the following: "One Dollar (\$1.00)."

41 Page 53, section 11.05 (h) by striking the symbol and  
42 figures "(\$5.00)" and inserting in lieu the following:  
43 "(\$1.00)."

44 Page 73, section 11.06 (h) by striking the symbol and  
45 figures "\$5.00" and inserting in lieu the following:  
46 "\$1.00."

47 Page 81, section 11.07 (e)(15)(B)(4) at the end of the  
48 second sentence remove the period after the word  
49 "property" and insert the words "unless the land is used  
50 for some other purpose in which case it will be taxed  
51 according to its actual use."

52 Page 86, section 11.07 (k) delete all of subsection (k).

53 Page 110, section 11.08 (c)(4) by striking the symbol  
54 and figures "\$5.00" and inserting in lieu thereof the  
55 following: "\$1.00."

56 Page 111, section 11.08 (c)(5)(B) by striking the  
57 symbol and figures "\$5.00" and inserting in lieu thereof  
58 the following: "\$1.00."

59 Page 115, section 11.09 (a)(3) in the first sentence,  
60 insert after the word "land" the words "excluding farm  
61 land."

62 (b) The legislative rules filed in the state register on  
63 the twenty-eighth day of September, one thousand nine  
64 hundred eighty-four, relating to the state tax commis-  
65 sioner (estimated personal income tax), are authorized  
66 with the amendments set forth below:

67 55.02(a)(2)(on page 182.2) line 18, after the word  
68 "profession" strike the words "on his own account" and  
69 the comma(,).

70 55.12(b)(1)(page 182.35) at the end of the section,  
71 change the period to a comma, and add the following  
72 language: "and in the case of a court appointed agent,  
73 a copy of the court order of appointment is sufficient."

74 55.12(c)(page 182.36) after the word "for," strike the  
75 word "erroneous."

76 (c) The legislative rules filed in the state register on  
77 the twenty-eighth day of September, one thousand nine  
78 hundred eighty-four, modified by the state tax commis-  
79 sioner to meet the objections of the legislative rule-  
80 making review committee and refiled in the state

81 register on the fourteenth day of November, one  
82 thousand nine hundred eighty-four, and on the twenty-  
83 first day of March, one thousand nine hundred eighty-  
84 five, relating to the state tax commissioner (estimated  
85 corporation net income tax), are authorized.

86 (d) The legislative rules filed in the state register on  
87 the twelfth day of March, one thousand nine hundred  
88 eighty-five, relating to the state tax commissioner  
89 (identification and appraisal of farmland subsequent to  
90 the base year of statewide reappraisal) are authorized  
91 and directed to be promulgated with the following  
92 amendments:

93 Title page, Subject; following the word "Farmland,"  
94 insert the words "and of Structures Situated Thereon."

95 Page i, Subject; following the word "Farmland,"  
96 insert the words "and of Structures Situated Thereon."

97 Page i, TABLE OF CONTENTS, Section 10; follow-  
98 ing the words "Valuation of Farmland" add the words  
99 "and of Structures Situated Thereon."

100 Page 10.1, Title; following the word "FARMLAND"  
101 insert the words "AND STRUCTURES SITUATED  
102 THEREON."

103 Page 10.1, Section 10, Title; following the word  
104 "Farmland" add the words "and Structures Situated  
105 Thereon."

106 Page 10.1, Section 10.01(b); following the word  
107 "farmland" insert the words "and structures situated  
108 thereon."

109 Page 10.2, Section 10.02(a), first sentence; following  
110 the word "farmland" insert the words "and structures  
111 situated thereon."

112 Page 10.3, Section 10.02(b), first sentence; following  
113 the word "farmland" insert the words "and structures  
114 situated thereon." Delete the words "for purposes of the  
115 statewide reappraisal."

116 Page 10.3, Section 10.02(b), last sentence; following  
117 the word "farmland" insert the words "and structures

118 situated thereon.”

119 Page 10.8, Section 10.04(5)(B), last sentence; delete the  
120 period and add “or the incapability to be adapted to  
121 alternative uses.”

122 Page 10.9, Section 10.04(6), first sentence; following  
123 the words “land currently being used” insert the words  
124 “as part of a farming operation.”

125 Page 10.9, Section 10.04(6), following the last sent-  
126 ence; add the sentence “For the purposes of this  
127 definition, ‘contiguous tracts’ are farmlands which are  
128 in close proximity, but not necessarily adjacent:  
129 *Provided*, That all such contiguous tracts are operated  
130 as part of the same farm management plan.”

131 Page 10.10, Section 10.04(8), is amended to read in its  
132 entirety as follows:

133 “(8) *Farm buildings*.—The term ‘farm buildings’ shall  
134 mean structures which directly contribute to the  
135 operation of the farm, and shall include tenant houses  
136 and quarters furnished farm employees without rent as  
137 a part of the terms of their employment.”

138 Page 10.11, Section 10.04; delete the word “No-  
139 vember” and insert in lieu thereof the word “Sep-  
140 tember.” Delete the period following the word “valua-  
141 tion” and add the words “for the assessment year  
142 beginning July first of each year.”

143 Page 10.11, Section 10.04, insert the following  
144 subdivision; “(12) Application Form: The application  
145 form required to be filed with the assessor on or before  
146 September first of each year shall require certification  
147 that the farm complies with criteria set forth in Section  
148 10.05(c) of these regulations, and renewal applications  
149 from year to year shall be sufficient upon statement  
150 certifying that no change has been made in the use of  
151 farm property which would disqualify ‘farm use’  
152 classification for assessment purposes.” Renumber the  
153 subdivisions of Section 10.04 following the new  
154 10.04(12); formerly 10.04(12) through 10.04(28), to  
155 10.04(13) through 10.04(29) respectively.

156 Page 10.14, Section 10.04(28) (formerly 10.04(27));  
157 following the words "woodland products" insert a  
158 comma and the words "such as nuts or fruits harvested"  
159 and add a comma following the words "human consump-  
160 tion" on Page 10.15.

161 Page 10.16, Section 10.05, subsection (a), following the  
162 words "land is used for farm purposes" by striking the  
163 period and inserting in lieu thereof a colon and the  
164 following: "*Provided*, That the true and actual value of  
165 all farm used, occupied and cultivated by their owners  
166 or bona fide tenants shall be arrived at according to the  
167 fair and reasonable value of the property for the purpose  
168 for which it is actually used regardless of what the value  
169 of the property would be if used for some other purpose;  
170 and that the true and actual value shall be arrived at  
171 by giving consideration to the fair and reasonable  
172 income which the same might be expected to earn under  
173 normal conditions in the locality wherein situated, if  
174 rented: *Provided, however*, That nothing herein shall  
175 alter the method of assessment of lands or minerals  
176 owned by domestic or foreign corporations."

177 Page 10.16, Section 10.05(b), first clause; following the  
178 words "following factors shall be" insert the words  
179 "indicative of but not conclusive" and delete the word  
180 "considered."

181 Page 10.16, Section 10.05(b)(2); delete the period and  
182 add the words "such as soil conservation, farmland  
183 preservation or federal farm lending agencies."

184 Page 10.17, Section 10.05(b)(7); delete the section and  
185 insert in lieu thereof the words "(7) Whether or not the  
186 farmer practices 'custom farming' on the land in  
187 question."

188 Page 10.17, Section 10.05(b)(9); following the word  
189 "type" add a comma and insert the word "utility."

190 Page 10.17, Section 10.05(b)(11), first sentence;  
191 following the word "sales" insert the words "for nonfarm  
192 uses."

193 Page 10.17, Section 10.05(b)(12)(A); following the  
194 words "part of" insert the words "or appurtenant to."

195 Page 10.17, Section 10.05(b)(12)(B); following the  
196 words "contiguous to" insert the words "or operated in  
197 common with."

198 Page 10.18, Section 10.05, subsection (c), the first  
199 sentence of which is amended in its entirety to read as  
200 follows: "Qualifying farmland and the structures  
201 situated thereon shall be subject to farm use valuation,  
202 with primary consideration being given to the income  
203 which the property might be expected to earn, in the  
204 locality wherein situate, if rented."

205 Page 10.18, Section 10.05(b)(12)(B); delete the semicol-  
206 ons and the words "it was purchased at the same time  
207 as the tract so used." Delete the period following the  
208 word "purposes" and add the words "or any nonfarm  
209 use."

210 Page 10.19, Section 10.05(c)(2); following the words  
211 "Provided, That no" delete the word "reason" and insert  
212 in lieu thereof the words "individual event."

213 Page 10.20, Section 10.05(c)(4)(C); following the words  
214 "(1,000) minimum production value" insert the words  
215 "or the small farm five hundred dollars  
216 (\$500) minimum production and sale."

217 Page 10.23, Section 10.05(d)(3)(B), third sentence;  
218 following the word "If" insert the words "timber from."  
219 Delete the period following the word "purpose" and add  
220 the words "or is being converted to farm production  
221 uses."

222 Page 10.26, Section 10.05(f)(2) is amended in its  
223 entirety to read as follows:

224 "(2) *Farm buildings.*—Rental value of farm buildings  
225 and other improvements on the farmland shall be valued  
226 by determining the replacement cost of the building or  
227 structure by usual farm construction practices, and  
228 farm labor standards and subtracting therefrom  
229 depreciation.<sup>1</sup> Both of these determinations shall be  
230 made in accordance with the tax department's real  
231 property appraisal manual<sup>2</sup> as filed in the state register  
232 in accordance with chapter 29A of the code of West  
233 Virginia, 1931, as amended, and as it relates to

234 agricultural buildings and structures. One (1) acre of  
235 land shall be assigned to all buildings as a unit situate  
236 on the property, regardless of the actual acreage  
237 occupied by such buildings and shall be appraised at its  
238 farm-use valuation based on the highest class of  
239 farmland present on the farm.”

240 Page 10.28, Section 10.05(f)(3)(B)(1); following the  
241 words “or more of the” insert the word “usual.”

242 Page 10.28, Section 10.05(f)(3)(B)(2); following the  
243 words “(50%) of the” insert the word “usual.”

244 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the  
245 words “(50%) or more of the” insert the word “usual.”

246 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the  
247 words “(50%) of the” insert the word “usual.”

248 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the  
249 last sentence insert the sentence “An individual em-  
250 ployed other than in farming is not an unincorporated  
251 business.”

252 Page 10.35, Section 10.07, Title; following the word  
253 “Farmland” insert the words “and Structures Situated  
254 Thereon.”

255 Page 10.35, Section 10.07(a), first sentence; following  
256 the word “farmland” insert the words “and structures  
257 situated thereon.”

258 Page 10.46, Subject; following the word “Farmland”  
259 insert the words “and Structures Situated Thereon.”

260 (e) The legislative rules filed in the state register on  
261 the twenty-second day of May, one thousand nine  
262 hundred eighty-five, relating to the state tax commis-  
263 sioner (rules governing the operation of a statewide  
264 electronic data processing system network, to facilitate  
265 administration of the ad valorem property tax on real  
266 and personal property) are authorized.

267 (f) The legislative rules filed in the state register on  
268 the twenty-sixth day of March, one thousand nine  
269 hundred eighty-six, relating to the state tax commis-  
270 sioner (listing of interests in natural resources for the

271 first statewide reappraisal; provision for penalties), are  
272 authorized.

273 (g) The legislative rules filed in the state register on  
274 the twenty-sixth day of March, one thousand nine  
275 hundred eighty-six, modified by the state tax commis-  
276 sioner to meet the objections of the legislative rule-  
277 making review committee and refiled in the state  
278 register on the twelfth day of February, one thousand  
279 nine hundred eighty-seven, relating to the state tax  
280 commissioner (review of appraisals by county commis-  
281 sions sitting as administrative appraisal review boards),  
282 are authorized.

283 (h) The legislative rules filed in the state register on  
284 the twenty-sixth day of March, one thousand nine  
285 hundred eighty-six, modified by the state tax commis-  
286 sioner to meet the objections of the legislative rule-  
287 making review committee and refiled in the state  
288 register on the twelfth day of February, one thousand  
289 nine hundred eighty-seven, relating to the state tax  
290 commissioner (review of appraisals by a circuit court on  
291 certiorari), are authorized with the following  
292 amendment:

293 On page 3, §18.3.1 is stricken in its entirety and a new  
294 §18.3.1 is inserted in lieu thereof to read as follows:

295 "18.3.1 *Who May Request Review.*—The property  
296 owner, Tax Commissioner, protestor or intervenor may  
297 request the county commission to certify the evidence  
298 and remove and return the record to the circuit court  
299 of the county on a writ of certiorari. Parties to the  
300 proceeding wherein review by the circuit court is sought  
301 shall pay costs and fees as they are incurred: *Provided,*  
302 That the circuit court upon rendering judgment or  
303 making any order may award costs to any party in  
304 accordance with the provisions of W. Va. Code §53-3-5."

305 (i) The legislative rules filed in the state register on  
306 the twenty-sixth day of March, one thousand nine  
307 hundred eighty-six, modified by the state tax commis-  
308 sioner to meet the objections of the legislative rule-  
309 making review committee and refiled in the state  
310 register on the twelfth day of February, one thousand

311 nine hundred eighty-seven, relating to the state tax  
312 commissioner (administrative review of appraisals by  
313 the state tax commissioner), are authorized.

314 (j) The legislative rules filed in the state register on  
315 the eighteenth day of August, one thousand nine  
316 hundred eighty-six, modified by the state tax commis-  
317 sioner to meet the objections of the legislative rule-  
318 making review committee and refiled in the state  
319 register on the twelfth day of February, one thousand  
320 nine hundred eighty-seven, relating to the state tax  
321 commissioner (additional review and implementation of  
322 property appraisals), are authorized.

323 (k) The legislative rules filed in the state register on  
324 the eleventh day of August, one thousand nine hundred  
325 eighty-six, relating to the state tax commissioner  
326 (guidelines for assessors to assure fair and uniform  
327 personal property values), are authorized.

328 (l) The legislative rules filed in the state register on  
329 the eighteenth day of August, one thousand nine  
330 hundred eighty-six, modified by the state tax commis-  
331 sioner to meet the objections of the legislative rule-  
332 making review committee and refiled in the state  
333 register on the tenth day of December, one thousand  
334 nine hundred eighty-six, relating to the state tax  
335 commissioner (registration of transient vendors), are  
336 authorized.

337 (m) The legislative rules filed in the state register on  
338 the fourth day of February, one thousand nine hundred  
339 eighty-six, modified by the state tax commissioner to  
340 meet the objection of the legislative rule-making review  
341 committee and refiled in the state register on the  
342 fourteenth day of January, one thousand nine hundred  
343 eighty-seven, relating to the state tax commissioner  
344 (business and occupation tax), are authorized.

345 (n) The legislative rules filed in the state register on  
346 the fourteenth day of August, one thousand nine  
347 hundred eighty-seven, modified by the state tax commis-  
348 sioner to meet the objections of the legislative rule-  
349 making review committee and refiled in the state  
350 register on the fourth day of November, one thousand

351 nine hundred eighty-seven, relating to the state tax  
352 commissioner (telecommunications tax) are authorized.

353 (o) The legislative rules filed in the state register on  
354 the fourteenth day of August, one thousand nine  
355 hundred eighty-seven, relating to the state tax commis-  
356 sioner (business franchise tax) are authorized.

357 (p) The legislative rules filed in the state register on  
358 the seventeenth day of August, one thousand nine  
359 hundred eighty-seven, modified by the state tax commis-  
360 sioner to meet the objections of the legislative rule-  
361 making review committee and refiled in the state  
362 register on the twenty-second day of January, one  
363 thousand nine hundred eighty-eight, relating to the state  
364 tax commissioner (consumers sales and service tax and  
365 use tax) are authorized.

366 (q) The legislative rules filed in the state register on  
367 the fourteenth day of August, one thousand nine  
368 hundred eighty-seven, modified by the state tax commis-  
369 sioner to meet the objections of the legislative rule-  
370 making review committee and refiled in the state  
371 register on the thirteenth day of January, one thousand  
372 nine hundred eighty-eight, relating to the state tax  
373 commissioner (appraisal of property for periodic  
374 statewide reappraisals for ad valorem property tax  
375 purposes) are authorized.

376 (r) The legislative rules filed in the state register on  
377 the fourteenth day of August, one thousand nine  
378 hundred eighty-seven, modified by the state tax commis-  
379 sioner to meet the objections of the legislative rule-  
380 making review committee and refiled in the state  
381 register on the twelfth day of January, one thousand  
382 nine hundred eighty-eight, relating to the state tax  
383 commissioner (severance tax) are authorized.

384 (s) The legislative rules filed in the state register on  
385 the second day of September, one thousand nine  
386 hundred eighty-eight, modified by the state tax commis-  
387 sioner to meet the objections of the legislative rule-  
388 making review committee and refiled in the state  
389 register on the twenty-fourth day of February, one  
390 thousand nine hundred eighty-nine, relating to the state

391 tax commissioner (solid waste assessment fee) are  
392 authorized.

393 (t) The legislative rules filed in the state register on  
394 the twelfth day of August, one thousand nine hundred  
395 eighty-eight, modified by the state tax commissioner to  
396 meet the objections of the legislative rule-making review  
397 committee and refiled in the state register on the  
398 twenty-first day of September, one thousand nine  
399 hundred eighty-eight, relating to the state tax commis-  
400 sioner (electronic data processing system network for  
401 property tax administration) are authorized.

402 (u) The legislative rules filed in the state register on  
403 the nineteenth day of September, one thousand nine  
404 hundred eighty-eight, modified by the state tax commis-  
405 sioner to meet the objections of the legislative rule-  
406 making review committee and refiled in the state  
407 register on the twenty-fourth day of February, one  
408 thousand nine hundred eighty-nine, relating to the state  
409 tax commissioner (exemption of property from ad  
410 valorem property taxation) are authorized.

411 (v) The legislative rules filed in the state register on  
412 the sixteenth day of September, one thousand nine  
413 hundred eighty-eight, modified by the state tax commis-  
414 sioner to meet the objections of the legislative rule-  
415 making review committee and refiled in the state  
416 register on the thirteenth day of January, one thousand  
417 nine hundred eighty-nine, relating to the state tax  
418 commissioner (consumers sales and service tax and use  
419 tax) are authorized.

**§64-2-3. State board of investments.**

1 (a) The legislative rules filed in the state register on  
2 the third day of January, one thousand nine hundred  
3 eighty-four, relating to the state board of investments  
4 (selection of state depositories for disbursement accounts  
5 through competitive bidding) are authorized.

6 (b) The legislative rules filed in the state register on  
7 the third day of January, one thousand nine hundred  
8 eighty-four, relating to the state board of investments  
9 (administration of the consolidated fund) are autho-

10 rized.

**§64-2-4. West Virginia health care cost review authority.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-first day of October, one thousand nine  
3 hundred eighty-three, relating to the health care cost  
4 review authority (limitation on hospital gross patient  
5 revenue) are authorized.

6 (b) The legislative rules filed in the state register on  
7 the nineteenth day of December, one thousand nine  
8 hundred eighty-three, relating to the health care cost  
9 review authority (freeze on hospital rates and granting  
10 temporary rate increases) are authorized.

11 (c) The legislative rules filed in the state register on  
12 the twenty-first day of December, one thousand nine  
13 hundred eighty-four, relating to the health care cost  
14 review authority (implementation of the utilization  
15 review and quality assurance program) are authorized.

16 (d) The legislative rules filed in the state register on  
17 the fifteenth day of August, one thousand nine hundred  
18 eighty-four, relating to the health care cost review  
19 authority (hospital cost containment methodology), are  
20 authorized.

21 (e) The legislative rules filed in the state register on  
22 the twenty-fifth day of November, one thousand nine  
23 hundred eighty-five, modified by the West Virginia  
24 health care cost review authority to meet the objections  
25 of the legislative rule-making review committee and  
26 refiled in the state register on the twenty-eighth day of  
27 January, one thousand nine hundred eighty-six, relating  
28 to the West Virginia health care cost review authority  
29 (interim standards for lithotripsy services) are  
30 authorized.

31 (f) The legislative rules filed in the state register on  
32 the third day of September, one thousand nine hundred  
33 eighty-seven, modified by the West Virginia health care  
34 cost review authority to meet the objections of the  
35 legislative rule-making review committee and refiled in  
36 the state register on the twenty-seventh day of January,  
37 one thousand nine hundred eighty-eight, relating to the

38 West Virginia health care cost review authority (exemp-  
39 tions from certificate of need review) are authorized.

40 (g) The legislative rules filed in the state register on  
41 the nineteenth day of September, one thousand nine  
42 hundred eighty-eight, modified by the health care cost  
43 review authority to meet the objections of the legislative  
44 rule-making review committee and refiled in the state  
45 register on the twenty-first day of February, one  
46 thousand nine hundred eighty-nine, relating to the  
47 health care cost review authority (financial disclo-  
48 sure) are authorized.

**§64-2-5. Commissioner of highways.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-first day of October, one thousand nine  
3 hundred eighty-three, relating to the commissioner of  
4 highways (transportation of hazardous waste by high-  
5 way transporters) are authorized with the amendments  
6 set forth below:

7 Pages 3 and 7 after "40 CFR part 262" add the words  
8 "as amended through March 8, 1986,"

9 Page 7 after "49 CFR parts 171-179" add the words  
10 "as amended through March 8, 1986," and

11 Page 11 after "49 CFR part 171.16" add the words "as  
12 amended through March 8, 1986."

13 (b) The legislative rules filed in the state register on  
14 the tenth day of August, one thousand nine hundred  
15 eighty-four, relating to the commissioner of highways  
16 (construction and reconstruction of state roads), are  
17 authorized with the amendments set forth below:

18 Page 16, Sec. 8.08, line 21 (unnumbered), by inserting  
19 after the word "all" the following language: "reasonable  
20 and necessary" and after the word "project" inserting  
21 the following language: "by the Railroad".

22 Page 16, Sec. 8.08, line 22, (unnumbered), after the  
23 word "the" by striking the words "Railroad's Chief".

24 Page 19, Sec. 8.08, line 25, (unnumbered), by striking  
25 "Railroad's Chief" and adding the following new

26 language:

27 Any approval by the Department of any activity by  
28 the Contractor upon the right-of-way or premises of any  
29 Railroad which is provided for in this Section  
30 (8.08) (including, but not limited to, approval of work,  
31 methods, or procedures of work to be done, and the  
32 condition of premises after completion of work by the  
33 Contractor) shall in no way create any liability by the  
34 Department to the Railroad except to the extent  
35 provided otherwise by law and the Contractor shall,  
36 during all periods of construction and thereafter,  
37 indemnify and save harmless the department from any  
38 and all liability to the Railroad or any third parties for  
39 any damages as a result of the work of the Contractor,  
40 the methods and procedures for performing work, the  
41 failure of the Contractor to properly remove equipment,  
42 surplus material and other debris upon the Railroad  
43 premises, or the condition of the premises of the  
44 Railroad during construction or after completion of  
45 construction by the Contractor as approved by the  
46 Department or otherwise.

47 Page 18, Sec. 8.08, subdivision (a), line 22, (unnum-  
48 bered), by striking the words "single limit" and  
49 inserting in lieu thereof the following language: "per  
50 occurrence".

51 Page 19, Sec. 8.08, subdivision (b), line 8, (unnum-  
52 bered), by striking the words "single limit" and  
53 inserting in lieu thereof the following language: "per  
54 occurrence".

55 Page 19, Sec. 8.08 (c), line 18, (unnumbered), by  
56 inserting after the word "occurrence" the following  
57 language: "of"; and after the word "injury" insert a  
58 comma and strike the word "or".

59 (c) The legislative rules filed in the state register on  
60 the seventh day of September, one thousand nine  
61 hundred eighty-four, modified by the commissioner of  
62 highways to meet the objections of the legislative rule-  
63 making review committee and refiled in the state  
64 register on the fifth day of October, one thousand nine  
65 hundred eighty-four, relating to the commissioner of

66 highways (transportation of hazardous waste) are  
67 authorized with the amendment set forth below:

68 Page 5, by amending §3.01 by adding thereto a new  
69 subsection, designated subsection (4), to read as follows:  
70 “(4) Before accepting hazardous waste from a rail  
71 transporter, a highway transporter must sign and date  
72 the manifest and provide a copy to the rail transporter.”

73 (d) The legislative rules filed in the state register on  
74 the fourteenth day of August, one thousand nine  
75 hundred eighty-four, modified by the commissioner of  
76 highways to meet the objections of the legislative rule-  
77 making review committee and refiled in the state  
78 register on the fifth day of October, one thousand nine  
79 hundred eighty-four, relating to the commissioner of  
80 highways (disqualification and suspension of  
81 prequalified contractors) are authorized.

82 (e) The legislative rules filed in the state register on  
83 the twelfth day of December, one thousand nine hundred  
84 eighty-five, relating to the commissioner of highways  
85 (transportation of hazardous wastes by vehicle upon the  
86 roads and highways of this state) are authorized with  
87 the amendments set forth below:

88 On page 18, the first line of §3.03 shall read as follows:

89 “3.03. Transporters who only accept Hazardous Waste  
90 from”.

91 (f) The legislative rules filed in the state register on  
92 the first day of December, one thousand nine hundred  
93 eighty-seven, modified by the commissioner of highways  
94 to meet the objections of the legislative rule-making  
95 review committee and refiled in the state register on the  
96 fourteenth day of January, one thousand nine hundred  
97 eighty-eight, relating to the commissioner of highways  
98 (traffic and safety rules and regulations) are authorized  
99 with the amendment set forth below:

100 On page 8, section 7.2, line 9, (unnumbered), by  
101 striking everything after the word “structures”.

102 (g) The legislative rules filed in the state register on  
103 the first day of December, one thousand nine hundred

104 eighty-seven, relating to the commissioner of highways  
105 (construction and reconstruction of state roads) are  
106 authorized.

107 (h) The legislative rules filed in the state register on  
108 the twenty-fifth day of February, one thousand nine  
109 hundred eighty-seven, modified by the commissioner of  
110 highways to meet the objections of the legislative rule-  
111 making review committee and refiled in the state  
112 register on the twenty-third day of November, one  
113 thousand nine hundred eighty-seven, relating to the  
114 commissioner of highways (transportation of hazardous  
115 wastes upon the roads and highways) are authorized.

**§64-2-6. Commissioner of motor vehicles.**

1 (a) The legislative rules filed in the state register on  
2 the second day of December, one thousand nine hundred  
3 eighty-two, relating to the commissioner of motor  
4 vehicles (denial of driving privileges), are authorized  
5 with the amendments set forth below:

6 By inserting the words "licensed in the United States"  
7 after the phrase "physician of the applicant's choice," on  
8 page five, line two, and page seven, line one; and by  
9 striking out the words "licensed vision specialist" and  
10 inserting in lieu thereof the words "an optometrist or  
11 ophthalmologist licensed in the United States," on page  
12 five, line three, and on page seven, line two.

13 (b) The legislative rules filed in the state register on  
14 the ninth day of November, one thousand nine hundred  
15 eighty-three, relating to the commissioner of motor  
16 vehicles (driving under the influence, drivers' license  
17 revocation administrative hearings) are authorized.

18 (c) The legislative rules filed in the state register on  
19 the fifteenth day of December, one thousand nine  
20 hundred eighty-three, relating to the department of  
21 motor vehicles (safety and treatment program) are  
22 authorized.

23 (d) The legislative rules filed in the state register on  
24 the sixteenth day of June, one thousand nine hundred  
25 eighty-three, relating to the commissioner of motor  
26 vehicles (compulsory insurance) are authorized.

27 (e) The legislative rules filed in the state register on  
28 the twentieth day of November, one thousand nine  
29 hundred eighty-four, relating to the commissioner of  
30 motor vehicles (titling a vehicle), are authorized.

31 (f) The legislative rules filed in the state register on  
32 the tenth day of September, one thousand nine hundred  
33 eighty-four, modified by the commissioner of motor  
34 vehicles to meet the objections of the legislative rule-  
35 making review committee and refiled in the state  
36 register on the fifth day of October, one thousand nine  
37 hundred eighty-four, relating to the commissioner of  
38 motor vehicles (compulsory motor vehicle liability  
39 insurance) are authorized.

40 (g) The legislative rules filed in the state register on  
41 the fifth day of August, one thousand nine hundred  
42 eighty-five, modified by the commissioner of motor  
43 vehicles to meet the objections of the legislative rule-  
44 making review committee and refiled in the state  
45 register on the fourth day of October, one thousand nine  
46 hundred eighty-five, relating to the commissioner of  
47 motor vehicles (eligibility for reinstatement following  
48 suspension or revocation of driving privileges), are  
49 authorized.

50 (h) The legislative rules filed in the state register on  
51 the fifth day of August, one thousand nine hundred  
52 eighty-five, relating to the commissioner of motor  
53 vehicles (the administration and enforcement of motor  
54 vehicle inspections) are authorized.

55 (i) The legislative rules filed in the state register on  
56 the twenty-fifth day of July, one thousand nine hundred  
57 eighty-six, modified by the commissioner of motor  
58 vehicles to meet the objections of the legislative rule-  
59 making review committee and refiled in the state  
60 register on the ninth day of October, one thousand nine  
61 hundred eighty-six, relating to the commissioner of  
62 motor vehicles (seizure of a driver's license and issuance  
63 of a temporary driver's license), are authorized.

64 (j) The legislative rules filed in the state register on  
65 the twenty-fifth day of July, one thousand nine hundred  
66 eighty-six, modified by the commissioner of motor

67 vehicles to meet the objections of the legislative rule-  
68 making review committee and refiled in the state  
69 register on the ninth day of October, one thousand nine  
70 hundred eighty-six, relating to the commissioner of  
71 motor vehicles (federal safety standards inspection  
72 program), are authorized.

73 (k) The legislative rules filed in the state register on  
74 the seventeenth day of August, one thousand nine  
75 hundred eighty-seven, modified by the commissioner of  
76 motor vehicles to meet the objections of the legislative  
77 rule-making review committee and refiled in the state  
78 register on the twenty-second day of September, one  
79 thousand nine hundred eighty-seven, relating to the  
80 commissioner of motor vehicles (denial, suspension,  
81 revocation or renewal of driving privileges) are autho-  
82 rized with the amendment set forth below:

83 On page 7, section 7.2 after the words "75 m.p.h.," add  
84 the words "except on highways where the established  
85 speed limit is 65 m.p.h., and conviction was in excess  
86 of 80 m.p.h.",

87 And,

88 On page 14, section 8.1 by inserting the words "not  
89 to exceed fifteen hours" after the word "course" and in  
90 section 8.2 by inserting the words "not to exceed fifteen  
91 hours" after the word "course".

92 (l) The legislative rules filed in the state register on  
93 the twenty-second day of November, one thousand nine  
94 hundred eighty-eight, modified by the commissioner of  
95 motor vehicles to meet the objections of the legislative  
96 rule-making review committee and refiled in the state  
97 register on the twentieth day of January, one thousand  
98 nine hundred eighty-nine, relating to the commissioner  
99 of motor vehicles (denial, suspension, revocation or  
100 nonrenewal of driving privileges) are authorized.

#### §64-2-7. Department of natural resources.

1 (a) The legislative rules filed in the state register on  
2 the eighth day of December, one thousand nine hundred  
3 eighty-three, relating to the department of natural  
4 resources (surface mining) are authorized with the

5 amendments set forth below:

6 Page 3-4, §3E.01 by adding after the word "engineer"  
7 the words "or licensed land surveyor."

8 Page 3-5, §3E.02, subsection (a), by adding after the  
9 word "mining" the words "or civil."

10 Page 3-5, §3E.02, subsection (b), by adding after the  
11 first sentence—"Those persons who have been approved  
12 to date need not make said demonstration."

13 (b) The legislative rules filed in the state register on  
14 the twentieth day of January, one thousand nine  
15 hundred eighty-four, relating to the department of  
16 natural resources (solid waste management) are autho-  
17 rized with the amendments set forth below:

18 Page 9, section 4.04, line five, add the following  
19 paragraph:

20 "Upon request of any applicant, the division shall  
21 meet with the applicant for pre-filing review of the  
22 application. The division, with the cooperation of the  
23 solid waste authority, shall assist the applicant in  
24 preparing a complete and proper application which  
25 would not be rejected as incomplete."

26 On page 15, section 6.03 (c) (1) in the first full  
27 sentence, after the word "cease", strike the remainder  
28 of the sentence and insert in lieu thereof the words  
29 "within fifteen (15) days of receipt of an order of  
30 suspension" and in the second sentence strike the word  
31 "recommence" and insert the words "continue beyond  
32 fifteen (15) days"; (c)(2) in the first full sentence, after  
33 the word "cease" by striking out the remainder of the  
34 sentence and insert in lieu thereof the words "imme-  
35 diately upon receipt of an order of revocation."

36 (c) The legislative rules filed in the state register on  
37 the twenty-sixth day of September, one thousand nine  
38 hundred eighty-four, relating to the department of  
39 natural resources (public use of state parks, forests,  
40 hunting and fishing areas), are authorized.

41 (d) The legislative rules filed in the state register on  
42 the seventh day of November, one thousand nine

43 hundred eighty-four, relating to the department of  
44 natural resources (surface mining reclamation) are  
45 authorized.

46 (e) The legislative rules filed in the state register on  
47 the seventh day of November, one thousand nine  
48 hundred eighty-four, relating to the department of  
49 natural resources (coal refuse disposal) are authorized.

50 (f) The legislative rules filed in the state register on  
51 the ninth day of November, one thousand nine hundred  
52 eighty-four, relating to the department of natural  
53 resources (transfer of the state national pollutant  
54 discharge elimination system program), are authorized  
55 with the amendments set forth below:

56 Page 10-5, by striking § 10B.19 and inserting in lieu  
57 thereof a new § 10B.19, to read as follows: "Effluent  
58 limitations guidelines' means a regulation published by  
59 the Administrator under Section 304(b) or Section  
60 301(b)(1)(B) of the CWA to adopt or revise effluent  
61 limitations or levels of effluent quality attainable  
62 through the application of secondary or equivalent  
63 treatment. For the coal industry these regulations are  
64 published at 40 C.F.R. Parts 434 and 133. (See:  
65 Appendix G and H)"

66 (g) The legislative rules filed in the state register on  
67 the twenty-eighth day of August, one thousand nine  
68 hundred eighty-four, relating to the department of  
69 natural resources (small arms hunting) are authorized.

70 (h) The legislative rules filed in the state register on  
71 the sixth day of January, one thousand nine hundred  
72 eighty-four, relating to the department of natural  
73 resources (hazardous waste management), are  
74 authorized.

75 (i) The legislative rules filed in the state register on  
76 the third day of December, one thousand nine hundred  
77 eighty-four, modified by the department of natural  
78 resources to meet the objections of the legislative rule-  
79 making review committee and refiled in the state  
80 register on the thirteenth day of February, one thousand  
81 nine hundred eighty-five, relating to the department of

82 natural resources (hazardous waste management), are  
83 authorized.

84 (j) The legislative rules filed in the state register on  
85 the tenth day of October, one thousand nine hundred  
86 eighty-five, relating to the department of natural  
87 resources (hazardous waste management: small quantity  
88 generators and waste minimization certification), are  
89 authorized with the amendments set forth below:

90 On page 1, §3.1.4b, delete the word "or" in the  
91 reference to "paragraph (g) or (j)" and insert in lieu  
92 thereof the words "and, if applicable."

93 (k) The legislative rules filed in the state register on  
94 the ninth day of September, one thousand nine hundred  
95 eighty-five, relating to the department of natural  
96 resources (WV/NPDES regulations for the coal mining  
97 point source category and related sewage facilities), are  
98 authorized.

99 (l) The legislative rules filed in the state register on  
100 the eleventh day of December, one thousand nine  
101 hundred eighty-five, modified by the department of  
102 natural resources to meet the objections of the legislative  
103 rule-making review committee and refiled in the state  
104 register on the twentieth day of February, one thousand  
105 nine hundred eighty-six, relating to the department of  
106 natural resources (hazardous waste management), are  
107 authorized.

108 (m) The legislative rules filed in the state register on  
109 the twenty-sixth day of September, one thousand nine  
110 hundred eighty-six, modified by the department of  
111 natural resources to meet the objections of the legislative  
112 rule-making review committee and refiled in the state  
113 register on the ninth day of December, one thousand  
114 nine hundred eighty-six, relating to the department of  
115 natural resources (hazardous waste management regu-  
116 lations), are authorized.

117 (n) The legislative rules filed in the state register on  
118 the seventh day of August, one thousand nine hundred  
119 eighty-six, relating to the director of the department of  
120 natural resources (procedures for transporting and

121 dealing in furbearing animals), are authorized.

122 (o) The legislative rules filed in the state register on  
123 the thirtieth day of December, one thousand nine  
124 hundred eighty-six, relating to the department of  
125 natural resources (WV/NPDES program for coal mines  
126 and preparation plants, and the refuse and waste  
127 therefrom), are authorized with the amendments set  
128 forth below:

129 On page four, § 1.9.1.a by inserting the words "five  
130 thousand dollars or" after the words "significant  
131 portion of income' means" and

132 On page four, § 1.9.1.a by inserting the words  
133 "whichever is less," after the words "ten percent or more  
134 of gross personal income for a calendar year".

135 (p) The legislative rules filed in the state register on  
136 the fifth day of March, one thousand nine hundred  
137 eighty-six, relating to the department of natural  
138 resources (hazardous waste management), are  
139 authorized.

140 (q) The legislative rules filed in the state register on  
141 the twelfth day of August, one thousand nine hundred  
142 eighty-seven, relating to the department of natural  
143 resources (WV/NPDES regulations for coal mining  
144 facilities) are authorized.

145 (r) The legislative rules filed in the state register on  
146 the tenth day of June, one thousand nine hundred  
147 eighty-seven, relating to the director of the department  
148 of natural resources (outfilters and guides) are  
149 authorized.

150 (s) The legislative rules filed in the state register on  
151 the ninth day of January, one thousand nine hundred  
152 eighty-seven, relating to the department of natural  
153 resources (hazardous waste management regulations),  
154 are authorized.

155 (t) The legislative rules filed in the state register on  
156 the fifth day of March, one thousand nine hundred  
157 eighty-seven, relating to the department of natural  
158 resources (hazardous waste management regulations,

159 series 35), are authorized.

160 (u) The legislative rules filed in the state register on  
161 the seventh day of December, one thousand nine  
162 hundred eighty-seven, relating to the department of  
163 natural resources (hazardous waste management regu-  
164 lations, series 35) are authorized.

165 (v) The legislative rules filed in the state register on  
166 the sixteenth day of December, one thousand nine  
167 hundred eighty-seven, modified by the department of  
168 natural resources to meet the objections of the legislative  
169 rule-making review committee and refiled in the state  
170 register on the fourteenth day of January, one thousand  
171 nine hundred eighty-eight, relating to the department of  
172 natural resources (solid waste management) are  
173 authorized.

174 (w) The legislative rules filed in the state register on  
175 the twenty-eighth day of July, one thousand nine  
176 hundred eighty-seven, modified by the director of the  
177 department of natural resources to meet the objections  
178 of the legislative rule-making review committee and  
179 refiled in the state register on the seventh day of  
180 August, one thousand nine hundred eighty-seven,  
181 relating to the director of the department of natural  
182 resources (boating regulations) are authorized with the  
183 amendment set forth below:

184 On page 16, section 6.2, line 3 by inserting following  
185 the period "This regulation does not apply to licensed  
186 outfitters and guides." These rules were proposed by the  
187 director of the department of natural resources pursu-  
188 ant to section seven, article one and section twenty-two,  
189 article seven, chapter twenty of this code.

190 (x) The legislative rules filed in the state register on  
191 the second day of September, one thousand nine  
192 hundred eighty-eight, modified by the department of  
193 natural resources to meet the objections of the legislative  
194 rule-making review committee and refiled in the state  
195 register on the seventeenth day of October, one thousand  
196 nine hundred eighty-eight, relating to the department of  
197 natural resources (hazardous waste management) are  
198 authorized.

199 (y) The legislative rules filed in the state register on  
200 the thirty-first day of August, one thousand nine  
201 hundred eighty-eight, relating to the director of the  
202 department of natural resources (boating) are  
203 authorized.

204 (z) The legislative rules filed in the state register on  
205 the eighth day of March, one thousand nine hundred  
206 eighty-eight, modified by director of the department of  
207 natural resources to meet the objections of the legislative  
208 rule-making review committee and refiled in the state  
209 register on the thirtieth day of August, one thousand  
210 nine hundred eighty-eight, relating to the director of the  
211 department of natural resources (commercial sale of  
212 wildlife) are authorized.

213 (aa) The legislative rules filed in the state register on  
214 the twenty-seventh day of January, one thousand nine  
215 hundred eighty-eight, relating to the director of the  
216 department of natural resources (catching and selling  
217 bait fish) are authorized.

218 (bb) The legislative rules filed in the state register on  
219 the twenty-fifth day of March one thousand nine  
220 hundred eighty-eight, relating to the director of the  
221 department of natural resources (West Virginia public  
222 hunting and fishing areas) are authorized with the  
223 following amendment:

224 On page three, section 3.8.4, by inserting after the  
225 word "vehicle" the following ", all terrain vehicle  
226 (ATV)".

#### §64-2-8. Department of energy.

1 (a) The legislative rules filed in the state register on  
2 the thirty-first day of March, one thousand nine hundred  
3 eighty-two, relating to the department of mines  
4 (energy) (mine safety program), are authorized.

5 (b) The legislative rules filed in the state register on  
6 the seventeenth day of August, one thousand nine  
7 hundred eighty-three, relating to the department of  
8 energy (governing the safety of those employed in and  
9 around surface mines), are authorized.

10 (c) The legislative rules filed in the state register on  
11 the seventh day of December, one thousand nine  
12 hundred eighty-three, relating to the office of oil and  
13 gas, department of mines (energy), (oil and gas and  
14 other wells) are authorized with the amendment set  
15 forth below:

16 Page viii, place an \* in front of section 32.02.

17 Page ix, after section 35.04 add the following:

18 “\*35.05 Extra Powers of the Administrator . . . . . 64.”

19 Page 1, section 1.03 in the list of additional regula-  
20 tions, add 35.05; in the list of revised regulations, add  
21 32.02, 32.03 and 33.00.

22 Page 52 section 32.04 and section 32.05 add at the end  
23 of (ii) the words “and (iii) definition of proration unit”.

24 Page 53 section 33 After the word “definitions” add  
25 the following sentence: “The following definitions are  
26 applicable to these regulations used for purposes of  
27 implementing the Natural Gas Policy Act of 1978 and  
28 are not intended to be used in any other context.”

29 Page 55, section 33.02 (b)(16) after the word “forma-  
30 tions” in the third lines of (i) and (ii), add the words “for  
31 which a well has been.”

32 Page 64, after section 35.04 add the following section:  
33 35.05 Extra powers of the Administrator.

34 “The administrator may also certify or provide a  
35 waiver for a well located within a proration unit as  
36 defined in 32.02 (b)(16) or any other well sought to be  
37 certified under these regulations after notice and  
38 hearing.”

39 (d) The legislative rules filed in the state register on  
40 the eleventh day of August, one thousand nine hundred  
41 eighty-six, modified by the director of the division of oil  
42 and gas of the department of energy to meet the  
43 objections of the legislative rule-making review commit-  
44 tee and refiled in the state register on the fifteenth day  
45 of December, one thousand nine hundred eighty-six,  
46 relating to the director of the division of oil and gas of

47 the department of energy (oil and gas wells and other  
48 wells), are authorized.

49 (e) The legislative rules filed in the state register on  
50 the eleventh day of August, one thousand nine hundred  
51 eighty-six, modified by the director of the oil and gas  
52 division of the department of energy to meet the  
53 objections of the legislative rule-making review commit-  
54 tee and refiled in the state register on the fifteenth day  
55 of December, one thousand nine hundred eighty-six,  
56 relating to the director of the division of oil and gas of  
57 the department of energy (certification of gas wells), are  
58 authorized.

59 (f) The legislative rules filed in the state register on  
60 the eleventh day of August, one thousand nine hundred  
61 eighty-six, modified by the director of the division of oil  
62 and gas of the department of energy to meet the  
63 objections of the legislative rule-making review commit-  
64 tee and refiled in the state register on the fifteenth day  
65 of December, one thousand nine hundred eighty-six,  
66 relating to the director of the division of oil and gas of  
67 the department of energy (underground injection  
68 control), are authorized.

69 (g) The legislative rules filed in the state register on  
70 the eleventh day of August, one thousand nine hundred  
71 eighty-six, modified by the director of the division of oil  
72 and gas of the department of energy to meet the  
73 objections of the legislative rule-making review commit-  
74 tee and refiled in the state register on the fifteenth day  
75 of December, one thousand nine hundred eighty-six,  
76 relating to the director of the division of oil and gas of  
77 the department of energy (state national pollutant  
78 discharge elimination system (NPDES) program), are  
79 authorized.

80 (h) The legislative rules filed in the state register on  
81 the fourteenth day of November, one thousand nine  
82 hundred eighty-six, modified by the commissioner of the  
83 department of energy to meet the objections of the  
84 legislative rule-making review committee and refiled in  
85 the state register on the sixteenth day of December, one  
86 thousand nine hundred eighty-six, relating to the

87 commissioner of the department of energy (standards  
88 for certification of coal mine electricians), are autho-  
89 rized with the following amendments:

90 "Page one, §2.1, subsection (a), following the second  
91 word, 'electrician' by striking the colon and inserting the  
92 following: 'under the supervision required by section  
93 4.1(d) of these rules' and a colon.

94 Page one, §2.1, subsection (a), by deleting all of  
95 subdivision (6) and renumbering the subsequent  
96 subdivisions.

97 Page two, §2.1, subsection (a), by deleting all of  
98 subdivision (9).

99 Page two, §2.1, subsection (b), by deleting all of  
100 subdivision (14) and inserting in lieu thereof a new  
101 subdivision (14) to read as follows: '(14) Replace blown  
102 fuses on trolley poles and nips.'

103 Page five, §4.1, subsection (d), line three, following the  
104 words 'certified electrician prior' by inserting the words  
105 'to any work being performed and again prior'."

106 (i) The legislative rules filed in the state register on  
107 the fifteenth day of December, one thousand nine  
108 hundred eighty-six, modified by the commissioner of the  
109 department of energy to meet the objections of the  
110 legislative rule-making review committee and refiled in  
111 the state register on the twenty-first day of January, one  
112 thousand nine hundred eighty-seven, relating to the  
113 commissioner of the department of energy (safety  
114 training program for prospective underground coal  
115 miners in West Virginia), are authorized.

116 (j) The legislative rules filed in the state register on  
117 the eleventh day of August, one thousand nine hundred  
118 eighty-six, modified by the commissioner of the depart-  
119 ment of energy to meet the objections of the legislative  
120 rule-making review committee and refiled in the state  
121 register on the fifteenth day of December, one thousand  
122 nine hundred eighty-six, relating to the commissioner of  
123 the department of energy (miscellaneous water pollution  
124 control), are authorized.

125 (k) The legislative rules filed in the state register on  
126 the eleventh day of August, one thousand nine hundred  
127 eighty-six, modified by the commissioner of the depart-  
128 ment of energy to meet the objections of the legislative  
129 rule-making review committee and refiled in the state  
130 register on the fifteenth day of December, one thousand  
131 nine hundred eighty-six, relating to the commissioner of  
132 the department of energy (dam control), are authorized.

133 (l) The legislative rules filed in the state register on  
134 the eleventh day of August, one thousand nine hundred  
135 eighty-six, modified by the commissioner of the depart-  
136 ment of energy to meet the objections of the legislative  
137 rule-making review committee and refiled in the state  
138 register on the fifteenth day of December, one thousand  
139 nine hundred eighty-six, relating to the commissioner of  
140 the department of energy (solid waste management), are  
141 authorized.

142 (m) The legislative rules filed in the state register on  
143 the eleventh day of August, one thousand nine hundred  
144 eighty-six, modified by the commissioner of the depart-  
145 ment of energy to meet the objections of the legislative  
146 rule-making review committee and refiled in the state  
147 register on the fifteenth day of December, one thousand  
148 nine hundred eighty-six, relating to the commissioner of  
149 the department of energy (hazardous waste manage-  
150 ment), are authorized.

151 (n) The legislative rules filed in the state register on  
152 the twentieth day of April, one thousand nine hundred  
153 eighty-seven, relating to the commissioner of the  
154 department of energy (roof control) are authorized.

155 (o) The legislative rules filed in the state register on  
156 the third day of April, one thousand nine hundred  
157 eighty-seven, relating to the department of energy  
158 (standards for certification of underground belt examin-  
159 ers for underground coal mines), are authorized.

160 (p) The legislative rules filed in the state register on  
161 the ninth day of April, one thousand nine hundred  
162 eighty-seven, relating to the commissioner of the  
163 department of energy (performance standards for  
164 blasting on surface mines) are authorized.

165 (q) The legislative rules filed in the state register on  
166 the twelfth day of January, one thousand nine hundred  
167 eighty-seven, modified by the commissioner of the  
168 department of energy to meet the objections of the  
169 legislative rule-making review committee and refiled in  
170 the state register on the twentieth day of February, one  
171 thousand nine hundred eighty-seven, relating to the  
172 commissioner of the department of energy (state  
173 national pollutant discharge elimination system  
174 (NPDES) for mines and minerals), are authorized.

175 (r) The Legislature hereby authorizes and directs the  
176 department of energy to promulgate the procedural  
177 rules filed in the state register on the twenty-first day  
178 of October, one thousand nine hundred eighty-seven,  
179 relating to the department of energy (requests for  
180 information) with the amendments set forth below:

181 On page two, subsection 3.1, by striking subdivision  
182 (d) and renumbering the remaining subdivisions, and

183 On page three, section 6, by striking all of subsection  
184 6.1 and inserting in lieu thereof, the following:

185 "6.1 The department shall establish fixed rate fees for  
186 reproduction of documents, records, and files on the  
187 basis of the actual cost of such reproduction and shall  
188 document such costs: *Provided*, That where total costs  
189 are less than five dollars, no fee shall be charged."

190 (s) The legislative rules filed in the state register on  
191 the twelfth day of May, one thousand nine hundred  
192 eighty-seven, modified by the commissioner of the  
193 department of energy to meet the objections of the  
194 legislative rule-making review committee and refiled in  
195 the state register on the fourteenth day of August, one  
196 thousand nine hundred eighty-seven, relating to the  
197 commissioner of the department of energy (blasters  
198 certification for surface coal mines and surface areas of  
199 coal mines) are authorized.

200 (t) The legislative rules filed in the state register on  
201 the twentieth day of January, one thousand nine  
202 hundred eighty-eight, modified by the commissioner of  
203 the department of energy to meet the objections of the

204 legislative rule-making review committee and refiled in  
205 the state register on the twenty-eighth day of November,  
206 one thousand nine hundred eighty-eight, relating to the  
207 commissioner of the department of energy (abandoned  
208 mine reclamation) are authorized.

**§64-2-9. Department of labor.**

1 (a) The legislative rules filed in the state register on  
2 the tenth day of May, one thousand nine hundred eighty-  
3 two, relating to the commissioner of labor (steam boiler  
4 rules) as modified by the legislative rule-making review  
5 committee are authorized.

6 (b) The legislative rules filed in the state register on  
7 the seventh day of December, one thousand nine  
8 hundred eighty-three, relating to the department of  
9 labor (hazardous chemical substances) are authorized.

10 (c) The legislative rules filed in the state register on  
11 the second day of February, one thousand nine hundred  
12 eighty-four, relating to the department of labor (poly-  
13 graph examinations) are authorized

14 (d) The legislative rules filed in the state register on  
15 the twenty-second day of December, one thousand nine  
16 hundred eighty-seven, relating to the commissioner of  
17 labor (West Virginia occupational safety and health act)  
18 are authorized.

19 (e) The legislative rules filed in the state register on  
20 the twenty-second day of December, one thousand nine  
21 hundred eighty-seven, modified by the commissioner of  
22 labor to meet the objections of the legislative rule-  
23 making review committee and refiled in the state  
24 register on the twentieth day of January, one thousand  
25 nine hundred eighty-eight, relating to the commissioner  
26 of labor (wage payment and collection act) are  
27 authorized.

28 (f) The legislative rules filed in the state register on  
29 the sixteenth day of November, one thousand nine  
30 hundred eighty-seven, relating to the commissioner of  
31 the department of labor (standards for weights and  
32 measures inspectors—adoption of NBS Handbook 130,  
33 1987) are authorized.

34 (g) The legislative rules filed in the state register on  
35 the twelfth day of January, one thousand nine hundred  
36 eighty-eight, relating to the commissioner of labor  
37 (steam boiler inspection fee schedule) are authorized.

38 (h) The legislative rules filed in the state register on  
39 the thirteenth day of September, one thousand nine  
40 hundred eighty-eight, modified by the department of  
41 labor to meet the objections of the legislative rule-  
42 making review committee and refiled in the state  
43 register on the seventh day of December, one thousand  
44 nine hundred eighty-eight, relating to the department of  
45 labor (amusement rides and amusement attractions  
46 safety act) are authorized.

**§64-2-10. Insurance commissioner.**

1 (a) The legislative rules filed in the state register on  
2 the eighteenth day of October, one thousand nine  
3 hundred eighty-three, relating to the insurance commis-  
4 sioner (excess line brokers), are authorized.

5 (b) The legislative rules filed in the state register on  
6 the eighteenth day of August, one thousand nine  
7 hundred eighty-six, modified by the insurance commis-  
8 sioner to meet the objection of the legislative rule-  
9 making review committee and refiled in the state  
10 register on the twelfth day of December, one thousand  
11 nine hundred eighty-six, relating to the insurance  
12 commissioner (examiners' compensation, qualification  
13 and classification), are authorized.

14 (c) The legislative rules filed in the state register on  
15 the twentieth day of February, one thousand nine  
16 hundred eighty-seven, relating to the insurance commis-  
17 sioner (West Virginia essential property insurance  
18 association) are authorized.

19 (d) The legislative rules filed in the state register on  
20 the twenty-ninth day of May, one thousand nine hundred  
21 eighty-seven, relating to the insurance commissioner  
22 (medical malpractice annual reporting requirements)  
23 are authorized.

24 (e) The legislative rules filed in the state register on  
25 the thirty-first day of July, one thousand nine hundred

26 eighty-seven, modified by the insurance commissioner to  
27 meet the objections of the legislative rule-making review  
28 committee and refiled in the state register on the  
29 seventh day of November, one thousand nine-hundred  
30 eighty-seven, relating to the insurance commissioner  
31 (medical malpractice loss experience and loss expense  
32 reporting requirements) are authorized.

33 (f) The legislative rules filed in the state register on  
34 the thirtieth day of November, one thousand nine  
35 hundred eighty-eight, modified by the insurance com-  
36 missioner to meet the objections of the legislative rule-  
37 making review committee and refiled in the state  
38 register on the twenty-first day of February, one  
39 thousand nine hundred eighty-nine, relating to the  
40 insurance commissioner (transitional requirements for  
41 the conversion of medicare supplement insurance  
42 benefits and premiums to conform to medicare program  
43 revisions) are authorized.

**§64-2-11. Attorney general.**

1 (a) The legislative rules filed in the state register on  
2 the sixth day of December, one thousand nine hundred  
3 eighty-four, relating to the attorney general (third party  
4 dispute mechanisms) are authorized.

5 (b) The legislative rules filed in the state register on  
6 the ninth day of January, one thousand nine hundred  
7 eighty-five, relating to the attorney general (fair  
8 treatment of crime victims and witnesses) are  
9 authorized.

10 (c) The legislative rules filed in the state register on  
11 the nineteenth day of September, one thousand nine  
12 hundred eighty-six, modified by the attorney general to  
13 meet the objections of the legislative rule-making review  
14 committee and refiled in the state register on the first  
15 day of December, one thousand nine hundred eighty-six,  
16 relating to the attorney general (prevention of unfair or  
17 deceptive acts or practices in home improvement and  
18 home construction transactions), are authorized. These  
19 rules were proposed by the attorney general pursuant  
20 to section one hundred three, article six and section one  
21 hundred two, article seven of chapter forty-six-a of this

22 code with the following amendments:

23 “Amending the title to the proposed legislative rule  
24 wherever said title may appear, on lines three and four  
25 thereof, by striking the words ‘and home construction’.

26 On the index page following ‘3.’ by striking the words  
27 ‘and home construction’.

28 On page 1, §1.2, line three, after the first word  
29 ‘transactions’ on line three, by striking the comma and  
30 the words ‘and home construction transactions’ and on  
31 line five, by striking the period and inserting the words  
32 ‘but shall not cover new construction of single-family  
33 dwellings or rebuilding all or substantially all of an  
34 existing or preexisting single-family dwelling.’

35 Page 2, section 2.2 by striking all of lines seven and  
36 eight and inserting in lieu thereof the following:

37 ‘unless: (a) it appears in printed or typed face larger  
38 than the largest type used in the written contract,  
39 apart’.

40 On page 2, section 2.4, by striking all of section 2.4  
41 and inserting in lieu thereof a new section 2.4, to read  
42 as follows:

43 “2.4 “Home Construction” means, for the purpose of  
44 this Rule, the repair, remodeling or the building of  
45 additions to existing single-family dwelling units,  
46 including single-family homes, condominium units or  
47 any other dwelling unit to be used by any person  
48 primarily for personal or family use, but shall not  
49 include new single-family home construction or the  
50 rebuilding of all or substantially all of an existing or  
51 preexisting single-family dwelling.’

52 Page 3, section 2.6, on line two thereof, after the  
53 second comma by inserting the word ‘replacement’.

54 Page 3, section 3., by striking the words ‘and home  
55 construction’ from the section heading.

56 Page 3, section 3.1, lines one and two, by striking the  
57 words ‘or home construction’.

58 Page 4, section 3.1.4, on lines one and two thereof, by

- 59 striking the words 'or home construction'.
- 60 Page 4, section 3.1.8, on line two thereof, by striking  
61 the words 'or home construction'.
- 62 Page 4, section 3.1.9, on lines two and three thereof,  
63 by striking the words 'or home construction'.
- 64 Page 5, section 3.1.12, on lines one and two thereof,  
65 by striking the words 'or home construction'.
- 66 Page 6, section 3.1.26, by striking all of section 3.1.26  
67 and renumbering the subsequent subsections.
- 68 Page 7, section 3.1.29, on lines one and two thereof,  
69 by striking the words 'or home construction'.
- 70 Page 7, section 3.1.29, on line six thereof, following the  
71 word 'contract' by inserting a period and striking the  
72 remainder of the section.
- 73 Page 7, following section 3.1.29 by adding a new  
74 section to be designated section 3.1.29, to read as follows:
- 75 'failed to file a certificate in the office of the Clerk of  
76 the County Commission in the county in which the  
77 principal place of business of the seller is located, setting  
78 forth the assumed name in or by which the business is  
79 being conducted in conformity with the provisions of  
80 Chapter 47, Article 8, Section 2 of the Code of West  
81 Virginia, 1931, as amended.'
- 82 Page 7, section 3.2, on lines two and three thereof, by  
83 striking the words, 'or home solicitation sale of home  
84 construction' and the comma on line three.
- 85 Page 9, section 4.1, on line eight thereof, by deleting  
86 the period and inserting the following:
- 87 'to the extent permitted by statute' and a period."
- 88 Page 10, section 4.2, on line 9 thereof, by striking the  
89 period and inserting the following:
- 90 "to the extent permitted by statute" and a period.
- 91 (d) The legislative rules filed in the state register on  
92 the twenty-third day of September, one thousand nine  
93 hundred eighty-six, modified by the attorney general to

94 meet the objections of the legislative rule-making review  
95 committee and refiled in the state register on the first  
96 day of December, one thousand nine hundred eighty-six,  
97 relating to the attorney general (prevention of unfair or  
98 deceptive acts or practices in the sale of damaged goods  
99 or products), are authorized.

100 (c) The legislative rules filed in the state register on  
101 the twenty-third day of September, one thousand nine  
102 hundred eighty-seven, modified by the attorney general  
103 to meet the objections of the legislative rule-making  
104 review committee and refiled in the state register on the  
105 twenty-fifth day of November, one thousand nine  
106 hundred eighty-seven, relating to the attorney general  
107 (administration of preneed burial contracts) are autho-  
108 rized with the following amendments set forth below:

109 On page 9, section 8.2 by striking the words "within  
110 thirty days after the death of a contract beneficiary,"  
111 and inserting in lieu thereof the following: "On or before  
112 the first day of January and the first day of July of each  
113 year," and after the word "provided" by striking the  
114 comma and inserting in lieu thereof "after the death of  
115 any contract beneficiary during the previous six-month  
116 period,"

117 And,

118 On page 12, section 9.7 by striking all of 9.7,

119 And,

120 Beginning on page 15, by striking the entirety of  
121 section 15,

122 And,

123 Beginning on page 18, by striking the entirety of  
124 section 16, and by renumbering the remaining sections.

**§64-2-12. West Virginia library commission.**

1 The legislative rules filed in the state register on the  
2 twenty-second day of October, one thousand nine  
3 hundred eighty-five, modified by the West Virginia  
4 library commission to meet the objections of the  
5 legislative rule-making review committee and refiled in

6 the state register on the twelfth day of November, one  
7 thousand nine hundred eighty-five, relating to the West  
8 Virginia library commission (designating a grace period  
9 for the return of library materials) are authorized.

**§64-2-13. State treasurer.**

1 The legislative rules filed in the state register on the  
2 third day of January, one thousand nine hundred eighty-  
3 four, relating to the state treasurer (establishment of  
4 imprest funds) are authorized.

**§64-2-14. Department of public safety.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-third day of September, one thousand nine  
3 hundred eighty-three, relating to the department of  
4 public safety (general orders) are authorized with the  
5 amendment set forth below:

6 Page 23, §9.10 remove the period at the end of the  
7 sentence and add the words "or municipalities."

8 (b) The legislative rules filed in the state register on  
9 the twenty-second day of June, one thousand nine  
10 hundred eighty-four, modified by the department of  
11 public safety to meet the objections of the legislative  
12 rule-making review committee and refiled in the state  
13 register on the fifth day of December, one thousand nine  
14 hundred eighty-four, relating to the department of  
15 public safety (commission on drunk driving) are  
16 authorized.

**§64-2-15. Air pollution control commission.**

1 (a) The legislative rules filed in the state register on  
2 the thirteenth day of August, one thousand nine hundred  
3 eighty-two, relating to the air pollution control commis-  
4 sion (series VII), are authorized.

5 (b) The legislative rules filed in the state register on  
6 the thirteenth day of August, one thousand nine hundred  
7 eighty-two, relating to air pollution control commission  
8 (series XIX), are authorized.

9 (c) The legislative rules filed in the state register on  
10 the sixteenth day of November, one thousand nine

11 hundred eighty-three, relating to the air pollution  
12 control commission (emission standards for hazardous  
13 air pollutants) (series XV) are authorized.

14 (d) The legislative rules filed in the state register on  
15 the sixteenth day of November, one thousand nine  
16 hundred eighty-three, relating to the air pollution  
17 control commission (standards of performance for new  
18 stationary sources) (series XVI) are authorized.

19 (e) The legislative rules filed in the state register on  
20 the sixth day of January, one thousand nine hundred  
21 eighty-four, relating to the air pollution control commis-  
22 sion (to prevent and control air pollution from hazardous  
23 waste treatment, storage or disposal facilities) (series  
24 XXV), are authorized with the amendments set forth  
25 below:

26 Page 3, §1.06, change the § title from "Enforcement"  
27 to "Procedure"; place an "(a)" in front of the existing  
28 paragraph and add the following:

29 "(b) Permit applications filed pursuant to this regu-  
30 lation shall be processed in accordance with the  
31 permitting procedures as set forth in code §20-5E of this  
32 regulation. Permit procedures set forth in code §16-20  
33 and any other regulation of this commission are not  
34 applicable to any permit application filed pursuant to  
35 this regulation."

36 Such rules shall also include a section which shall  
37 read as follows:

38 "The commission shall report to the legislative rule-  
39 making review committee as required by that commit-  
40 tee, but in no event later than the first day of the regular  
41 session of the Legislature in the year one thousand nine  
42 hundred eighty-five. Such report shall include informa-  
43 tion regarding the commission's data gathering efforts,  
44 the development of compliance programs, the progress  
45 in implementation, and such other matters as the  
46 committee may require, pertaining to the regulations  
47 hereby authorized."

48 (f) The legislative rules filed in the state register on  
49 the ninth day of January, one thousand nine hundred

50 eighty-four, relating to the air pollution control commis-  
51 sion (permits for construction and modification of  
52 stationary sources of air pollution for the prevention of  
53 significant deterioration) (series XIV) are authorized.

54 (g) The legislative rules filed in the state register on  
55 the thirtieth day of December, one thousand nine  
56 hundred eighty-eight, modified by the air pollution  
57 control commission to meet the objections of the  
58 legislative rule-making review committee and refiled in  
59 the state register on the twenty-third day of February,  
60 one thousand nine hundred eighty-nine, relating to the  
61 air pollution control commission (prevention and control  
62 of air pollution from hazardous waste treatment, storage  
63 or disposal facilities) are authorized.

64 (h) The legislative rules filed in the state register on  
65 the thirtieth day of December, one thousand nine  
66 hundred eighty-eight, modified by the air pollution  
67 control commission to meet the objections of the  
68 legislative rule-making review committee and refiled in  
69 the state register on the twenty-third day of February,  
70 one thousand nine hundred eighty-nine, relating to the  
71 air pollution control commission (good engineering  
72 practice as applicable to stack heights) are authorized.

73 (i) The legislative rules filed in the state register on  
74 the thirtieth day of December, one thousand nine  
75 hundred eighty-eight, modified by the air pollution  
76 control commission to meet the objections of the  
77 legislative rule-making review committee and refiled in  
78 the state register on the twenty-third day of February,  
79 one thousand nine hundred eighty-nine, relating to the  
80 air pollution control commission (TP-2, compliance test  
81 procedures for regulation 2—to prevent and control  
82 particulate air pollution from combustion of fuel in  
83 indirect heat exchangers) are authorized.

**§64-2-16. West Virginia hospital finance authority.**

1 The legislative rules filed in the state register on the  
2 tenth day of June, one thousand nine hundred eighty-  
3 six, modified by the West Virginia hospital finance  
4 authority to meet the objections of the legislative rule-  
5 making review committee and refiled in the state

6 register on the ninth day of January, one thousand nine  
 7 hundred eighty-seven, relating to the West Virginia  
 8 hospital finance authority (establishment of fee schedule  
 9 and cost allocation applicable to issuance of bonds), are  
 10 authorized.

**§64-2-17. Teachers retirement board.**

1 The legislative rules filed in the state register on the  
 2 eleventh day of August, one thousand nine hundred  
 3 eighty-two, relating to the teachers retirement board,  
 4 are authorized with the following amendments:

5 Section VI, subsection 6, D, (a)(ii) of the rules is to be  
 6 amended on line two by striking out the words "(3) thru  
 7 (7)" and inserting in lieu thereof the words "(3) thru  
 8 (13)"; Section VII, subsection 7, B, (c) of the rules is to  
 9 be amended on line three after the word "100" by  
 10 striking out the word "consecutive," and by redesignat-  
 11 ing the subsection as subsection "(a)"; and Section X,  
 12 subsection 10, A, (c), of the rules is to be amended on  
 13 line one after the word "physicians," by striking out the  
 14 words "of member's choice," and inserting in lieu thereof  
 15 the words "one selected by the Board and one selected  
 16 by the member."

**§64-2-18. Commissioner of agriculture.**

1 (a) The legislative rules filed in the state register on  
 2 the sixth day of April, one thousand nine hundred  
 3 eighty-three, relating to the commissioner of agriculture  
 4 (schedule of charges for inspection services: fruit) are  
 5 authorized.

6 (b) The legislative rules filed in the state register on  
 7 the third day of August, one thousand nine hundred  
 8 eighty-three, relating to the commissioner of agriculture  
 9 (licensing of auctioneers) are authorized.

10 (c) The legislative rules filed in the state register on  
 11 the eighth day of February, one thousand nine hundred  
 12 eighty-four, relating to the commissioner of agriculture  
 13 (conduct of beef industry self-improvement assessment  
 14 program referendum) are authorized.

15 (d) The legislative rules filed in the state register on

16 the fourth day of June, one thousand nine hundred  
17 eighty-four, relating to the commissioner of agriculture  
18 (feeding untreated garbage to swine) are authorized.

19 (e) The legislative rules filed in the state register on  
20 the fourth day of June, one thousand nine hundred  
21 eighty-four, relating to the commissioner of agriculture  
22 (registration, taxation and control of dogs) are  
23 authorized.

24 (f) The legislative rules filed in the state register on  
25 the first day of November, one thousand nine hundred  
26 eighty-four, relating to the commissioner of agriculture  
27 (public markets) are authorized.

28 (g) The legislative rules filed in the state register on  
29 the tenth day of September, one thousand nine hundred  
30 eighty-four, relating to the commissioner of agriculture  
31 (noxious weed rules) are authorized.

32 (h) The legislative rules filed in the state register on  
33 the fourth day of June, one thousand nine hundred  
34 eighty-four, relating to the commissioner of agriculture  
35 (animal disease control) are authorized.

36 (i) The legislative rules filed in the state register on  
37 the fifth day of January, one thousand nine hundred  
38 eighty-four, relating to the commissioner of agriculture  
39 (use of certain picloram products), are authorized.

40 (j) The legislative rules filed in the state register on  
41 the eighth day of March, one thousand nine hundred  
42 eighty-five, relating to the commissioner of agriculture  
43 (increasing certain fees by rules and regulations) are  
44 authorized.

45 (k) The legislative rules filed in the state register on  
46 the thirteenth day of January, one thousand nine  
47 hundred eighty-six, modified by the commissioner of  
48 agriculture to meet the objections of the legislative rule-  
49 making review committee and refiled in the state  
50 register on the thirty-first day of January, one thousand  
51 nine hundred eighty-six, relating to the commissioner of  
52 agriculture (licensing of livestock dealers) are  
53 authorized.

54 (l) The legislative rules filed in the state register on  
55 the eighteenth day of June, one thousand nine hundred  
56 eighty-six, modified by the commissioner of agriculture  
57 to meet the objections of the legislative rule-making  
58 review committee and refiled in the state register on the  
59 fifth day of January, one thousand nine hundred eighty-  
60 seven, relating to the commissioner of agriculture (West  
61 Virginia pesticide use and application act), are  
62 authorized.

63 (m) The legislative rules filed in the state register on  
64 the eighteenth day of August, one thousand nine  
65 hundred eighty-six, modified by the director of the  
66 division of forestry of the department of agriculture to  
67 meet the objections of the legislative rule-making review  
68 committee and refiled in the state register on the fifth  
69 day of January, one thousand nine hundred eighty-  
70 seven, relating to the director of the division of forestry  
71 of the department of agriculture (ginseng), are autho-  
72 rized.

73 (n) The legislative rules filed in the state register on  
74 the tenth day of April, one thousand nine hundred  
75 eighty-seven, relating to the commissioner of agriculture  
76 (schedule of charges for inspection services: fruit) are  
77 authorized.

78 (o) The legislative rules filed in the state register on  
79 the thirteenth day of August, one thousand nine hundred  
80 eighty-seven, modified by the commissioner of agricul-  
81 ture to meet the objections of the legislative rule-making  
82 review committee and refiled in the state register on the  
83 eighth day of September, one thousand nine hundred  
84 eighty-seven, relating to the commissioner of agriculture  
85 (animal disease control) are authorized.

86 (p) The legislative rules filed in the state register on  
87 the fifteenth day of September, one thousand nine  
88 hundred eighty-eight, relating to the commissioner of  
89 agriculture (sale and distribution of commercial fertil-  
90 izer) are authorized.

91 (q) The legislative rules filed in the state register on  
92 the fifteenth day of September, one thousand nine  
93 hundred eighty-eight, modified by the commissioner of

94 agriculture to meet the objections of the legislative rule-  
95 making review committee and refiled in the state  
96 register on the twenty-sixth day of October, one  
97 thousand nine hundred eighty-eight, relating to the  
98 commissioner of agriculture (animal disease control) are  
99 authorized.

**§64-2-19. West Virginia racing commission.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-third day of April, one thousand nine  
3 hundred eighty-two, relating to the West Virginia  
4 racing commission (Rule 795), are authorized.

5 (b) The legislative rules filed in the state register on  
6 the twenty-third day of April, one thousand nine  
7 hundred eighty-two, relating to the West Virginia  
8 racing commission (Rule 819), are authorized.

9 (c) The legislative rules filed in the state register on  
10 the twenty-third day of April, one thousand nine  
11 hundred eighty-two, relating to the West Virginia  
12 racing commission (Rule 107), are authorized.

13 (d) The legislative rules filed with the legislative rule-  
14 making review committee on the tenth day of January,  
15 one thousand nine hundred eighty-three, relating to the  
16 West Virginia racing commission (Rule 471), are  
17 authorized.

18 (e) The legislative rules filed in the state register on  
19 the tenth day of January, one thousand nine hundred  
20 eighty-three, relating to the West Virginia racing  
21 commission (Rule 526), are authorized.

22 (f) The legislative rules filed in the state register on  
23 the twentieth day of September, one thousand nine  
24 hundred eighty-three, relating to the West Virginia  
25 racing commission (Rule 107) greyhound racing, are  
26 authorized.

27 (g) The legislative rules filed in the state register on  
28 the twentieth day of September, one thousand nine  
29 hundred eighty-three, relating to the West Virginia  
30 racing commission (Rule 108) greyhound racing are  
31 authorized with the amendment set forth below:

32 Following the word "Association" insert a period and  
33 strike the remainder of the sentence.

34 (h) The legislative rules filed in the state register on  
35 the twentieth day of September, one thousand nine  
36 hundred eighty-three, relating to the West Virginia  
37 racing commission (Rule 108) thoroughbred racing are  
38 authorized with the amendment set forth below:

39 Following the word "Association" insert a period and  
40 strike the remainder of the sentence.

41 (i) The legislative rules filed in the state register on  
42 the twentieth day of September, one thousand nine  
43 hundred eighty-three, relating to the West Virginia  
44 racing commission (Rule 392) greyhound racing, are  
45 authorized.

46 (j) The legislative rules filed in the state register on  
47 the twentieth day of September, one thousand nine  
48 hundred eighty-three, relating to the West Virginia  
49 racing commission (Rule 455) greyhound racing are  
50 authorized.

51 (k) The legislative rules filed in the state register on  
52 the twentieth day of September, one thousand nine  
53 hundred eighty-three, relating to the West Virginia  
54 racing commission (Rule 609A) greyhound racing are  
55 authorized.

56 (l) The legislative rules filed in the state register on  
57 the twentieth day of September, one thousand nine  
58 hundred eighty-three, relating to the West Virginia  
59 racing commission (Rule 627) greyhound racing are  
60 authorized.

61 (m) The legislative rules filed in the state register on  
62 the twentieth day of September, one thousand nine  
63 hundred eighty-three, relating to the West Virginia  
64 racing commission (Rule 845) thoroughbred racing are  
65 authorized.

66 (n) The legislative rules filed in the state register on  
67 the ninth day of November, one thousand nine hundred  
68 eighty-four, relating to the West Virginia racing  
69 commission (greyhound racing — Rule 628), are

70 authorized.

71 (o) The legislative rules filed in the state register on  
72 the twenty-fifth day of September, one thousand nine  
73 hundred eighty-four, relating to the West Virginia  
74 racing commission (greyhound racing — Rule 672) are  
75 authorized.

76 (p) The legislative rules filed in the state register on  
77 the ninth day of November, one thousand nine hundred  
78 eighty-four, relating to the West Virginia racing  
79 commission (thoroughbred racing — Rule 808), are  
80 authorized.

81 (q) The legislative rules filed in the state register on  
82 the twenty-fifth day of September, one thousand nine  
83 hundred eighty-four, relating to the West Virginia  
84 racing commission (thoroughbred racing — Rule 843),  
85 are authorized.

86 (r) The legislative rules filed in the state register on  
87 the sixth day of August, one thousand nine hundred  
88 eighty-four, relating to the West Virginia racing  
89 commission (greyhound racing — Rule 845-I) are  
90 authorized.

91 (s) The legislative rules filed in the state register on  
92 the third day of September, one thousand nine hundred  
93 eighty-seven, modified by the West Virginia racing  
94 commission to meet the objections of the legislative rule-  
95 making review committee and refiled in the state  
96 register on the twenty-first day of December, one  
97 thousand nine hundred eighty-seven, relating to the  
98 West Virginia racing commission (greyhound racing)  
99 are authorized.

100 (t) The legislative rules filed in the state register on  
101 the thirty-first day of July, one thousand nine hundred  
102 eighty-seven, modified by the West Virginia racing  
103 commission to meet the objections of the legislative rule-  
104 making review committee and refiled in the state  
105 register on the eighteenth day of December, one  
106 thousand nine hundred eighty-seven, relating to the  
107 West Virginia racing commission (thoroughbred racing)  
108 are authorized with the amendments set forth below:

109 On page fifty-five, Section 61.3(f), by striking all of  
110 subsection (f) and inserting in lieu thereof the existing  
111 provisions of subsection (f) as contained in 178 CSR 1,  
112 which reads as follows:

113 All moneys held by any licensee for the payment of  
114 outstanding and unredeemed pari-mutuel tickets, if not  
115 claimed within ninety (90) days after the close of the  
116 horse race meeting in connection with which the tickets  
117 were issued, shall be turned over by the licensee to the  
118 Racing Commission within fifteen (15) days after the  
119 expiration of such ninety (90) day period and the  
120 licensee shall give such information as the Racing  
121 Commission may require concerning such outstanding  
122 and unredeemed tickets; viz. The outs ledger enumer-  
123 ating all outstanding tickets at the close of each meeting,  
124 to contain a record of all tickets redeemed in the ninety  
125 (90) day following period, together with all redeemed  
126 tickets which shall bear the stamp of the cashier(s)  
127 making redemption: A stamp indicating "Outs Ticket."  
128 In addition, a statement to accompany said ledger and  
129 tickets, setting forth the quantity and amount of each  
130 denomination redeemed in the ninety (90) day period,  
131 with a grand total indicating the sum paid in "Outs."  
132 This sum subtracted from the outs on the closing day  
133 to equal the remittance of the Association in settlement  
134 of the "Out" account for the meeting.

135 (u) The legislative rules filed in the state register on  
136 the ninth day of September, one thousand nine hundred  
137 eighty-eight, relating to the West Virginia racing  
138 commission (thoroughbred racing) are authorized.

139 (v) The legislative rules filed in the state register on  
140 the eighteenth day of January, one thousand nine  
141 hundred eighty-nine, modified by the West Virginia  
142 racing commission to meet the objections of the legis-  
143 lative rule-making review committee and refiled in the  
144 state register on the twentieth day of February, one  
145 thousand nine hundred eighty-nine, relating to the West  
146 Virginia racing commission (greyhound racing) are  
147 authorized.

**§64-2-20. Water resources board.**

1 (a) The legislative rules filed in the state register on  
2 the sixth day of January, one thousand nine hundred  
3 eighty-three, relating to the state water resources board  
4 (underground injection control program), are  
5 authorized.

6 (b) The legislative rules filed in the state register on  
7 the fifteenth day of November, one thousand nine  
8 hundred eighty-three, relating to the state water  
9 resources board (special regulations), are authorized.

10 (c) The legislative rules filed in the state register on  
11 the third day of August, one thousand nine hundred  
12 eighty-three, relating to the state water resources board  
13 (groundwater protection standards), are authorized.

14 (d) The legislative rules filed in the state register on  
15 the fifteenth day of November, one thousand nine  
16 hundred eighty-three, relating to the state water  
17 resources board (state national pollutant discharge  
18 elimination system (NPDES) program), are authorized.

19 (e) The Legislature hereby authorizes and directs the  
20 state water resources board to promulgate rules relating  
21 to water quality standards in exact conformity with the  
22 rules relating to water quality standards tendered to the  
23 secretary of state on the seventh day of March, one  
24 thousand nine hundred eighty-four, by the executive  
25 secretary of the state water resources board, to be  
26 received and filed for inclusion in the state register by  
27 the secretary of state.

28 (f) The legislative rules filed in the state register on  
29 the seventeenth day of October, one thousand nine  
30 hundred eighty-five, and modified by the state water  
31 resources board to meet the objections of the legislative  
32 rule-making review committee and refiled in the state  
33 register on the twenty-fourth day of February, one  
34 thousand nine hundred eighty-seven, relating to the  
35 state water resources board (special regulations), are  
36 authorized.

37 (g) The legislative rules filed in the state register on  
38 the seventh day of January, one thousand nine hundred  
39 eighty-five, modified by the water resources board to

40 meet the objections of the legislative rule-making review  
41 committee and refiled in the state register on the  
42 thirteenth day of February, one thousand nine hundred  
43 eighty-five, relating to the water resources board (water  
44 quality standards), are authorized.

45 (h) The legislative rules filed in the state register on  
46 the seventeenth day of October, one thousand nine  
47 hundred eighty-five, modified by the state water  
48 resources board to meet the objections of the legislative  
49 rule-making review committee and refiled in the state  
50 register on the eighth day of January, one thousand nine  
51 hundred eighty-seven, and further modified by the state  
52 water resources board to meet the objections of the  
53 legislative rule-making review committee and refiled in  
54 the state register on the twenty-fourth day of February,  
55 one thousand nine hundred eighty-seven, relating to the  
56 state water resources board (water quality standards),  
57 are authorized.

58 (i) The legislative rules filed in the state register on  
59 the seventeenth day of October, one thousand nine  
60 hundred eighty-five, modified by the state water  
61 resources board to meet the objections of the legislative  
62 rule-making review committee and refiled in the state  
63 register on the eighth day of January, one thousand nine  
64 hundred eighty-seven, and further modified by the state  
65 water resources board to meet the objections of the  
66 legislative rule-making review committee and refiled in  
67 the state register on the twenty-fourth day of February,  
68 one thousand nine hundred eighty-seven, relating to the  
69 state water resources board (state national pollutant  
70 discharge elimination system (NPDES) program), are  
71 authorized.

72 (j) The legislative rules filed in the state register on  
73 the seventeenth day of October, one thousand nine  
74 hundred eighty-five, and modified by the state water  
75 resources board to meet the objections of the legislative  
76 rule-making review committee and refiled in the state  
77 register on the twenty-fourth day of February, one  
78 thousand nine hundred eighty-seven, relating to the  
79 state water resources board (underground injection  
80 control program), are authorized.

81 (k) The legislative rules filed in the state register on  
82 the seventeenth day of October, one thousand nine  
83 hundred eighty-five, and modified by the state water  
84 resources board to meet the objections of the legislative  
85 rule-making review committee and refiled in the state  
86 register on the twenty-fourth day of February, one  
87 thousand nine hundred eighty-seven, relating to the  
88 state water resources board (special regulations), are  
89 authorized.

90 (l) The legislative rules filed in the state register on  
91 the thirtieth day of June, one thousand nine hundred  
92 eighty-seven, relating to the water resources board  
93 (water quality standards) are authorized.

94 (m) The legislative rules filed in the state register on  
95 the fourteenth day of October, one thousand nine  
96 hundred eighty-eight, relating to the water resources  
97 board (water quality standards) are authorized.

**§64-2-21. Workers' compensation commissioner.**

1 (a) The legislative rule filed in the state register on  
2 the fourteenth day of November, one thousand nine  
3 hundred eighty-three, relating to the workers' compen-  
4 sation commissioner (employers' excess liability fund)  
5 are authorized.

6 (b) The legislative rules filed in the state register on  
7 the twenty-fifth day of October, one thousand nine  
8 hundred eighty-four, relating to the workers' compensa-  
9 tion commissioner (time limits for the administrative  
10 proceedings of adjudications and awards) are  
11 authorized.

12 (c) The legislative rules filed in the state register on  
13 the twenty-fifth day of October, one thousand nine  
14 hundred eighty-four, modified by the workers' compen-  
15 sation commissioner to meet the objections of the  
16 legislative rule-making review committee and refiled in  
17 the state register on the ninth day of January, one  
18 thousand nine hundred eighty-five, relating to the  
19 workers' compensation commissioner (self-insured  
20 employers) are authorized.

21 (d) The legislative rules filed in the state register on

22 the twenty-fifth day of October, one thousand nine  
23 hundred eighty-four, modified by the workers' compen-  
24 sation commissioner to meet the objections of the  
25 legislative rule-making review committee and refiled in  
26 the state register on the fifth day of December, one  
27 thousand nine hundred eighty-four, relating to the  
28 workers' compensation commissioner (payment of  
29 attorney's fees) are authorized.

30 (e) The legislative rules filed in the state register on  
31 the sixth day of August, one thousand nine hundred  
32 eighty-five, relating to the workers' compensation  
33 commissioner (standards for medical examination in  
34 occupational pneumoconiosis claims) are authorized  
35 with the amendments set forth below:

36 On page 1, the second and third unnumbered para-  
37 graphs on page one are amended to read as follows:

38 When two or more ventilatory function tests per-  
39 formed in reasonably close proximity in time produce  
40 differing but acceptable results, the Commissioner, at  
41 the request of the O. P. Board, may direct the parties  
42 to furnish additional evidence and/or order additional  
43 testing at the laboratory utilized by the O. P. Board or  
44 other laboratories, all for the purpose of determining  
45 whether any of the results are unreliable or incorrect  
46 or are clearly attributable to some identifiable disease  
47 or illness other than occupational pneumoconiosis.

48 When blood gas studies are performed and abnormal  
49 values are obtained and thereafter new blood gas studies  
50 are performed and normal or significantly higher values  
51 are further obtained, the Commissioner, at the request  
52 of the O. P. Board, may direct the parties to furnish  
53 additional evidence and/or order additional studies at  
54 the laboratory utilized by the O. P. Board or other  
55 laboratories, all for the purpose of determining whether  
56 any of the values are unreliable or incorrect or are  
57 clearly attributable to some identifiable disease or  
58 illness other than occupational pneumoconiosis.

59 And on page 7, paragraph (11) is amended to read as  
60 follows:

61 (11) It is recognized that arterial blood gas studies  
62 done in laboratories throughout this state are obtained  
63 at different altitudes. Only by "standardizing" for  
64 altitude can an equitable assessment be made of  
65 impairment when values of arterial oxygen are being  
66 measured at remarkably different altitudes. Therefore,  
67 the results reported from laboratories should include the  
68 name of the laboratory and the date and time of the  
69 testing, altitude of the laboratory and barometric  
70 pressure at the laboratory on the day the samples were  
71 collected. The O. P. Board will evaluate the arterial  
72 blood gas values by converting those values to the  
73 average altitude of Charleston, West Virginia. For this  
74 purpose, it shall be sufficient to add 1 mmHg to each  
75 arterial oxygen tension for each 300 feet or fraction  
76 thereof that the testing laboratory is located above the  
77 average altitude of Charleston, because the relationship  
78 of barometric pressure (altitude) and alveolar oxygen is  
79 approximately linear up to 4,000 feet as long as the  
80 subject breathes room air.

81 As an example, Bluefield is located approximately  
82 2,600 feet above sea level. Charleston is approximately  
83 600 feet above sea level. Thus, arterial oxygen values  
84 obtained in Bluefield should have 6.67 mmHg added to  
85 them before applying the table to them to obtain  
86 "percent impairment." The calculations are as follows:

87 "Bluefield (2,600') minus Charleston (600') equals  
88 2,000' differential 2,000' divided by 300' altitude equals  
89 6.67

90 6.67 multiplied by 1 mmHg per 300' altitude equals  
91 6.67 mmHg."

92 (f) The legislative rules filed in the state register on  
93 the ninth day of August, one thousand nine hundred  
94 eighty-five, modified by the workers' compensation  
95 commissioner to meet the objections of the legislative  
96 rule-making review committee and refiled in the state  
97 register on the fifteenth day of January, one thousand  
98 nine hundred eighty-six, relating to the workers'  
99 compensation commissioner (administration of the coal-  
100 workers' pneumoconiosis fund) are authorized.

**§64-2-22. State lottery commission.**

1 The legislative rules filed in the state register on the  
2 twenty-first day of April, one thousand nine hundred  
3 eighty-seven, modified by the state lottery commission  
4 to meet the objections of the legislative rule-making  
5 review committee and refiled in the state register on the  
6 fourteenth day of August, one thousand nine hundred  
7 eighty-seven, relating to the state lottery commission  
8 (state lottery) are authorized.

**§64-2-23. State fire commission.**

1 (a) The legislative rules filed in the state register on  
2 the third day of January, one thousand nine hundred  
3 eighty-four, relating to the state fire commission (state  
4 fire code) are authorized with the amendments set forth  
5 below:

6 Page 1, section 106, line 1, after the word "to" add the  
7 words "personal care homes caring for five or less  
8 patients or"; and

9 Page 26, section 11.06 (3) A. (3). Strike the period at  
10 the end of the sentence and add the words "except for  
11 existing sleeping rooms owned by the state and located  
12 in dormitories or state parks."

13 (b) The legislative rules filed in the state register on  
14 the first day of August, one thousand nine hundred  
15 eighty-six, modified by the state fire commission to meet  
16 the objection of the legislative rule-making review  
17 committee and refiled in the state register on the  
18 twenty-eighth day of October, one thousand nine  
19 hundred eighty-six, relating to the state fire commission  
20 (hazardous substance emergency response training  
21 program), are authorized.

22 (c) The legislative rules filed in the state register on  
23 the sixth day of September, one thousand nine hundred  
24 eighty-eight, modified by the state fire commission to  
25 meet the objections of the legislative rule-making review  
26 committee and refiled in the state register on the eighth  
27 day of December, one thousand nine hundred eighty-  
28 eight, relating to the state fire commission (state  
29 building code) are authorized.

**§64-2-24. Civil service commission.**

1 (a) The legislative rules filed in the state register on  
2 the nineteenth day of November, one thousand nine  
3 hundred eighty-six, modified by the civil service  
4 commission to meet the objection of the legislative rule-  
5 making review committee and refiled in the state  
6 register on the fifteenth day of December, one thousand  
7 nine hundred eighty-six, relating to the civil service  
8 commission (civil service system), are authorized.

9 (b) The legislative rules filed in the state register on  
10 the first day of November, one thousand nine hundred  
11 eighty-eight, modified by the civil service commission to  
12 meet the objections of the legislative rule-making review  
13 committee and refiled in the state register on the  
14 twenty-third day of February, one thousand nine  
15 hundred eighty-nine, relating to the civil service  
16 commission (civil service system) are authorized with  
17 the amendments set forth below:

18 On page fifteen, section 5.05(d), after the words  
19 "established in" by striking out the remainder of the  
20 sentence and inserting in lieu thereof the words  
21 "Chapter 29-6A of the Code of West Virginia, as  
22 amended."

23 On page fifteen, section 5.06, after the words "estab-  
24 lished in" by striking out the remainder of the sentence  
25 and inserting in lieu thereof the words "Chapter 29-6A  
26 of the Code of West Virginia, as amended."

27 And

28 On pages sixteen and seventeen by deleting all of  
29 section 5.07.

30 And,

31 On page 46, section 13(f) line 2 by striking the words  
32 "previously held".

**§64-2-25. Secretary of state.**

1 (a) The legislative rules filed in the state register on  
2 the fifteenth day of April, one thousand nine hundred  
3 eighty-five, modified by the secretary of state to meet

4 the objections of the legislative rule-making review  
5 committee and refiled in the state register on the eighth  
6 day of October, one thousand nine hundred eighty-five,  
7 relating to the secretary of state (standard size and  
8 format for rules and related documents filed in the  
9 secretary of state's office) are authorized.

10 (b) The legislative rules filed in the state register on  
11 the seventeenth day of August, one thousand nine  
12 hundred eighty-seven, modified by the secretary of state  
13 to meet the objections of the legislative rule-making  
14 review committee and refiled in the state register on the  
15 twenty-third day of September, one thousand nine  
16 hundred eighty-seven, relating to the secretary of state  
17 (standard size and format for rules and procedures for  
18 publication of the state register or parts of the state  
19 register) are authorized.

**§64-2-26. West Virginia state board of registration for  
professional engineers.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-ninth day of November, one thousand nine  
3 hundred eighty-five, modified by the West Virginia  
4 state board of registration for professional engineers to  
5 meet the objections of the legislative rule-making review  
6 committee and refiled in the state register on the  
7 twenty-eighth day of January, one thousand nine  
8 hundred eighty-six, relating to the West Virginia state  
9 board of registration for professional engineers (legisla-  
10 tive rules governing the West Virginia state board of  
11 registration for professional engineers) are authorized.

12 (b) The legislative rules filed in the state register on  
13 the twenty-third day of December, one thousand nine  
14 hundred eighty-seven, modified by the West Virginia  
15 state board of registration for professional engineers to  
16 meet the objections of the legislative rule-making review  
17 committee and refiled in the state register on the  
18 twenty-ninth day of January, one thousand nine hundred  
19 eighty-eight, relating to the West Virginia state board  
20 of registration for professional engineers (rules of the  
21 West Virginia state board of registration for profes-  
22 sional engineers) are authorized.

**§64-2-27. State board of examiners of land surveyors.**

1 The legislative rules filed in the state register on the  
2 thirty-first day of July, one thousand nine hundred  
3 eighty-seven, modified by the state board of examiners  
4 of land surveyors to meet the objections of the legislative  
5 rule-making review committee and refiled in the state  
6 register on the twenty-eighth day of January, one  
7 thousand nine hundred eighty-eight, relating to the state  
8 board of examiners of land surveyors (practice of land  
9 surveying in West Virginia) are authorized.

**§64-2-28. State boards of examination or registration;  
West Virginia board of chiropractic  
examiners.**

1 The legislative rules filed in the state register on the  
2 twenty-sixth day of October, one thousand nine hundred  
3 eighty-seven, modified by the West Virginia board of  
4 chiropractic examiners to meet the objections of the  
5 legislative rule-making review committee and refiled in  
6 the state register on the twenty-seventh day of January,  
7 one thousand nine hundred eighty-eight, relating to the  
8 West Virginia board of chiropractic examiners (West  
9 Virginia board of chiropractic examiners) are autho-  
10 rized.

**§64-2-29. Radiologic technology board of examiners.**

1 The legislative rules filed in the state register on the  
2 twenty-fourth day of January, one thousand nine  
3 hundred eighty-four, relating to the radiologic technol-  
4 ogy board of examiners are authorized.

**§64-2-30. Board of medicine.**

1 (a) The legislative rules filed in the state register on  
2 the twelfth day of May, one thousand nine hundred  
3 eighty-three, relating to the board of medicine (licens-  
4 ing, disciplinary and complaint procedures; podiatry;  
5 physicians assistants) are authorized with the modifica-  
6 tions set forth below:

7 "§24.12.

8 (b) It shall be the responsibility of the supervising  
9 physician to obtain consent in writing from the patient

10 before Type A physician assistants employed in a  
11 satellite clinic may render general medical or surgical  
12 services, except in emergencies.

13 §24.16.

14 (c) No physician assistant shall render nonemergency  
15 outpatient medical services until the patient has been  
16 informed that the individual providing care is a  
17 physician assistant."

18 (b) The legislative rules filed in the state register on  
19 the twenty-sixth day of November, one thousand nine  
20 hundred eighty-five, modified by the board of medicine  
21 to meet the objections of the legislative rule-making  
22 review committee and refiled in the state register on the  
23 seventeenth day of January, one thousand nine hundred  
24 eighty-six, relating to the board of medicine (licensing,  
25 disciplinary and complaint procedures; podiatry; physi-  
26 cians assistants) are authorized.

27 (c) The legislative rules filed in the state register on  
28 the eighth day of March, one thousand nine hundred  
29 eighty-five, modified by the West Virginia board of  
30 medicine to meet the objections of the legislative rule-  
31 making review committee and refiled in the state  
32 register on the eighteenth day of December, one  
33 thousand nine hundred eighty-five, relating to the West  
34 Virginia board of medicine (rules governing the  
35 approval of medical schools not accredited by the liaison  
36 committee on medical education) are authorized.

37 (d) The legislative rules filed in the state register on  
38 the third day of June, one thousand nine hundred eighty-  
39 seven, relating to the board of medicine (fees for services  
40 rendered by the board of medicine) are authorized.

41 (e) The legislative rules filed in the state register on  
42 the sixteenth day of September, one thousand nine  
43 hundred eighty-eight, modified by the board of medicine  
44 to meet the objections of the legislative rule-making  
45 review committee and refiled in the state register on the  
46 twenty-fourth day of February, one thousand nine  
47 hundred eighty-nine, relating to the board of medicine  
48 (dispensing of legend drugs by physicians and podia-

49 trists) are authorized with the following amendments:

50 Section 2.6 to read as follows: Dispense means to  
51 deliver a legend drug to an ultimate user or research  
52 subject by or pursuant to the lawful order of a physician  
53 or podiatrist, including the prescribing, packaging,  
54 labeling, administering or compounding necessary to  
55 prepare the drug for that delivery.

56 Section 3.3 to read as follows: Physicians or podiatrists  
57 who are not registered with the Board as dispensing  
58 physicians may not dispense legend drugs. However, the  
59 following activities by a physician or podiatrist shall be  
60 exempt from the requirements of section 3 through 8  
61 applicable to dispensing physicians:

62 a. Legend drugs administered to the patient, which  
63 are not controlled substance when an appropriate record  
64 is made in the patient's chart.

65 b. Professional samples distributed free of charge by  
66 a physician or podiatrist or certified physician assistant  
67 under his or her supervision to the patient when an  
68 appropriate record is made in the patient's chart; or

69 c. Legend drugs which are not controlled substances  
70 provided by free clinics or under West Virginia state  
71 authorized programs, including the medicaid, family  
72 planning, maternal and child health, and early and  
73 periodic screening and diagnosis and treatment pro-  
74 grams: *Provided however*, That all labeling provisions of  
75 section 8 shall be applicable except the requirements of  
76 section 8.3 (a).

**§64-2-31. Board of embalmers and funeral directors.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-seventh day of July, one thousand nine  
3 hundred eighty-four, modified by the board of em-  
4 balmers and funeral directors to meet the objections of  
5 the legislative rule-making review committee and  
6 refiled in the state register on the ninth day of January,  
7 one thousand nine hundred eighty-five, relating to the  
8 board of embalmers and funeral directors (apprentice-  
9 ship), are authorized.

10 (b) The legislative rules filed in the state register on  
11 the sixteenth day of October, one thousand nine hundred  
12 eighty-five, modified by the board of embalmers and  
13 funeral directors to meet the objections of the legislative  
14 rule-making review committee and refiled in the state  
15 register on the eighteenth day of July, one thousand nine  
16 hundred eighty-six, relating to the board of embalmers  
17 and funeral directors (governing the board of em-  
18 balmers and funeral directors), are authorized.

**§64-2-32. Board of examiners for registered professional nurses.**

1 The legislative rules filed in the state register on the  
2 thirteenth day of September, one thousand nine hundred  
3 eighty-three, relating to the board of examiners for  
4 registered professional nurses (qualifications of gradu-  
5 ates of foreign nursing schools for admission to the  
6 professional nurse licensing examination) are autho-  
7 rized.

**§64-2-33. West Virginia board of examiners for licensed practical nurses.**

1 (a) The legislative rules filed in the state register on  
2 the thirtieth day of July, one thousand nine hundred  
3 eighty-six, modified by the West Virginia board of  
4 examiners for licensed practical nurses to meet the  
5 objections of the legislative rule-making review commit-  
6 tee and refiled in the state register on the thirtieth day  
7 of September, one thousand nine hundred eighty-six,  
8 relating to the West Virginia board of examiners for  
9 licensed practical nurses (policies relating to licensure  
10 of the licensed practical nurse), are authorized.

11 (b) The legislative rules filed in the state register on  
12 the thirtieth day of July, one thousand nine hundred  
13 eighty-six, relating to the West Virginia board of  
14 examiners for licensed practical nurses (legal standards  
15 of nursing practice for the licensed practical nurse), are  
16 authorized.

17 (c) The legislative rules filed in the state register on  
18 the thirtieth day of July, one thousand nine hundred  
19 eighty-six, relating to the West Virginia board of

20 examiners for licensed practical nurses (fees for services  
21 rendered by the board), are authorized.

**§64-2-34. West Virginia housing development fund.**

1 The legislative rules filed in the state register on the  
2 twenty-seventh day of December, one thousand nine  
3 hundred eighty-two, relating to the West Virginia  
4 housing development fund (single-family mortgage  
5 loans), are authorized.

**§64-2-35. Jail and prison standards commission.**

1 (a) The legislative rules filed in the state register on  
2 the fifth day of November, one thousand nine hundred  
3 eighty-seven, relating to the jail and prison standards  
4 commission (West Virginia minimum standards for  
5 construction, operation, and maintenance of jails) are  
6 authorized.

7 (b) The legislative rules filed in the state register on  
8 the ninth day of May, one thousand nine hundred eighty-  
9 eight, modified by the jail and prison standards  
10 commission to meet the objections of the legislative rule-  
11 making review committee and refiled in the state  
12 register on the twenty-seventh day of February, one  
13 thousand nine hundred eighty-nine, relating to the jail  
14 and prison standards commission (West Virginia  
15 minimum standards for construction, operation and  
16 maintenance of holding facilities) are authorized.

17 (c) The legislative rules filed in the state register on  
18 the eighteenth day of March, one thousand nine hundred  
19 eighty-eight, modified by the jail and prison standards  
20 commission to meet the objections of the legislative rule-  
21 making review committee and refiled in the state  
22 register on the twenty-seventh day of February, one  
23 thousand nine hundred eighty-nine, relating to the jail  
24 and prison standards commission (West Virginia  
25 minimum standards for construction, operation and  
26 maintenance of prisons) are authorized.

27 (d) The Legislature hereby authorizes and directs the  
28 jail and prison standards commission to amend its rules  
29 relating to West Virginia minimum standards for  
30 construction, operation, and maintenance of jails which

31 were filed in the code of state regulations (95 CSR 1)  
32 on the fifth day of April, one thousand nine hundred  
33 eighty-eight, with the following amendments set forth  
34 below:

35 On page 7, §8.10 by striking out in the first sentence,  
36 after the word "house", the following words: "no less  
37 than four (4) and

38 On page 30 by adding a new section 17.21 to read as  
39 follows:

40 17.21 Visitation to Home County. To the extent that  
41 the previous subsections provide requirements for  
42 visitation with inmates housed in regional jail facilities,  
43 it is the intent that such requirements apply only to  
44 visitation provided in a regional jail facility. When  
45 visitation with family and friends is required to be  
46 provided to a person incarcerated in a regional jail  
47 facility in a location other than the regional jail, the  
48 following provisions shall apply:

49 17.21.1 The regional jail need not assume the respon-  
50 sibility for transportation to the home county seat of a  
51 person incarcerated in the regional jail facility for  
52 visitation with their family and friends unless that  
53 person has had no visits from family and friends in the  
54 previous three months.

55 17.21.2 In providing any transportation under subsec-  
56 tion 17.21.1 the regional jail has the right to schedule  
57 such transportation for visits with family and friends of  
58 the person incarcerated in a manner which would utilize  
59 to the utmost the regional jail's regularly scheduled  
60 trips to each of the respective counties it serves,  
61 including the scheduling of round-trips, so long as a  
62 minimum of 30 minutes is available for visitation.

63 17.21.3 The regional jail need not assume any respon-  
64 sibility for transportation under subsection 17.21.1 when  
65 the distance from the regional jail to the respective  
66 county seat is less than two hour's driving time.

**§64-2-36. Commissioner of banking.**

1 (a) The legislative rules filed in the state register on

2 the eleventh day of June, one thousand nine hundred  
3 eighty-two, relating to commissioner of banking (com-  
4 munication terminals and interchange systems), are  
5 authorized.

6 (b) The legislative rules filed in the state register on  
7 the fifteenth day of December, one thousand nine  
8 hundred eighty-three, relating to the commissioner of  
9 banking (consumer credit sales), are authorized.

10 (c) The legislative rules filed in the state register on  
11 the nineteenth day of August, one thousand nine  
12 hundred eighty-three, relating to the commissioner of  
13 banking (legal lending limit) are authorized.

14 (d) The legislative rules filed in the state register on  
15 the seventh day of November, one thousand nine  
16 hundred eighty-six, modified by the commissioner of  
17 banking to meet the objections of the legislative rule-  
18 making review committee and refiled in the state  
19 register on the eleventh day of December, one thousand  
20 nine hundred eighty-six, relating to the commissioner of  
21 banking (implementing the West Virginia community  
22 reinvestment act), are authorized.

23 (e) The legislative rules filed in the state register on  
24 the twenty-fifth day of October, one thousand nine  
25 hundred eighty-eight, modified by the commissioner of  
26 banking to meet the objections of the legislative rule-  
27 making review committee and refiled in the state  
28 register on the seventh day of December, one thousand  
29 nine hundred eighty-eight, relating to the commissioner  
30 of banking (subsidiary bank holding the stock of its  
31 parent company as collateral) are authorized.

**§64-2-37. State auditor.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-first day of December, one thousand nine  
3 hundred eighty-three, relating to the state auditor,  
4 securities commissioner (broker-dealers, agents and  
5 investment and advisors) are authorized with the  
6 amendments set forth below:

7 Section 14.06 Delete the words "as subsequently  
8 amended" and reinsert the words "as amended March

9 30, 1982.”

10 Section 14.07 Place a period after “1976” and delete  
11 the words “as subsequently amended.”

12 (b) The legislative rules filed in the state register on  
13 the eighteenth day of January, one thousand nine  
14 hundred eighty-five, relating to the state auditor,  
15 securities commissioner (filing fee) are authorized.

**§64-2-38. Board of risk and insurance management.**

1 (a) The legislative rules filed in the state register on  
2 the twenty-first day of October, one thousand nine  
3 hundred eighty-three, relating to the board of risk and  
4 insurance management (mine subsidence) are  
5 authorized.

6 (b) The legislative rules filed in the state register on  
7 the twenty-sixth day of November, one thousand nine  
8 hundred eighty-five, modified by the state board of risk  
9 and insurance management to meet the objections of the  
10 legislative rule-making review committee and refiled in  
11 the state register on the eighth day of December, one  
12 thousand nine hundred eighty-six, relating to the state  
13 board of risk and insurance management (mine subsi-  
14 dence insurance program), are authorized.

**§64-2-39. Department of human services; director of the  
child advocate office.**

1 (a) The Legislature hereby authorizes and directs the  
2 director of the child advocate office of the department  
3 of human services to promulgate rules relating to  
4 guidelines for child support awards in exact conformity  
5 with the rules relating to guidelines for child support  
6 awards tendered to the secretary of state by the Senate  
7 committee on the judiciary on the twelfth day of March,  
8 one thousand nine hundred eighty-eight.

9 (b) The legislative rules filed in the state register on  
10 the twenty-seventh day of May, one thousand nine  
11 hundred eighty-eight, modified by the director of the  
12 child advocate office of the department of human  
13 services to meet the objections of the legislative rule-  
14 making review committee and refiled in the state

15 register on the twenty-third day of September, one  
16 thousand nine hundred eighty-eight, relating to the  
17 director of the child advocate office of the department  
18 of human services (interstate income withholding) are  
19 authorized.

20 (c) The legislative rules filed in the state register on  
21 the twenty-seventh day of May, one thousand nine  
22 hundred eighty-eight, modified by the director of the  
23 child advocate office of the department of human  
24 services to meet the objections of the legislative rule-  
25 making review committee and refiled in the state  
26 register on the twenty-third day of September, one  
27 thousand nine hundred eighty-eight, relating to the  
28 director of the child advocate office of the department  
29 of human services (obtaining support from federal and  
30 state income tax refunds) are authorized.

31 (d) The legislative rules filed in the state register on  
32 the twenty-seventh day of May, one thousand nine  
33 hundred eighty-eight, modified by the director of the  
34 child advocate office of the department of human  
35 services to meet the objections of the legislative rule-  
36 making review committee and refiled in the state  
37 register on the twenty-third day of September, one  
38 thousand nine hundred eighty-eight, relating to the  
39 director of the child advocate office of the department  
40 of human services (termination of income withholding)  
41 are authorized.

42 (e) The legislative rules filed in the state register on  
43 the twenty-seventh day of May, one thousand nine  
44 hundred eighty-eight, modified by the director of the  
45 child advocate office of the department of human  
46 services to meet the objections of the legislative rule-  
47 making review committee and refiled in the state  
48 register on the twenty-third day of September, one  
49 thousand nine hundred eighty-eight, relating to the  
50 director of the child advocate office of the department  
51 of human services (providing information to credit  
52 reporting agencies) are authorized.

**§64-2-40. Public employees insurance board.**

1 (a) The legislative rules filed in the state register on

2 the sixteenth day of May, one thousand nine hundred  
3 **eighty-three**, relating to the **public employees insurance**  
4 **board (public employees insurance plan)** are authorized  
5 with the amendments set forth below:

6 §6.03. — In the second sentence delete the words  
7 “Executive Secretary” and insert the word “Board.”

8 (b) The legislative rules filed in the state register on  
9 the twenty-seventh day of September, one thousand nine  
10 hundred eighty-four, modified by the public employees  
11 insurance board to meet the objections of the legislative  
12 rule-making review committee and refiled in the state  
13 register on the fourth day of March, one thousand nine  
14 hundred eighty-five, relating to the public employees  
15 insurance board (credit for accrued sick/annual leave  
16 and optional life insurance) are authorized.

17 (c) The legislative rules filed in the state register on  
18 the twelfth day of September, one thousand nine  
19 hundred eighty-four, relating to the public employees  
20 insurance board (late enrollment in the public em-  
21 ployees insurance program) are authorized with the  
22 amendments set forth below:

23 §2.01(b) shall read as follows:

24 “(b) ‘children’ shall mean unmarried children be-  
25 tween birth and **age nineteen and shall include:** (1) The  
26 employee’s natural children, (2) legally adopted child-  
27 ren, including children living with the employee during  
28 the period of probation, (3) stepchildren residing in the  
29 employee’s household and (4) other children fully  
30 dependent upon the employee for support and mainte-  
31 nance and residing in the household of which the  
32 employee is **head and actually being supported by the**  
33 **employee. Children may be included after the attain-**  
34 **ment of age nineteen, but not beyond the attainment of**  
35 **age twenty-five, if they are enrolled as full-time**  
36 **students, are unmarried, and are dependent upon the**  
37 **employee for support.** Children may also be included  
38 **after the attainment of age nineteen while incapable of**  
39 **self-support because of mental illness, mental retarda-**  
40 **tion or a permanent physical disability, if the child was**  
41 **dependent upon the employee for support and mainte-**

42 nance at the onset of the mental illness, mental  
43 retardation or permanent physical disability. For the  
44 purpose of this section, mental illness includes addiction  
45 as defined in Code 27-1-11 as is defined as a manifes-  
46 tation in a person of significantly impaired capacity to  
47 maintain acceptable levels of functioning in the areas of  
48 intellect, emotion and physical well-being, only if such  
49 impairment renders the person dangerous to himself or  
50 others or such person is substantially unable to protect  
51 himself from significant hazard: *Provided*, That child-  
52 ren included because of addiction as hereinbefore  
53 defined shall not be included beyond the attainment of  
54 age twenty-five.”

55 On page six, at 4.01(g)(2) shall read as follows:

56 The end of any 12 month period after enrollment  
57 during which no diagnosis or treatment is received, and  
58 no expenses are incurred for care of the injury, illness  
59 or related conditions.

60 Also, insert a new section, designated section 5.07, to  
61 read as follows:

62 “5.07. — Coverage for dependents shall terminate at  
63 the end of the month in which they no longer meet the  
64 definition of ‘dependent’ as set forth in section 2.01 of  
65 these rules.”

**§64-2-41. Employee suggestion award board.**

1 The legislative rules filed in the state register on the  
2 twenty-third day of July, one thousand nine hundred  
3 eighty-two, relating to the employee suggestion award  
4 board (public employee suggestion program), are  
5 authorized.

**§64-2-42. Commissioner of commerce.**

1 The legislative rules filed in the state register on the  
2 eighteenth day of February, one thousand nine hundred  
3 eighty-seven, modified by the commissioner of com-  
4 merce to meet the objections of the legislative rule-  
5 making review committee and refiled in the state  
6 register on the ninth day of October, one thousand nine  
7 hundred eighty-seven, relating to the commissioner of

8 commerce (public use of West Virginia state parks,  
9 forests, and hunting and fishing areas) are authorized  
10 with the amendments as set forth below:

11 On page 1, section 2.1 after the words "fishing area."  
12 add "This rule does not apply to the erection of  
13 temporary blinds or tree stands in public hunting  
14 areas."

15 And, on page 3, section 2.12 after the word "guests"  
16 by adding "licensed hunters and fishermen while  
17 hunting or fishing".

18 And, on page 5, section 2.22 by adding at the end of  
19 the section the following sentence: "Any person may  
20 apply to the Superintendent of the park for a special  
21 event permit and pay an application fee for use of  
22 firearms during historical reenactments, or the use of  
23 hay, straw, boughs, pine needles or similar materials for  
24 special events. The Park Superintendent may issue a  
25 permit to limit areas of use of any of these exceptions  
26 and require damage assessments, if necessary."

27 On page 8, section 4.5 by deleting the word "water"  
28 and inserting in lieu thereof the word "swimming pool"  
29 and on page 9 section 4.5 after the word "water." add  
30 the following "These restrictions do not apply to  
31 swimming areas which are natural bodies of water."

**§64-2-43. West Virginia industrial and trade jobs development corporation.**

1 The legislative rules filed in the state register on the  
2 fifteenth day of October, one thousand nine hundred  
3 eighty-six, modified by the West Virginia industrial and  
4 trade jobs development corporation to meet the objec-  
5 tions of the legislative rule-making review committee  
6 and refiled in the state register on the twelfth day of  
7 January, one thousand nine hundred eighty-seven,  
8 relating to the West Virginia industrial and trade jobs  
9 development corporation (general administration of the  
10 West Virginia capital company act and establishment of  
11 application procedures to implement the act), are  
12 authorized.

**§64-2-44. Alcohol beverage control commission.**

1 (a) The legislative rules filed in the state register on  
2 the thirtieth day of December, one thousand nine  
3 hundred eighty-two, relating to the alcohol beverage  
4 control commission (transportation of alcoholic bever-  
5 ages), are authorized.

6 (b) The legislative rules filed in the state register on  
7 the thirteenth day of August, one thousand nine hundred  
8 eighty-two, relating to the alcohol beverage control  
9 commissioner (lighting of licensed premises), are  
10 authorized.

11 (c) The legislative rules filed in the state register on  
12 the thirteenth day of August, one thousand nine hundred  
13 eighty-two, relating to the alcohol beverage control  
14 commissioner (kitchen and dining facilities), are  
15 authorized.

16 (d) The legislative rules filed in the state register on  
17 the twenty-fourth day of August, one thousand nine  
18 hundred eighty-two, relating to the alcohol beverage  
19 control commissioner (refusal to license private clubs),  
20 are authorized with the exception of subsection (a) of the  
21 rules which shall be promulgated as set forth below in  
22 this section as follows:

23 (a) For purposes of this regulation, the commissioner  
24 may refuse to grant any license if he has reasonable  
25 cause to believe, as indicated by documented evidence,  
26 that the applicant, or any officer, director or manager  
27 thereof, or shareholder owning twenty percent or more  
28 of its capital stock, beneficial or otherwise, or other  
29 person conducting or managing the affairs of the  
30 applicant or of the proposed licensed premises, in whole  
31 or part:

32 (1) Is not a person of good moral character or repute;

33 (2) Has maintained a noisy, loud, disorderly or  
34 unsanitary establishment;

35 (3) Has demonstrated, either by his police record or  
36 by his record as former licensee under chapter sixty or  
37 chapter eleven, article sixteen of the West Virginia code,  
38 a lack of respect for law and order, generally, or for the  
39 laws and rules governing the sale and distribution of

40 alcoholic beverages or nonintoxicating beer;

41 (4) Has the general reputation of drinking alcoholic  
42 beverages to excess, or is addicted to the use of  
43 narcotics;

44 (5) Has misrepresented a material fact in applying to  
45 the commissioner for a license.

46 For purposes of this regulation, the commissioner  
47 shall refuse to grant any license if he has reasonable  
48 cause to believe, as indicated by documented evidence  
49 that the applicant, or any officer, director or manager  
50 thereof, or shareholder owning twenty percent or more  
51 of its capital stock, beneficial or otherwise, or other  
52 person conducting or managing the affairs of the  
53 applicant or of the proposed licensed premises, in whole  
54 or part:

55 (1) Is not eighteen years of age or older;

56 (2) Has been convicted of a felony or other crime  
57 involving moral turpitude, and, upon such conviction,  
58 the applicant shall not be eligible for licensure within  
59 five years next preceding successful completion of all  
60 conditions of probation, discharge from parole supervi-  
61 sion or expiration of sentence;

62 (3) Has been convicted of violating the liquor laws of  
63 any state or the United States, and, upon such convic-  
64 tion, the applicant shall not be eligible for licensure  
65 within five years next preceding successful completion  
66 of all conditions of probation, discharge from parole  
67 supervision or expiration of sentence;

68 (4) Has had any license revoked under the liquor laws  
69 of any state or the United States within five years next  
70 preceding the filing date of the application;

71 (5) Is not the legitimate owner of the business  
72 proposed to be licensed, or other persons have ownership  
73 interests in the business which have not been disclosed;

74 (6) Is a person to whom alcoholic beverages may not  
75 be sold under the provisions of chapter sixty of the West  
76 Virginia code;

- 77 (7) Has been adjudicated an incompetent;
- 78 (8) Is an officer or employee of the alcohol beverage  
79 control commissioner of West Virginia; or
- 80 (9) Is violating or allowing the violation of any  
81 provision of chapter sixty, chapter sixty-one or chapter  
82 eleven, article sixteen of the code in its establishment  
83 at the time its application for a license is pending.

**§64-2-45. West Virginia board of hearing aid dealers.**

1 The legislative rules filed in the state register on the  
2 twenty-sixth day of November, one thousand nine  
3 hundred eighty-five, modified by the West Virginia  
4 board of hearing aid dealers to meet the objections of  
5 the legislative rule-making review committee and  
6 refiled in the state register on the twenty-eighth day of  
7 January, one thousand nine hundred eighty-six, relating  
8 to the West Virginia board of hearing aid dealers (rules  
9 governing the West Virginia board of hearing aid  
10 dealers) are authorized.

**§64-2-46. Nursing home administrators licensing board.**

1 The legislative rules filed in the state register on the  
2 eighteenth day of October, one thousand nine hundred  
3 eighty-five, modified by the nursing home administra-  
4 tors licensing board to meet the objections of the  
5 legislative rule-making review committee and refiled in  
6 the state register on the twenty-eighth day of January,  
7 one thousand nine hundred eighty-six, relating to the  
8 nursing home administrators licensing board (governing  
9 nursing home administrators) are authorized.

**§64-2-47. Board of examiners of psychologist.**

- 1 (a) The legislative rules filed in the state register on  
2 the twentieth day of December, one thousand nine  
3 hundred eighty-four, relating to the board of examiners  
4 of psychologist (examination fee) are authorized.
- 5 (b) The legislative rules filed in the state register on  
6 the sixteenth day of September, one thousand nine  
7 hundred eighty-eight, modified by the board of examin-  
8 ers of psychologists to meet the objections of the  
9 legislative rule-making review committee and refiled in

10 the state register on the twenty-third day of November,  
11 one thousand nine hundred eighty-eight, relating to the  
12 board of examiners of psychologists (penalties and fees)  
13 are authorized.

**§64-2-48. Board of pharmacy.**

1 The legislative rules filed in the state register on the  
2 second day of October, one thousand nine hundred  
3 eighty-four, modified by the board of pharmacy to meet  
4 the objections of the legislative rule-making review  
5 committee and refiled in the state register on the ninth  
6 day of January, one thousand nine hundred eighty-five,  
7 relating to the board of pharmacy (parenteral/enteral  
8 compounding) are authorized.

**§64-2-49. State athletic commission.**

1 The legislative rules filed in the state register on the  
2 twentieth day of February, one thousand nine hundred  
3 eighty-five, relating to the state athletic commission  
4 (professional and amateur boxing) are authorized.

**§64-2-50. Archives and history commission.**

1 (a) The legislative rules filed in the state register on  
2 the fourteenth day of September, one thousand nine  
3 hundred eighty-four, relating to the archives and history  
4 commission (certified local government program) are  
5 authorized with the following amendments:

6 §4.02, subsections a,b,c,d,e; g and i are amended in  
7 their entirety to read as follows:

8 "a. The local government shall have created a historic  
9 landmark commission or commission, consisting of five  
10 (5) members, to carry out the provisions of the ordinance  
11 or order."

12 "b. HLC or commission membership shall be drawn  
13 from among persons with demonstrated interest,  
14 competence, or knowledge in historic preservation and  
15 local history. To the extent available in the community,  
16 members of the HLC shall be preservation-related  
17 professionals (including the professions of history,  
18 architecture, architectural history, planning, real estate,  
19 American studies, geography, landscape architecture,

20 law, engineering, or archaeology). When a discipline is  
21 not represented in the Commission membership, com-  
22 missioners shall seek expertise in this area when  
23 reporting on National Register nominations and other  
24 actions that will impact properties which are normally  
25 evaluated by a professional in such discipline. This may  
26 be accomplished through consultation with universities  
27 or colleges. Prior to the consultation process, the  
28 Commission must notify the State Historic Preservation  
29 Officer in writing that the appropriate professional  
30 assistance has been obtained and identified.”

31 “c. The local government, be certified without the  
32 minimum number or types of professional disciplines,  
33 must report to the SHPO’s satisfaction that it has made  
34 a reasonable effort to fill those positions. The require-  
35 ments for professional representation on the Commission  
36 shall not exceed those of the State Review Board.”

37 “d. Commission meetings shall be held at regular  
38 intervals at least four times each year, advertised in  
39 advance, and open to the public. The Commission shall  
40 establish rules of procedure or bylaws including a code  
41 of conduct.”

42 “e. The Commission shall transmit an annual report  
43 of its activities to the State Historic Preservation  
44 Officer. Such reports shall include, at a minimum, new  
45 designations made, progress on survey activities, and  
46 attendance records. Reports shall be submitted within  
47 sixty days after the end of the fiscal year for the local  
48 government or portion of the fiscal year in the first year  
49 of the establishment of the commission. These reports  
50 will be reviewed and evaluated by the SHPO to ensure  
51 that the Commission’s activities are consistent with the  
52 State Historic Preservation Plan.”

53 “g. Records of proceedings shall be transmitted to the  
54 State Historic Preservation Officer at the same time  
55 they are transmitted to members of the Commission.”

56 “i. Commission responsibilities must be complemen-  
57 tary to and carried out in coordination with those of the  
58 State Historic Preservation Office as outlined in 36 CFR  
59 61.4(b). The State Historic Preservation Office shall

60 cooperate with the HLC or Commission by making  
61 available materials and training to provide a working  
62 knowledge of the roles and operations of federal, state  
63 and local preservation programs.”

64 §5.01, subsections a and d are amended to read in  
65 their entirety as follows:

66 “a. A written assurance by the chief elected official  
67 that the local government does fulfill all the standards  
68 for certification outlined above.”

69 “d. Resumes of each of the members of the historic  
70 landmark commission including credentials of member  
71 expertise in fields related to historic preservation.  
72 Where no professional members have been appointed an  
73 explanation and information demonstrating good faith  
74 efforts to obtain such members shall be included.”

75 §5.03 is amended in its entirety to read as follows:

76 “5.03 — **Determination that Local Government**  
77 **Fulfills Requirements for Certification**—if the State  
78 Historic Preservation Officer determines that the local  
79 government fulfills the requirements for certification,  
80 the State Historic Preservation Officer will prepare a  
81 written certification agreement with the local govern-  
82 ment that lists the specific responsibilities of the local  
83 government where certified. These responsibilities will  
84 include those powers and duties as stated in 4.02. The  
85 SHPO will notify the United States Secretary of the  
86 Interior, or designee and furnish a copy of the approved  
87 request and the certification agreement and shall  
88 respond to the local government within fifteen days of  
89 the Secretary’s response.”

90 The fourth line of §5.04 is amended to read as follows:  
91 “Secretary of the Interior within 15 working days. The  
92 certification”

93 The last line of §6 is amended to read as follows:  
94 “(National Historic Preservation Act, Section 101(c)(2)”

95 The section heading to §6.01 is amended in its entirety  
96 to read as follows: “6.01 Notification of Commission by  
97 SHPO of National Register Nomination of Property

98 Within Local Government Jurisdiction—”

99 The last three lines of §6.01 are amended in their  
100 entirety to read as follows: “101(a) of the National  
101 Historic Preservation Act, as amended. The State may  
102 expedite such process with the concurrence of the  
103 certified local government.”

104 The first line after the section heading of §6.02 is  
105 amended to read as follows: “(National Historic Preser-  
106 vation Act, Sec. 101(c)(2)(b). If” and the third sentence  
107 of said §6.02 is amended in its entirety to read as follows:  
108 “If such an appeal is filed, the State shall follow the  
109 procedures for making a nomination pursuant to  
110 established procedures (section 101(a) of the Act).”

111 The second sentence of §6.03 is amended in its entirety  
112 to read as follows: “If an HLC or commission does not  
113 have a professional member with the necessary federal  
114 qualifications in the area, the HLC can obtain the  
115 opinion of a qualified professional in the area and  
116 consider their opinion in their recommendation.”

117 §6.04 is amended in its entirety to read as follows:

118 **“6.04—Commission Qualifications for Federal Pass**  
119 **Through Funds**—Federal regulations also require that  
120 commissions possess certain qualifications in order to  
121 receive federal pass through funds. These are explained  
122 in Section 4.02.”

123 §7.01 is amended in its entirety to read as follows:

124 **“7.01—Performance Review of Certified Local**  
125 **Government by SHPO**—The SHPO will review the  
126 commission’s annual report to ensure that the perfor-  
127 mance of the local government is consistent with the  
128 State Historic Preservation Plan. If the SHPO deter-  
129 mines that the performance of a certified local govern-  
130 ment is not in conformance with the certification  
131 agreement and the State Historic Preservation Plan the  
132 State Historic Preservation Officer shall document that  
133 determination and recommend to the certified local  
134 government steps which may be taken to improve their  
135 performance. The Historic Preservation Officer shall  
136 also review the administration of funds allocated from

137 the Historic Preservation Fund and other documents as  
138 necessary. The SHPO shall maintain written records for  
139 all SHPO evaluation of CLG's so that they may be  
140 available to the Secretary at any time."

141 The last sentence of §7.03 is amended in its entirety  
142 to read as follows: "This closeout will follow procedures  
143 specified in National Register Programs Guidelines."

144 The first sentence of §8.01 is amended in its entirety  
145 to read as follows: "A minimum of 10% of the state's  
146 annual apportionment from the Historic Preservation  
147 Fund of the Department of the Interior will be set aside  
148 for transfer to qualified CLG's in accordance with the  
149 National Historic Preservation Act as amended. In any  
150 year in which the total Historic Preservation Fund  
151 appropriation exceed sixty-five (65) million dollars, one-  
152 half (1/2) of the amount over sixty-five (65) million  
153 dollars will also be transferred to CLG according to  
154 procedures to be provided by the Secretary."

155 The third line of the first sentence of §8.04 is amended  
156 in its entirety to read as follows: "consistent with  
157 35(FR61.7(f)(1) which states that the amount awarded  
158 to."

159 §8.05 is amended in its entirety to read as follows:

160 "8.05—**Application and Selection Criteria**—Project  
161 application forms and selection criteria will be made  
162 available through individual notification and public  
163 advertisement from the SHPO of the West Virginia  
164 Department of Culture and History in June of each year.  
165 The criteria will be coordinated with those used to select  
166 survey and planning grants during the fiscal year.  
167 Funds must be applied for by August 30 of each year.  
168 Funding in any prior year does not guarantee continued  
169 funding. The project schedule and deadlines may vary  
170 from year to year and is dependent upon the time frame  
171 in which the Secretary of the Interior notifies the state  
172 of its apportionment from the annual Historic Preser-  
173 vation Fund."

174 The third sentence of §8.06 is amended in its entirety  
175 to read as follows: "The SHPO is responsible for proper

176 accounting of Historic Preservation Fund grants to  
177 CLG's in accordance with Office Management and  
178 Budget Circular A-102, Attachment P Audit Require-  
179 ment."

180 (b) The legislative rules filed in the state register on  
181 the nineteenth day of September, one thousand nine  
182 hundred eighty-eight, modified by the director of the  
183 division of archives and history of the department of  
184 culture and history to meet the objections of the  
185 legislative rule-making review committee and refiled in  
186 the state register on the fourteenth day of December,  
187 one thousand nine hundred eighty-eight, relating to the  
188 director of the division of archives and history of the  
189 department of culture and history (standards and  
190 procedures for administering state historic preservation  
191 programs) are authorized with the amendment set forth:

192 Section 3.2.b.A after the word "days" by inserting the  
193 words "after receipt of actual notice."

**§64-2-51. Water development authority.**

1 (a) The legislative rules filed in the state register on  
2 the thirtieth day of August, one thousand nine hundred  
3 eighty-four, relating to the water development authority  
4 (hardship grant funds), are authorized.

5 (b) The legislative rules filed in the state register on  
6 the fourteenth day of August, one thousand nine  
7 hundred eighty-six, relating to the water development  
8 authority (requirements governing disbursements of  
9 loans and grants to governmental agencies for the  
10 acquisition or construction of water development  
11 projects), are authorized.

**§64-2-52. Beef industry self-improvement assessment board.**

1 The legislative rules filed in the state register on the  
2 nineteenth day of April, one thousand nine hundred  
3 eighty-five, relating to the beef industry self-improve-  
4 ment assessment board (beef industry self-improvement  
5 assessment program) are authorized.

**§64-2-53. Commercial whitewater advisory board.**

1 The legislative rules filed in the state register on the  
2 twentieth day of December, one thousand nine hundred  
3 eighty-six, modified by the commercial whitewater  
4 advisory board to meet the objections of the legislative  
5 rule-making review committee and refiled in the state  
6 register on the sixteenth day of January, one thousand  
7 nine hundred eighty-seven, relating to the commercial  
8 whitewater advisory board (commercial whitewater  
9 outfitters), are authorized with the following  
10 amendments:

11 "On page 1, §2.1, by striking all of §2.1 and inserting  
12 in lieu thereof the following: '2.1 Commercial white-  
13 water outfitter means any person, partnership, corpora-  
14 tion or other organization, or any combination thereof,  
15 duly authorized and operating from within or from  
16 without the state, which for monetary profit or gain,  
17 provides whitewater expeditions or rents whitewater  
18 craft or equipment for use in whitewater expeditions on  
19 any river, portions of rivers or waters of the state.'"

**§64-2-54. Commissioner of the department of corrections.**

1 (a) The legislative rules filed in the state register on  
2 the twentieth day of September, one thousand nine  
3 hundred eighty-eight, modified by the commissioner of  
4 the department of corrections to meet the objections of  
5 the legislative rule-making review committee and  
6 refiled in the state register on the thirteenth day of  
7 January, one thousand nine hundred eighty-nine,  
8 relating to the commissioner of the department of  
9 corrections (parole supervision) are authorized.

10 (b) The legislative rules filed in the state register on  
11 the twentieth day of September, one thousand nine  
12 hundred eighty-eight, modified by the commissioner of  
13 the department of corrections to meet the objections of  
14 the legislative rule-making review committee and  
15 refiled in the state register on the thirteenth day of  
16 January, one thousand nine hundred eighty-nine,  
17 relating to the commissioner of the department of  
18 corrections (furlough programs for inmates under the  
19 custody and control of the commissioner of the depart-  
20 ment of corrections) are authorized.

**§64-2-55. Governor's committee on crime, delinquency and corrections.**

1 The legislative rules filed in the state register on the  
2 twenty-fifth day of July, one thousand nine hundred  
3 eighty-eight, modified by the governor's committee on  
4 crime, delinquency and corrections to meet the objec-  
5 tions of the legislative rule-making review committee  
6 and refiled in the state register on the twentieth day of  
7 September, one thousand nine hundred eighty-eight,  
8 relating to the governor's committee on crime, delin-  
9 quency and corrections (basic training academy, annual  
10 in-service and biennial in-service training standards)  
11 are authorized.

**§64-2-56. Structural barriers compliance board.**

1 The legislative rules filed in the state register on the  
2 twenty-fourth day of August, one thousand nine hundred  
3 eighty-eight, modified by the structural barriers  
4 compliance board to meet the objections of the legisla-  
5 tive rule-making review committee and refiled in the  
6 state register on the thirteenth day of January, one  
7 thousand nine hundred eighty-nine, relating to the  
8 structural barriers compliance board (elimination of  
9 structural barriers in public buildings) are authorized.

**§64-2-57. Department of finance and administration.**

1 The legislative rules filed in the state register on the  
2 eighteenth day of November, one thousand nine hundred  
3 eighty-eight, modified by the director of the purchasing  
4 division of the department of finance and administration  
5 to meet the objections of the legislative rule-making  
6 review committee and refiled in the state register on the  
7 nineteenth day of January, one thousand nine hundred  
8 eighty-nine, relating to the director of the purchasing  
9 division of the department of finance and administration  
10 (purchasing division) are authorized.

**§64-2-58. Enterprise zone authority.**

1 The legislative rules filed in the state register on the  
2 twenty-sixth day of October, one thousand nine hundred  
3 eighty-eight, modified by the enterprise zone authority  
4 to meet the objections of the legislative rule-making

5 review committee and refiled in the state register on the  
6 twenty-third day of February, one thousand nine  
7 hundred eighty-nine, relating to the enterprise zone  
8 authority (creation of enterprise zone authority to  
9 designate certain enterprise zones and provide for tax  
10 benefits within those zones) are authorized.

**§64-2-59. Board of barbers and beauticians.**

1 (a) The legislative rules filed in the state register on  
2 the tenth day of June, one thousand nine hundred  
3 eighty-eight, modified by the board of barbers and  
4 beauticians to meet the objections of the legislative rule-  
5 making review committee and refiled in the state  
6 register on the eighth day of December, one thousand  
7 nine hundred eighty-eight, relating to the board of  
8 barbers and beauticians (minimum curriculum for  
9 schools of barbering) are authorized with the amend-  
10 ment set forth below:

11 On page 9, by inserting a new section, designated  
12 section 3-6-14, to read as follows:

13 **“§3-6-14. Repeal of rule—**This rule will automati-  
14 cally be repealed on July 1, 1991, unless extended prior  
15 to that date by an act of the Legislature.”

16 (b) The legislative rules filed in the state register on  
17 the tenth day of June, one thousand nine hundred  
18 eighty-eight, modified by the board of barbers and  
19 beauticians to meet the objections of the legislative rule-  
20 making review committee and refiled in the state  
21 register on the eighth day of December, one thousand  
22 nine hundred eighty-eight, relating to the board of  
23 barbers and beauticians (qualifications, training,  
24 examination and registration of instructors in barbering  
25 and beauty culture) are authorized with the amendment  
26 set forth below:

27 On page 6, by inserting a new section, designated  
28 section 3-2-9, to read as follows:

29 **“§3-2-9. Repeal of rule—**This rule will automati-  
30 cally be repealed on July 1, 1991, unless extended prior  
31 to that date by an act of the Legislature.”

32 (c) The legislative rules filed in the state register on  
33 the tenth day of June, one thousand nine hundred  
34 eighty-eight, modified by the board of barbers and  
35 beauticians to meet the objections of the legislative rule-  
36 making review committee and refiled in the state  
37 register on the eighth day of December, one thousand  
38 nine hundred eighty-eight, relating to the board of  
39 barbers and beauticians (operation of barber shops and  
40 schools of barbering) are authorized with the amend-  
41 ment set forth below:

42 On page 5, by inserting a new section, designated  
43 section 3-3-6, to read as follows:

44 “§3-3-6. **Repeal of rule**—This rule will automati-  
45 cally be repealed on July 1, 1991, unless extended prior  
46 to that date by an act of the Legislature.”

47 (d) The legislative rules filed in the state register on  
48 the tenth day of June, one thousand nine hundred  
49 eighty-eight, modified by the board of barbers and  
50 beauticians to meet the objections of the legislative rule-  
51 making review committee and refiled in the state  
52 register on the eighth day of December, one thousand  
53 nine hundred eighty-eight, relating to the board of  
54 barbers and beauticians (curriculum and minimum  
55 requirements, subjects and hour schedule, rules and  
56 regulations for schools of beauty culture operation in  
57 West Virginia: joint barbers and beauticians license) are  
58 authorized with the amendments set forth below:

59 On page 7, by inserting a new section, designated  
60 section 3-1-11, to read as follows:

61 “§3-1-11. **Repeal of rule**—This rule will automati-  
62 cally be repealed on July 1, 1991, unless extended prior  
63 to that date by an act of the Legislature.”

64 (e) The legislative rules filed in the state register on  
65 the tenth day of June, one thousand nine hundred  
66 eighty-eight, modified by the board of barbers and  
67 beauticians to meet the objections of the legislative rule-  
68 making review committee and refiled in the state  
69 register on the eighth day of December, one thousand  
70 nine hundred eighty-eight, relating to the board of

71 barbers and beauticians (operation of beauty shops and  
72 schools of beauty culture) are authorized with the  
73 amendments set forth below:

74 On page 4, by inserting a new section, designated  
75 section 3-4-6, to read as follows:

76 “§3-4-6. **Repeal of rule**—This rule will automati-  
77 cally be repealed on July 1, 1991, unless extended prior  
78 to that date by an act of the Legislature.”

79 And,

80 On page 4, by inserting a new subsection, designated  
81 section 3.25, to read as follows:

82 “3.25 Notwithstanding any law to the contrary or  
83 interpretation of law to the contrary, any licensed  
84 beautician may trim beards or mustaches.”

85 (f) The legislative rules filed in the state register on  
86 the tenth day of June, one thousand nine hundred  
87 eighty-eight, modified by the board of barbers and  
88 beauticians to meet the objections of the legislative rule-  
89 making review committee and refiled in the state  
90 register on the eighth day of December, one thousand  
91 nine hundred eighty-eight, relating to the board of  
92 barbers and beauticians (licensing schools of barbering  
93 or beauty culture) are authorized with the amendments  
94 set forth below:

95 On page 2, subsection 4.1, by deleting subdivision (b)  
96 and relettering the remaining subdivisions.

97 On page 6, by inserting a new section, designated  
98 section 3-5-8, to read as follows:

99 “§3-5-8. **Repeal of rule**—This rule will automati-  
100 cally be repealed on July 1, 1991, unless extended prior  
101 to that date by an act of the Legislature.”

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederic L. Parks*  
.....  
Chairman Senate Committee

*J. L. Satter*  
.....  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Todd C. Welch*  
.....  
Clerk of the Senate

*Donald G. Hoop*  
.....  
Clerk of the House of Delegates

*Lawrence*  
.....  
President of the Senate

*Patricia*  
.....  
Speaker of the House of Delegates

The within *is approved* this the *27<sup>th</sup>*  
day of *April*, 1989.

*Yastou Capend*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date

4/25/89

Time

2:24