WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

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ENROLLED

SENATE BILL NO. 243

(By Senator Jackson)

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PASSED March 19, 1990

In Effect from Passage
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-nine-a of the code of West Virginia, the Legislature expressly authorizes the promulgation of the rules described in articles two through nine of this
chapter, subject only to the limitations set forth with respect to each such rule in the section or sections of this chapter authorizing its promulgation. The Legislature further declares that all rules now or hereafter authorized under articles two through nine of this chapter are within the legislative intent of the statute which the rule is intended to implement, extend, apply or interpret.

§64-1-2. Effective date of rules.

The effective date of the legislative rules authorized in articles two through nine of this chapter shall be governed by the provisions of section thirteen, article three, chapter twenty-nine-a, unless the agency promulgating the rules establishes an effective date which is earlier than that provided by section thirteen, article three, chapter twenty-nine-a, in which case the effective date established by the agency shall control, unless the Legislature in the bill authorizing the rules establishes an effective date for such rules in which case the effective date established by the Legislature shall control.

§64-1-3. Technical deficiencies waived.

The Legislature further declares each legislative rule now or hereafter authorized under articles two through nine of this chapter to have been validly promulgated notwithstanding any failure to comply with any requirement of chapter twenty-nine-a for the promulgation of rules at any stage of the promulgation process prior to authorization by the Legislature in articles two through nine of this chapter.

ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-1. Employee suggestion award board.

The legislative rules filed in the state register on the twenty-third day of July, one thousand nine hundred eighty-two, relating to the employee suggestion award board (public employee suggestion program), are authorized.
§64-2-2. Division of finance and administration.

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

§64-2-3. Division of personnel.

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
5 rule-making review committee and refiled in the state
6 register on the fifteenth day of December, one thou-
7 sand nine hundred eighty-six, relating to the civil
8 service commission (civil service system), are
9 authorized.

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

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

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

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

And,

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

§64-2-4. **Public employees insurance agency.**

(a) The legislative rules filed in the state register on the sixteenth day of May, one thousand nine hundred eighty-three, relating to the public employees insurance board (public employees insurance plan), are authorized with the amendments set forth below:

§6.03. — In the second sentence delete the words "Executive Secretary" and insert the word "Board."

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

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

§2.01(b) shall read as follows:

"(b) 'children' shall mean unmarried children between birth and age nineteen and shall include: (1) The employee's natural children, (2) legally adopted children, including children living with the employee during the period of probation, (3) stepchildren resid-
ing in the employee's household and (4) other children fully dependent upon the employee for support and maintenance and residing in the household of which the employee is head and actually being supported by the employee. Children may be included after the attainment of age nineteen, but not beyond the attainment of age twenty-five, if they are enrolled as full-time students, are unmarried, and are dependent upon the employee for support. Children may also be included after the attainment of age nineteen while incapable of self-support because of mental illness, mental retardation or a permanent physical disability, if the child was dependent upon the employee for support and maintenance at the onset of the mental illness, mental retardation or permanent physical disability. For the purpose of this section, mental illness includes addiction as defined in Code 27-1-11 as is defined as a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion and physical well-being, only if such impairment renders the person dangerous to himself or others or such person is substantially unable to protect himself from significant hazard: Provided, That children included because of addiction as hereinbefore defined shall not be included beyond the attainment of age twenty-five."

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

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

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

"5.07. — Coverage for dependents shall terminate at the end of the month in which they no longer meet the definition of 'dependent' as set forth in section 2.01 of these rules."

§64-2-5. Board of risk and insurance management.

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

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

(c) The legislative rules filed in the state register on
the twenty-eighth day of July, one thousand nine
hundred eighty-nine, modified by the board of risk
and insurance management to meet the objections of
the legislative rule-making review committee and
refiled in the state register on the seventeenth day of
October, one thousand nine hundred eighty-nine,
relating to the board of risk and insurance
management (West Virginia board of risk and insurance
management), are authorized.

§64-2-6. Teachers retirement board.

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

Section VI, subsection 6, D, (a)(ii) of the rules is to
be amended on line two by striking out the words “(3)
 thru (7)” and inserting in lieu thereof the words “(3)
 thru (13)”; Section VII, subsection 7, B, (c) of the rules
is to be amended on line three after the word “100” by
striking out the word “consecutive,” and by redesig-
nating the subsection as subsection “(a)”; and Section
X, subsection 10, A, (c), of the rules is to be amended
on line one after the word “physicians,” by striking
out the words “of member’s choice.” and inserting in
lieu thereof the words “one selected by the Board and
one selected by the member.”
ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-3-1. Air pollution control commission.

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

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

(c) The legislative rules filed in the state register on the sixteenth day of November, one thousand nine hundred eighty-three, relating to the air pollution control commission (emission standards for hazardous air pollutants) (series XV), are authorized.

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

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

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

“(b) Permit applications filed pursuant to this regulation shall be processed in accordance with the permitting procedures as set forth in code §20-5E of this regulation. Permit procedures set forth in code §16-20 and any other regulation of this commission are not applicable to any permit application filed pursuant to this regulation.”
Such rules shall also include a section which shall read as follows:

"The commission shall report to the legislative rule-making review committee as required by that committee, but in no event later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty-five. Such report shall include information regarding the commission’s data gathering efforts, the development of compliance programs, the progress in implementation, and such other matters as the committee may require, pertaining to the regulations hereby authorized."

(f) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred eighty-four, relating to the air pollution control commission (permits for construction and modification of stationary sources of air pollution for the prevention of significant deterioration) (series XIV), are authorized.

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

(h) The legislative rules filed in the state register on the thirtieth day of December, one thousand nine hundred eighty-eight, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of February, one thousand nine hundred eighty-nine, relating to the air pollution control commission (good engineering practice as applicable to stack heights), are authorized.
(i) The legislative rules filed in the state register on the thirtieth day of December, one thousand nine hundred eighty-eight, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of February, one thousand nine hundred eighty-nine, relating to the air pollution control commission (TP-2, compliance test procedures for regulation 2 — to prevent and control particulate air pollution from combustion of fuel in indirect heat exchangers), are authorized.

(j) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (ambient air quality standards for sulfur oxides and particulate matter), are authorized.

(k) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (prevention of air pollution emergency episodes), are authorized.

(l) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration), are authorized.
(m) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, relating to the air pollution control commission (standards of performance for new stationary sources) are authorized.

(n) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, relating to the air pollution control commission (emission standards for hazardous air pollutants), are authorized.

(o) The legislative rules filed in the state register on the sixteenth day of October, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (prevention and control of emissions of toxic air pollutants), are authorized.

§64-3-2. Division of banking.

(a) The legislative rules filed in the state register on the eleventh day of June, one thousand nine hundred eighty-two, relating to commissioner of banking (communication terminals and interchange systems), are authorized.

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

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

(d) The legislative rules filed in the state register on the seventh day of November, one thousand nine hundred eighty-six, modified by the commissioner of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thou-
sand nine hundred eighty-six, relating to the commis-

sioner of banking (implementing the West Virginia

community reinvestment act), are authorized.

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

§64-3-3. Division of commerce.

(a) The legislative rules filed in the state register on
the eighteenth day of February, one thousand nine
hundred eighty-seven, modified by the commissioner
of commerce to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the ninth day of October, one thousand
nine hundred eighty-seven, relating to the commis-
ioner of commerce (public use of West Virginia state
parks, forests, and hunting and fishing areas), are
authorized with the amendments as set forth below:

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

And, on page 3, section 2.12 after the word “guests”
by adding “licensed hunters and fishermen while
hunting or fishing”.

And, on page 5, section 2.22 by adding at the end of
the section the following sentence: “Any person may
apply to the Superintendent of the park for a special
event permit and pay an application fee for use of
firearms during historical reenactments, or the use of
hay, straw, boughs, pine needles or similar materials
for special events. The Park Superintendent may issue
a permit to limit areas of use of any of these excep-
tions and require damage assessments, if necessary.”
On page 8, section 4.5 by deleting the word "water" and inserting in lieu thereof the word "swimming pool" and on page 9 section 4.5 after the word "water," add the following "These restrictions do not apply to swimming areas which are natural bodies of water."

(b) The legislative rules filed in the state register on the thirteenth day of September, one thousand nine hundred eighty-nine, modified by the commissioner of commerce to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of December, one thousand nine hundred eighty-nine, relating to the commissioner of commerce (public use of state recreational areas), are authorized with the following amendment:

On page 9, after the word "Code", by adding a new section, designated section six, to read as follows:

"144-1-6. Contracts, public hearings and procedural requirements.

6.1 The commissioner may not solicit nor enter into contracts, except for the operation of a commissary, restaurant or marina for a period of less than ten years, until a master plan for the administration of that state park or recreation area has been developed. He or she shall supervise the preparation of the plan and may utilize the staff of the division of natural resources or any other state governmental agency whose expertise he or she desires to enlist in the preparation thereof. The commissioner shall solicit public participation and involvement in all stages of the preparation of the plan and in the preparation of any requests for proposals for the development of a revenue producing facility, as described herein, with a contract duration in excess of ten years. The plan shall be consistent with the environmental, recreational and cultural goals of the state park and recreation areas system of the state and, to the extent practicable, with the public comments and input received during plan development.

6.2 If the commissioner intends to accept a proposal
for the development of a revenue producing facility, as
described herein, such proposal shall be made avail-
able to the public in a convenient location in the
county wherein the proposed facility may be located.
The commissioner shall publish a notice of the pro-
posal by Class I legal advertisement in accordance
with the provisions of article three, chapter fifty-nine
of this code. The publication area is the county in
which the proposed facility would be located. Any
citizen may communicate by writing to the commis-
sioner his or her opposition or approval to such
proposal within a period of not less than thirty days
from the date of the publication of notice.

6.3 No contract of a term greater than ten years may
be entered into by the commissioner until a public
hearing is held in the vicinity of the location of the
proposed facility with at least two weeks notice of such
hearing by Class I publication pursuant to section two,
article three, chapter fifty-nine of this code. The
commissioner shall make findings prior to rendering a
decision on any proposed contract of a duration of
more than ten years. All studies, records, documents
and other materials which are considered by the
commissioner in making such findings as required
herein shall be made available for public inspection at
the time of the publication of the notice of public
hearing and at a convenient location in the county
where the proposed development may be located.
Persons attending such hearings shall be permitted a
reasonable opportunity to be heard on the proposed
development.

6.4 At such hearing the commissioner shall present
in writing the following findings and supporting
statements therefor:

(A) That the proposed development will not deprive
users of the state park or recreational area of existing
recreational facilities in any significant fashion;

(B) That the proposed development will not have
substantial negative impact on the environmental,
scenic or cultural qualities of the said park or area;
(C) That the proposed development, considered as a whole, is of benefit to the recreational goals of the state and is consistent with the master plan developed for that park or recreational area.

6.5 Following a public hearing as prescribed herein any interested person may submit to the commissioner written comments on the proposed development. All comments made at a hearing, in addition to those received in writing within thirty days after any such hearing, shall be considered by the commissioner in the determination of whether to approve the proposed development.

6.6 The commissioner may not enter into any contract of a duration of more than ten years unless all procedures and requirements as prescribed by this section have been complied with.

6.7 The commissioner shall make a decision whether to approve any proposal to enter into a contract for a duration of more than ten years within sixty days after the conclusion of the hearing as specified herein.

§64-3-4. Division of energy.

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

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

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

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

Page ix, after section 35.04 add the following:
Page 1, section 1.03 in the list of additional regulations, add 35.05; in the list of revised regulations, add 32.02, 32.03 and 33.00.

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

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

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

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

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

(d) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the director of the division of oil and gas of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the director of the division of oil and gas of the department of energy (oil and gas wells and other wells), are authorized.

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

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

69 (g) The legislative rules filed in the state register on
70 the eleventh day of August, one thousand nine hun-
71 dred eighty-six, modified by the director of the
72 division of oil and gas of the department of energy to
73 meet the objections of the legislative rule-making
74 review committee and refiled in the state register on
75 the fifteenth day of December, one thousand nine
76 hundred eighty-six, relating to the director of the
77 division of oil and gas of the department of energy
78 (state national pollutant discharge elimination system
79 (NPDES) program), are 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
83 the department of energy to meet the objections of the
84 legislative rule-making review committee and refiled
85 in the state register on the sixteenth day of December,
86 one 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
92 the following: 'under the supervision required by
93 section 4.1(d) of these rules' and a colon.

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

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

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

Page five, §4.1, subsection (d), line three, following the words ‘certified electrician prior’ by inserting the words ‘to any work being performed and again prior’.”

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

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

(k) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (dam control), are authorized.
(l) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (solid waste management), are authorized.

(m) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (hazardous waste management), are authorized.

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

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

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

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

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

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

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

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

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

(t) The legislative rules filed in the state register on the twentieth day of January, one thousand nine hundred eighty-eight, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of November, one thousand nine hundred eighty-eight, relating to the commissioner of the department of energy (abandoned mine reclamation), are authorized.

(u) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine
hundred eighty-eight, and modified to meet the
objections of the West Virginia Legislature and refilled
in the state register on the sixth day of April, one
thousand nine hundred eighty-nine, relating to the
commissioner of the department of energy (West
Virginia surface mining reclamation regulations
(repealer)), are authorized.

(v) The legislative rules filed in the state register on
the sixteenth day of November, one thousand nine
hundred eighty-nine, modified by the department of
energy to meet the objections of the legislative rule-
making review committee and refilled in the state
register on the ninth day of January, one thousand
nine hundred ninety, relating to the department of
energy (submission and approval of a comprehensive
mine safety program for coal mining operations in the
State of West Virginia), are authorized.

(w) The legislative rules filed in the state register on
the sixteenth day of November, one thousand nine
hundred eighty-nine, modified by the division of
energy to meet the objections of the legislative rule-
making review committee and refilled in the state
register on the twenty-fifth day of January, one
thousand nine hundred ninety, relating to the division
of energy (surface mining reclamation), are authorized
with the amendments set forth below:

On page 64, section 3.25(a)(2), after the words
"section 18 of the Act and paragraph” by deleting the
"(c)” and inserting in lieu thereof the following: “(a),
(b), (c), (d), (i), (j), and (k)”.

And,

On page 148, section 12.4(d)(2), by deleting the
current language and inserting in lieu thereof the
following:

“(2) In the event the Commissioner is unable to
collect the costs from the permittee, the Commissioner
shall in a timely manner but not later than one
hundred eighty days after forfeiture of the site-specific
bond utilized monies in the Special Reclamation Fund.
created by Subsection (g), Section 11 of the Act, to accomplish the completion of reclamation, including the requirements of Section 23 of the Act and Subsection 14.5 of these regulations governing water quality."

§64-3-5. Enterprise zone authority.
1 The legislative rules filed in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-eight, modified by the enterprise zone authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of February, one thousand nine hundred eighty-nine, relating to the enterprise zone authority (creation of enterprise zone authority to designate certain enterprise zones and provide for tax benefits within those zones), are authorized.

§64-3-6. West Virginia industrial and trade jobs development corporation.
1 The legislative rules filed in the state register on the fifteenth day of October, one thousand nine hundred eighty-six, modified by the West Virginia industrial and trade jobs development corporation to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of January, one thousand nine hundred eighty-seven, relating to the West Virginia industrial and trade jobs development corporation (general administration of the West Virginia capital company act and establishment of application procedures to implement the act), are authorized.

§64-3-7. Division of labor.
1 (a) The legislative rules filed in the state register on the tenth day of May, one thousand nine hundred eighty-two, relating to the commissioner of labor (steam boiler rules) as modified by the legislative rule-making review committee, are authorized.

6 (b) The legislative rules filed in the state register on the seventh day of December, one thousand nine hundred eighty-three, relating to the department of labor (hazardous chemical substances), are authorized.
(c) The legislative rules filed in the state register on
the second day of February, one thousand nine hun-
dred eighty-four, relating to the department of labor
(polygraph examinations), are authorized.

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

(e) The legislative rules filed in the state register on
the twenty-second day of December, one thousand
nine hundred eighty-seven, modified by the commis-
sioner of labor to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twentieth day of January, one thou-
sand nine hundred eighty-eight, relating to the com-
missioner of labor (wage payment and collection act),
are authorized.

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

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

(h) The legislative rules filed in the state register on
the thirteenth day of September, one thousand nine
hundred eighty-eight, modified by the department of
labor to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventh day of December, one thou-
sand nine hundred eighty-eight, relating to the depart-
ment of labor (amusement rides and amusement
attractions safety act), are authorized.

(i) The legislative rules filed in the state register on
the sixteenth day of June, one thousand nine hundred eighty-nine, modified by the department of labor to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of August, one thousand nine hundred eighty-nine, relating to the department of labor (wage payment and collection act), are authorized.

§64-3-8. Division of natural resources.

(a) The legislative rules filed in the state register on the eighth day of December, one thousand nine hundred eighty-three, relating to the department of natural resources (surface mining), are authorized with the amendments set forth below:

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

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

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

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

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

"Upon request of any applicant, the division shall meet with the applicant for prefiling review of the application. The division, with the cooperation of the solid waste authority, shall assist the applicant in preparing a complete and proper application which would not be rejected as incomplete."

On page 15, section 6.03 (c)(1) in the first full sentence, after the word "cease", strike the remainder of the sentence and insert in lieu thereof the words "within fifteen (15) days of receipt of an order of suspension" and in the second sentence strike the
word "recommence" and insert the words "continue beyond fifteen (15) days"; (c)(2) in the first full sentence, after the word "cease" by striking out the remainder of the sentence and insert in lieu thereof the words "immediately upon receipt of an order of revocation."

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

(d) The legislative rules filed in the state register on the seventh day of November, one thousand nine hundred eighty-four, relating to the department of natural resources (surface mining reclamation), are authorized.

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

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

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

(g) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred eighty-four, relating to the department of natural resources (small arms hunting), are authorized.
(h) The legislative rules filed in the state register on the sixth day of January, one thousand nine hundred eighty-four, relating to the department of natural resources (hazardous waste management), are authorized.

(i) The legislative rules filed in the state register on the third day of December, one thousand nine hundred eighty-four, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of February, one thousand nine hundred eighty-five, relating to the department of natural resources (hazardous waste management), are authorized.

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

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

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

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

(m) The legislative rules filed in the state register on the twenty-sixth day of September, one thousand nine
hundred eighty-six, modified by the department of
natural resources to meet the objections of the legis-
lateive rule-making review committee and refiled in
the state register on the ninth day of December, one
thousand nine hundred eighty-six, relating to the
department of natural resources (hazardous waste
management regulations), are authorized.

(n) The legislative rules filed in the state register on
the seventh day of August, one thousand nine hundred
eighty-six, relating to the director of the department of
natural resources (procedures for transporting and
dealing in furbearing animals), are authorized.

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

On page four, § 1.9.1.a by inserting the words “five
thousand dollars or’’ after the words “‘significant
portion of income’ means” and

On page four, § 1.9.1.a by inserting the words
“whichever is less,’’ after the words “ten percent or
more of gross personal income for a calendar year”.

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

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

(r) The legislative rules filed in the state register on
the tenth day of June, one thousand nine hundred
eighty-seven, relating to the director of the depart-
ment of natural resources (outfitters and guides), are
authorized.
(s) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred eighty-seven, relating to the department of natural resources (hazardous waste management regulations), are authorized.

(t) The legislative rules filed in the state register on the fifth day of March, one thousand nine hundred eighty-seven, relating to the department of natural resources (hazardous waste management regulations, series 35), are authorized.

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

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

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

On page 16, section 6.2, line 3 by inserting following the period "This regulation does not apply to licensed outfitters and guides." These rules were proposed by the director of the department of natural resources pursuant to section seven, article one and section twenty-two, article seven, chapter twenty of this code.
(x) The legislative rules filed in the state register on the second day of September, one thousand nine hundred eighty-eight, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of October, one thousand nine hundred eighty-eight, relating to the department of natural resources (hazardous waste management) are authorized.

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

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

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

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

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

(cc) The legislative rules filed in the state register on the seventeenth day of March, one thousand nine hundred eighty-eight, relating to the director of the department of natural resources (boating), are authorized.
hundred eighty-nine, modified by the division of
natural resources to meet the objections of the legis-
native rule-making review committee and refiled in
the state register on the sixteenth day of January, one
thousand nine hundred ninety, relating to the division
of natural resources (solid waste management) are
authorized with the amendments set forth below:

On page 13, Section 3.2.6, by deleting the current
language and inserting in lieu thereof the following:

“3.2.6. Within two hundred (200) feet of faults that
have had displacement in Holocene time (i.e., during
the last eleven thousand years);”

On page 64, Section 3.14.25, by deleting the current
language and inserting in lieu thereof the following:

“3.14.25. Environmental Compliance History. The
chief or the director may refuse to grant any permit
if he has reasonable cause to believe, as indicated by
documented evidence, that the applicant, or any
officer, director or manager, thereof, or shareholder
owning twenty percent (20%) or more of its capital
stock, beneficial or otherwise, or other person conduct-
ing or managing the affairs of the applicant or of the
proposed permitted premises, in whole or part, has
exhibited a pattern of violation of the environmental
statutes or regulations of this State, any other state, or
the federal government.”

On page 104, section 4.5.4.a by inserting after the
words “at that landfill” the following:

“Nothing within these regulations shall be construed
to allow the installations of any line or system on areas
not lined as of November 30, 1989, that is not in
conformance with section 4.5.4.a.E or 4.5.4.a.G. of these
regulations. Landfills that do have an article 5f permit
and a liner installed as of November 30, 1989, may
install a liner as approved by the chief.”

And, on pages 147 through 151, sections 4.11.5 and
4.11.6, by deleting the current language and inserting
in lieu thereof the following:
"4.11.5 Corrective Action Program.

Whenever a statistically significant increase is found in a Phase II or Phase III monitoring parameter, or when groundwater contamination is otherwise identified by the Chief at sites without monitoring programs, which is determined by the Chief to have resulted in a significant adverse effect on an aquifer, and which is attributable to a solid waste facility, the Chief may require appropriate corrective or remedial action pursuant to West Virginia Code Chapter 20, Article 5A, and Chapter 20, Article 5F to abate, remediate or correct such pollution. Any such corrective or remedial action order shall take into account any applicable groundwater quality protection standards, the existing use of such waters, the reasonably uses of such waters, background water quality, and the protection of human health and the environment.

(dd) The legislative rules filed in the state register on the seventeenth day of February, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (underground storage tanks) are authorized.

(ee) The legislative rules filed in the state register on the twenty-seventh day of January, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (transporting and selling wildlife pelts), are authorized.

(ff) The legislative rules filed in the state register on the seventeenth day of February, one thousand nine hundred eighty-nine, modified by the director of the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of August, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (underground storage tank fee assessments), are authorized.

(gg) The legislative rules filed in the state register on the twenty-fourth day of April, one thousand nine hundred eighty-nine, modified by the director of the
department of natural resources to meet the objections
of the legislative rule-making review committee and
refiled in the state register on the twenty-second day
of May, one thousand nine hundred eighty-nine,
relating to the director of the department of natural
resources (public hunting and fishing areas), are
authorized.

(hh) The legislative rules filed in the state register
on the first day of December, one thousand nine
hundred eighty-nine, relating to the department of
natural resources (water pollution control permit fee
schedules) are authorized with the amendment set
forth below:

On page five, section 3.3, by deleting the following:
"Submitted fees are not refundable."

And, on page two, after section 2.6, by inserting the
following:

"customer" means any person that purchases waste
disposal services from a facility permitted under
article five-a, chapter twenty, of the code of West
Virginia, one thousand nine hundred thirty-one, as
amended. For the purposes of these regulations,
commercial and other non-single family dwelling
customers shall be translated into customer equiva-
 lent by dividing the total daily estimated volume of
waste water by three hundred and fifty gallons per
day." and renumbering the remaining subsections.

And, on page nine, section 7.2, by striking out the
words "seven hundred fifty dollars ($750)." and
inserting in lieu thereof the following:

"determined using Table D, but in no case shall be
less than two hundred and fifty dollars ($250)."

And, on page thirteen, by striking out all of Table D,
Schedule of Annual Permit Fees, and inserting in lieu
thereof a new Table D, designated "Schedule of
Annual Permit Fees", to read as follows:
"TABLE D
SCHEDULE OF ANNUAL PERMIT FEES
SEWAGE FACILITIES

<table>
<thead>
<tr>
<th>Number of Customers</th>
<th>Annual Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 1000</td>
<td>$ 250</td>
</tr>
<tr>
<td>1000 to 1499</td>
<td>$ 500</td>
</tr>
<tr>
<td>1500 to 1999</td>
<td>$ 750</td>
</tr>
<tr>
<td>2000 to 2499</td>
<td>$ 1000</td>
</tr>
<tr>
<td>2500 to 2999</td>
<td>$ 1250</td>
</tr>
<tr>
<td>3000 to 3499</td>
<td>$ 1500</td>
</tr>
<tr>
<td>3500 to 3999</td>
<td>$ 1750</td>
</tr>
<tr>
<td>4000 to 4499</td>
<td>$ 2000</td>
</tr>
<tr>
<td>4500 to 4999</td>
<td>$ 2250</td>
</tr>
<tr>
<td>greater than 5000</td>
<td>$ 2500</td>
</tr>
</tbody>
</table>

INDUSTRIAL OR OTHER WASTE FACILITIES

<table>
<thead>
<tr>
<th>Average Discharge Volume (gallons per day)</th>
<th>Annual Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 1,000</td>
<td>$ 50</td>
</tr>
<tr>
<td>1,001 to 10,000</td>
<td>$ 500</td>
</tr>
<tr>
<td>10,001 to 50,000</td>
<td>$ 1000</td>
</tr>
<tr>
<td>greater than 50,000</td>
<td>$ 2500</td>
</tr>
</tbody>
</table>

(ii) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred eighty-nine, modified by the director of the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (revocation of hunting and fishing licenses), are authorized.
(jj) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred eighty-nine, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the division of natural resources (state water pollution control revolving fund program), are authorized.


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

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

§64-3-10. Water resources board.

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

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

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

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

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

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

(g) The legislative rules filed in the state register on the seventh day of January, one thousand nine hundred eighty-five, modified by the water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of February, one thousand nine hundred eighty-five, relating to the water resources board (water quality standards), are authorized.

(h) The legislative rules filed in the state register on the seventeenth day of October, one thousand nine hundred eighty-five, modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred eighty-seven, and further modified by the state water resources board to meet the objections of the legislative rule-making review committee and refiled in the state register on the
twenty-fourth day of February, one thousand nine hundred eighty-seven, relating to the state water resources board (water quality standards), are authorized.

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

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

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

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

§64-3-11. Economic development authority.

The legislative rules filed in the state register on the twenty-sixth day of May, one thousand nine hundred eighty-nine, modified by the West Virginia economic development authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the West Virginia economic development authority (general administration of the West Virginia capital company act and the establishment of the application procedures to implement the act) are authorized.

ARTICLE 4. AUTHORIZATION FOR DEPARTMENT OF EDUCATION AND THE ARTS TO PROMULGATE LEGISLATIVE RULES.

§64-4-1. Archives and history division.

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

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

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

"b. HLC or commission membership shall be drawn from among persons with demonstrated interest, competence, or knowledge in historic preservation and local history. To the extent available in the community, members of the HLC shall be preservation-related professionals (including the professions of history, architecture, architectural history, planning,
real estate, American studies, geography, landscape architecture, law, engineering, or archaeology). When a discipline is not represented in the Commission membership, commissioners shall seek expertise in this area when reporting on National Register nominations and other actions that will impact properties which are normally evaluated by a professional in such discipline. This may be accomplished through consultation with universities or colleges. Prior to the consultation process, the Commission must notify the State Historic Preservation Officer in writing that the appropriate professional assistance has been obtained and identified."

c. The local government, be certified without the minimum number or types of professional disciplines, must report to the SHPO's satisfaction that it has made a reasonable effort to fill those positions. The requirements for professional representation on the Commission shall not exceed those of the State Review Board.

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

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

"g. Records of proceedings shall be transmitted to the State Historic Preservation Officer at the same time they are transmitted to members of the Commission."
“i. Commission responsibilities must be complementary to and carried out in coordination with those of the State Historic Preservation Office as outlined in 36 CFR 61.4(b). The State Historic Preservation Office shall cooperate with the HLC or Commission by making available materials and training to provide a working knowledge of the roles and operations of federal, state and local preservation programs.”

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

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

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

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

“5.03 — Determination that Local Government Fulfills Requirements for Certification — if the State Historic Preservation Officer determines that the local government fulfills the requirements for certification, the State Historic Preservation Officer will prepare a written certification agreement with the local government that lists the specific responsibilities of the local government where certified. These responsibilities will include those powers and duties as stated in 4.02. The SHPO will notify the United States Secretary of the Interior, or designee and furnish a copy of the approved request and the certification agreement and shall respond to the local government within fifteen days of the Secretary’s response.”

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

The last line of §6 is amended to read as follows: “(National Historic Preservation Act, Section 101(c)(2)”).
The section heading to §6.01 is amended in its entirety to read as follows: “6.01 Notification of Commission by SHPO of National Register Nomination of Property Within Local Government Jurisdiction—”.

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

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

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

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

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

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

“7.01 — Performance Review of Certified Local Government by SHPO — The SHPO will review the commission’s annual report to ensure that the performance of the local government is consistent with the State Historic Preservation Plan. If the SHPO determines that the performance of a certified local government is not in conformance with the certification
agreement and the State Historic Preservation Plan
the State Historic Preservation Officer shall document
that determination and recommend to the certified
local government steps which may be taken to
improve their performance. The Historic Preservation
Officer shall also review the administration of funds
allocated from the Historic Preservation Fund and
other documents as necessary. The SHPO shall main-
tain written records for all SHPO evaluation of CLG's
so that they may be available to the Secretary at any
time."

The last sentence of §7.03 is amended in its entirety
to read as follows: "This closeout will follow proce-
dures specified in National Register Programs
Guidelines."

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

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

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

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

The third sentence of §8.06 is amended in its entirety to read as follows: "The SHPO is responsible for proper accounting of Historic Preservation Fund grants to CLG's in accordance with Office Management and Budget Circular A-102, Attachment P Audit Requirement."

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

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

§64-4-2. Library commission.

The legislative rules filed in the state register on the twenty-second day of October, one thousand nine hundred eighty-five, modified by the West Virginia library commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of November, one thousand nine hundred eighty-five, relating to the West Virginia library commission (designating a grace period for the return of library materials) are authorized.
ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Department of health and human resources.

(a) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the secretary of the department of health and human resources (implementation of omnibus health care act), are authorized.

(b) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the department of health and human resources (implementation of omnibus health care act payment provisions), are authorized.

§64-5-2. State board of health; division of health.

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

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

(c) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two, relating to the state board of health (public water supply operators) with the modification of §11.02
as presented to the legislative rule-making review committee on the ninth day of November, one thousand nine hundred eighty-two, are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) The legislative rules filed in the state register on the seventh day of September, one thousand nine
hundred eighty-three, relating to the state board of
health (well water regulations), are authorized with
the amendments set forth below:

§4.1. In the first sentence delete the word “obtain-
ing” and insert in lieu thereof the words “applying
for.” In the second sentence after “4.3” add “and 4.5.”

§4.2. At the end of the second sentence, strike the
period and add the words “unless emergency condi-
tions prevail as noted under §4.3.”

With the balance of §4.2 and create a new §4.3 with
the following changes: In the first sentence delete the
word “deadline” and insert in lieu thereof the word
“requirements.” Add after the first sentence the
sentence, “Emergency conditions and unavoidable
circumstances are those conditions involving acts of
God, water outages or disruption of water service,
unsatisfactory water quality or quantity or public
health threats.” In the third sentence delete the
word “exceed” and insert in lieu thereof the words
“be made in excess of.”

Renumber §4.3 as §4.4 and add the following two
sentences at the end of the section: “Such standards
shall constitute the minimum standards for the instal-
lution, the alteration or the deepening of water wells.
Any plans approved by the director pursuant to these
regulations shall be in substantial compliance with the
heretofore mentioned standards.”

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

§5.2. Delete the words “four (4)” and insert in lieu
thereof the words “two (2)” and delete the words
“active, continuous.”

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

(r) The legislative rules filed in the state register on
the twenty-first day of December, one thousand nine
hundred eighty-four, relating to the state board of health (reportable diseases), are authorized.

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

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

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

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

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

On page 3, §3.9 shall read as follows:

"3.9 Quorum — When applied to the EMSAC, a
majority of the members thereof, except in the instance when at any meeting of the EMSAC, where a quorum is not present and the director causes to be deposited in the United States mail, postage prepaid, return receipt requested, to each member of the EMSAC within three days, a notice calling a meeting of the EMSAC at some convenient place in the state of West Virginia two weeks after the meeting at which no quorum was present. Quorum means any number of members of the EMSAC who attend such subsequent meeting. Any member missing two consecutive meetings shall be removed from the EMSAC.''

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

On page 7, §4.10.1 shall read as follows:

"4.10.1 every applicant for certification as an EMSP prior to such certification, shall demonstrate his or her knowledge and ability by undergoing a written examination and a demonstration of skills, and by attaining a passing score on the same. Passing score shall be the same for all testing programs."

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

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

(z) The legislative rules filed in the state register on the seventeenth day of July, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-
making review committee and refiled in the state register on the sixteenth day of October, one thousand nine hundred eighty-six, relating to the state board of health (methods and standards for chemical tests for intoxication), are authorized.

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

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

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

(dd) The legislative rules filed in the state register on the ninth day of December, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of December, one thousand nine hundred eighty-six, relating to the state board of health (vital statistics), are authorized.
(ee) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred eighty-seven, relating to the director of the department of health (immunization criteria for transfer students), are authorized.

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

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

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

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

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

On page 2, §3.8, shall read as follows:
3.8 Water Well—Any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through an aquifer for purposes that may include but are not limited to: a water supply, exploration for water, dewatering or heat pump wells, except that this definition shall not include ground water monitoring activities and all activities for the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources which are regulated under chapter 22, 22a or 22b of the code.

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

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

(ll) The legislative rules filed in the state register on the nineteenth day of October, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of December, one thousand nine hundred eighty-eight, relating to the state board of health (volatile synthetic organic chemicals), are authorized.

(mm) The legislative rules filed in the state register on the second day of January, one thousand nine
hundred ninety, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety, relating to the division of health (asbestos abatement licensing), are authorized.

(nn) The legislative rules filed in the state register on the thirtieth day of August, one thousand nine hundred eighty-nine, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, one thousand nine hundred eighty-nine, relating to the division of public health (AIDS-related medical testing and confidentiality), are authorized.

(oo) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-nine, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the state board of health (nursing home licensure), are authorized.

(pp) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-nine, relating to the state board of health (licensure of behavioral health centers), are authorized.

(qq) The legislative rules filed in the state register on the twenty-eighth day of December, one thousand nine hundred eighty-nine, relating to the state board of health (methods and standards for chemical test for intoxication), are authorized.

§64-5-3. West Virginia health care cost review authority.

(a) The legislative rules filed in the state register on the twenty-first day of October, one thousand nine hundred eighty-three, relating to the health care cost review authority (limitation on hospital gross patient
(b) The legislative rules filed in the state register on the nineteenth day of December, one thousand nine hundred eighty-three, relating to the health care cost review authority (freeze on hospital rates and granting temporary rate increases), are authorized.

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

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

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

(f) The legislative rules filed in the state register on the third day of September, one thousand nine hundred eighty-seven, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of January, one thousand nine hundred eighty-eight, relating to the West Virginia health care cost review authority (exemptions from certificate of need review), are authorized.

(g) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred eighty-eight, modified by the health care cost
review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of February, one thousand nine hundred eighty-nine, relating to the health care cost review authority (financial disclosure), are authorized.

(h) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, one thousand nine hundred eighty-nine, relating to the West Virginia health care cost review authority (expedited review for rate changes), are authorized with the amendments set forth below:

On Page 5, Section 4.1, after the words “affected by the increase.” by inserting the following language:

“The hospital shall also reconcile any excesses in gross revenue, gross patient revenue, gross inpatient revenue or charges per discharge. Within fifteen days of submission the Authority shall inform the hospital if it accepts the justification for excesses provided by the hospital.”

And on Page 6, section 4.2, after the words “the excess in gross outpatient revenue” by striking the period and inserting the following:

“or if any excesses in the above categories (1 through 4) have been sufficiently justified to the Authority as required in Section 4.1 of this rule.”

(i) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred eighty-nine, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, one thousand nine hundred eighty-nine, relating to the West Virginia health care cost review authority (exemption for conversion of acute care beds to skilled nursing care beds), are authorized.
§64-5-4. West Virginia hospital finance authority.

The legislative rules filed in the state register on the tenth day of June, one thousand nine hundred eighty-six, modified by the West Virginia hospital finance authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of January, one thousand nine hundred eighty-seven, relating to the West Virginia hospital finance authority (establishment of fee schedule and cost allocation applicable to issuance of bonds), are authorized.

§64-5-5. Division of human services; director of the child advocate office.

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

(b) The legislative rules filed in the state register on the twenty-seventh day of May, one thousand nine hundred eighty-eight, modified by the director of the child advocate office of the department of human services to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred eighty-eight, relating to the director of the child advocate office of the department of human services (interstate income withholding), are authorized.

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

(d) The legislative rules filed in the state register on
the twenty-seventh day of May, one thousand nine
hundred eighty-eight, modified by the director of the
child advocate office of the department of human
services to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-third day of September, one
thousand nine hundred eighty-eight, relating to the
director of the child advocate office of the department
of human services (termination of income withhold-
ing), are authorized.

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


(a) The legislative rule filed in the state register on
the fourteenth day of November, one thousand nine
hundred eighty-three, relating to the workers’ com-
pensation commissioner (employers’ excess liability
fund), are authorized.

(b) The legislative rules filed in the state register on
the twenty-fifth day of October, one thousand nine
hundred eighty-four, relating to the workers’ compen-
sation commissioner (time limits for the administra-
tive proceedings of adjudications and awards), are
authorized.

(c) The legislative rules filed in the state register on
(d) The legislative rules filed in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-four, modified by the workers' compensation commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, one thousand nine hundred eighty-four, relating to the workers' compensation commissioner (payment of attorney's fees), are authorized.

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

On page 1, the second and third unnumbered paragraphs on page one are amended to read as follows:

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

When blood gas studies are performed and abnormal values are obtained and thereafter new blood gas studies are performed and normal or significantly higher values are further obtained, the Commissioner, at the request of the O. P. Board, may direct the
parties to furnish additional evidence and/or order
additional studies at the laboratory utilized by the O.
P. Board or other laboratories, all for the purpose of
determining whether any of the values are unreliable
or incorrect or are clearly attributable to some identifi-
able disease or illness other than occupational
pneumoconiosis.

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

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

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

"Bluefield (2,600') minus Charleston (600')
equals 2,000' differential 2,000' divided by 300'
altitude equals 6.67 6.67 multiplied by 1 mmHg
per 300' altitude equals 6.67 mmHg."

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

(g) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred eighty-nine, modified by the division of workers' compensation to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the division of workers' compensation (enforcement of reporting and payment requirements), are authorized.

(h) The legislative rules filed in the state register on the sixteenth day of January, one thousand nine hundred ninety, modified by the division of workers' compensation to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, one thousand nine hundred ninety, relating to the division of workers' compensation (self-insured employers), are authorized.

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Division of corrections.

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

(b) The legislative rules filed in the state register on
the twentieth day of September, one thousand nine hundred eighty-eight, modified by the commissioner of the department of corrections to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of January, one thousand nine hundred eighty-nine, relating to the commissioner of the department of corrections (furlough programs for inmates under the custody and control of the commissioner of the department of corrections), are authorized.

§64-6-2. Fire commission.

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

Page 1, section 106, line 1, after the word “to” add the words “personal care homes caring for five or less patients or”; and

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

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

(c) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-eight, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred eighty-eight, relating to the state fire commission (state building code), are authorized.
(d) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of January, one thousand nine hundred ninety, relating to the state fire commission (electrician licensing), are authorized with the following amendment:

On page 6, section 3.03, by deleting all of subsection (A) and inserting in lieu thereof the following:

"(A) Any person who performs electrical work with respect to any property owned or leased by such person. For purposes of this subparagraph: (1) 'property owner' includes the property owner, lessee, and his or her maintenance personnel; and, (2) 'performs electrical work' includes routine maintenance, repairs, and improvements to existing structures; or".

(e) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-nine, relating to the state fire commission (fees for services rendered), are authorized with the amendment set forth below:

On page 1, section 2.1(G), by striking out the word "underground".

(f) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-nine, relating to the state fire commission (fire code), are authorized.

§64-6-3. Jail and prison standards commission.

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

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

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

(d) The Legislature hereby authorizes and directs
the jail and prison standards commission to amend its
rules relating to West Virginia minimum standards for
construction, operation and maintenance of jails which
were filed in the code of state regulations (95 CSR 1)
on the fifth day of April, one thousand nine hundred
eighty-eight, with the following amendment set forth
below:

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

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

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

17.21.1 The regional jail need not assume the responsibility for transportation to the home county seat of a person incarcerated in the regional jail facility for visitation with their family and friends unless that person has had no visits from family and friends in the previous three months.

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

17.21.3 The regional jail need not assume any responsibility for transportation under subsection 17.21.1 when the distance from the regional jail to the respective county seat is less than two hour's driving time.

§64-6-4. Division of public safety.

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

Page 23, §9.10 remove the period at the end of the sentence and add the words “or municipalities.”

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

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Office of alcohol beverage control commission.

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

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

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

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

(a) For purposes of this regulation, the commissioner may refuse to grant any license if he has reasonable cause to believe, as indicated by documented evidence, that the applicant, or any officer, director or manager thereof, or shareholder owning twenty percent or more of its capital stock, beneficial or otherwise, or other person conducting or managing the affairs of the applicant or of the proposed licensed premises, in whole or part:
(1) Is not a person of good moral character or repute;
(2) Has maintained a noisy, loud, disorderly or unsanitary establishment;
(3) Has demonstrated, either by his police record or by his record as former licensee under chapter sixty or chapter eleven, article sixteen of the West Virginia code, a lack of respect for law and order, generally, or for the laws and rules governing the sale and distribution of alcoholic beverages or nonintoxicating beer;
(4) Has the general reputation of drinking alcoholic beverages to excess, or is addicted to the use of narcotics;
(5) Has misrepresented a material fact in applying to the commissioner for a license.

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

(1) Is not eighteen years of age or older;
(2) Has been convicted of a felony or other crime involving moral turpitude, and, upon such conviction, the applicant shall not be eligible for licensure within five years next preceding successful completion of all conditions of probation, discharge from parole supervision or expiration of sentence;
(3) Has been convicted of violating the liquor laws of any state or the United States, and, upon such conviction, the applicant shall not be eligible for licensure within five years next preceding successful completion of all conditions of probation, discharge from parole supervision or expiration of sentence;
(4) Has had any license revoked under the liquor laws of any state or the United States within five years next preceding the filing date of the application;
(5) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;

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

(7) Has been adjudicated an incompetent;

(8) Is an officer or employee of the alcohol beverage control commissioner of West Virginia; or

(9) Is violating or allowing the violation of any provision of chapter sixty, chapter sixty-one or chapter eleven, article sixteen of the code in its establishment at the time its application for a license is pending.

§64-7-2. Agency of insurance commissioner.

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

(b) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the insurance commissioner to meet the objection of the legislative rule-making review committee and refilled in the state register on the twelfth day of December, one thousand nine hundred eighty-six, relating to the insurance commissioner (examiners' compensation, qualification and classification), are authorized.

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

(d) The legislative rules filed in the state register on the twenty-ninth day of May, one thousand nine hundred eighty-seven, relating to the insurance commissioner (medical malpractice annual reporting requirements), are authorized.
(e) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred eighty-seven, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of November, one thousand nine hundred eighty-seven, relating to the insurance commissioner (medical malpractice loss experience and loss expense reporting requirements), are authorized.

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

(g) The legislative rules filed in the state register on the twenty-sixth day of May, one thousand nine hundred eighty-nine, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of September, one thousand nine hundred eighty-nine, relating to the insurance commissioner (insurance adjusters), are authorized.

§64-7-3. Board of investments.

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

(b) The legislative rules filed in the state register on the third day of January, one thousand nine hundred eighty-four, relating to the state board of investments (administration of the consolidated fund), are authorized.
(c) The legislative rules filed in the state register on
the ninth day of January, one thousand nine hundred
ninety, modified by the state board of investments to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twenty-fourth day of January, one thousand nine
hundred ninety, relating to the state board of invest-
ments (administration of the consolidated fund), are
authorized.

(d) The legislative rules filed in the state register on
the ninth day of January, one thousand nine hundred
ninety, modified by the state board of investments to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twenty-fourth day of January, one thousand nine
hundred ninety, relating to the state board of invest-
ments (administration of the consolidated pension
fund), are authorized.

§64-7-4. Lottery commission.

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

§64-7-5. Racing commission.

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

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

(c) The legislative rules filed in the state register on
the twenty-third day of April, one thousand nine
hundred eighty-two, relating to the West Virginia
racing commission (Rule 107), are authorized.
(d) The legislative rules filed with the legislative rule-making review committee on the tenth day of January, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 471), are authorized.

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

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

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

Following the word “Association” insert a period and strike the remainder of the sentence.

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

Following the word “Association” insert a period and strike the remainder of the sentence.

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

(j) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 455) greyhound racing, are authorized.
(k) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 609A) greyhound racing, are authorized.

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

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

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

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

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

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

(r) The legislative rules filed in the state register on the sixth day of August, one thousand nine hundred eighty-four, relating to the West Virginia racing commission (greyhound racing - Rule 845-I), are authorized.
(s) The legislative rules filed in the state register on
the third day of September, one thousand nine hun-
dred eighty-seven, modified by the West Virginia
racing commission to meet the objections of the
legislative rule-making review committee and refiled
in the state register on the twenty-first day of Decem-
ber, one thousand nine hundred eighty-seven, relating
to the West Virginia racing commission (greyhound
racing), are authorized.

(t) The legislative rules filed in the state register on
the thirty-first day of July, one thousand nine hun-
dred eighty-seven, modified by the West Virginia
racing commission to meet the objections of the
legislative rule-making review committee and refiled
in the state register on the eighteenth day of Decem-
ber, one thousand nine hundred eighty-seven, relating
to the West Virginia racing commission (thoroughbred
racing), are authorized with the amendments set forth
below:

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

All moneys held by any licensee for the payment of
outstanding and unredeemed pari-mutuel tickets, if
not claimed within ninety (90) days after the close of
the horse race meeting in connection with which the
tickets were issued, shall be turned over by the
licensee to the Racing Commission within fifteen (15)
days after the expiration of such ninety (90) day period
and the licensee shall give such information as the
Racing Commission may require concerning such
outstanding and unredeemed tickets; viz. The outs
ledger enumerating all outstanding tickets at the close
of each meeting, to contain a record of all tickets
redeemed in the ninety (90) day following period,
together with all redeemed tickets which shall bear
the stamp of the cashier(s) making redemption: A
stamp indicating "Outs Ticket." In addition, a state-
ment to accompany said ledger and tickets, setting
forth the quantity and amount of each denomination
redeemed in the ninety (90) day period, with a grand
total indicating the sum paid in "Outs." This sum
subtracted from the outs on the closing day to equal
the remittance of the Association in settlement of the
"Out" account for the meeting.

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

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

(w) The legislative rules filed in the state register on
the fourth day of March, one thousand nine hundred
eighty-nine, modified by the West Virginia racing
commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of June, one thousand nine
hundred eighty-nine, relating to the West Virginia
racing commission (thoroughbred racing), are
authorized.

(x) The legislative rules filed in the state register on
the twenty-second day of June, one thousand nine
hundred eighty-nine, relating to the West Virginia
racing commission (greyhound racing), are authorized.

§64-7-6. Tax Department.

(a) The legislative rules filed in the state register on
the fifth day of January, one thousand nine hundred
eighty-four, relating to the state tax commissioner
(appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are auth-
orized with the amendments set forth below:
Page 8, section 11.04 (b)(2), definition of "Active Mining Property," at the end of the first paragraph following the "period," by adding the following: "In the application of the herein provided valuation formula on 'active mining property,' the appropriate formula calculation will be based upon the actual market to which the coal from that tract and seam is currently being sold, whether it is 'metallurgical' or 'steam'."

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

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

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

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

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

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

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

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

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

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

Page 111, section 11.07 (k) delete all of subsection (k).

Page 115, section 11.08 (c)(5)(B) by striking the symbol and figures "$5.00" and inserting in lieu thereof the following: "$1.00."

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

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

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

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

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

(c) The legislative rules filed in the state register on the twenty-eighth day of September, one thousand nine hundred eighty-four, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of November, one
thousand nine hundred eighty-four, and on the twenty-first day of March, one thousand nine hundred eighty-five, relating to the state tax commissioner (estimated corporation net income tax), are authorized.

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

Title page, Subject; following the word “Farmland,” insert the words “and of Structures Situated Thereon.”

Page i, Subject; following the word “Farmland,” insert the words “and of Structures Situated Thereon.”

Page i, TABLE OF CONTENTS, Section 10; following the words “Valuation of Farmland” add the words “and of Structures Situated Thereon.”

Page 10.1, Title; following the word “FARMLAND” insert the words “AND STRUCTURES SITUATED THEREON.”

Page 10.1, Section 10, Title; following the word “Farmland” add the words “and Structures Situated Thereon.”

Page 10.1, Section 10.01(b); following the word “farmland” insert the words “and structures situated thereon.”

Page 10.2, Section 10.02(a), first sentence; following the word “farmland” insert the words “and structures situated thereon.”

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

Page 10.3, Section 10.02(b), last sentence; following the word “farmland” insert the words “and structures situated thereon.”
Page 10.8, Section 10.04(5)(B), last sentence; delete the period and add "or the incapability to be adapted to alternative uses."

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

Page 10.9, Section 10.04(6), following the last sentence; add the sentence "For the purposes of this definition, ‘contiguous tracts’ are farmlands which are in close proximity, but not necessarily adjacent: Provided, That all such contiguous tracts are operated as part of the same farm management plan."

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

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

Page 10.11, Section 10.04; delete the word "November" and insert in lieu thereof the word "September." Delete the period following the word "valuation" and add the words "for the assessment year beginning July first of each year."

Page 10.11, Section 10.04, insert the following subdivision: "(12) Application Form: The application form required to be filed with the assessor on or before September first of each year shall require certification that the farm complies with criteria set forth in Section 10.05(c) of these regulations, and renewal applications from year to year shall be sufficient upon statement certifying that no change has been made in the use of farm property which would disqualify 'farm use' classification for assessment purposes."

Renumber the subdivisions of Section 10.04 following the new 10.04(12); formerly 10.04(12) through 10.04(28), to 10.04(13) through 10.04(29) respectively.

Page 10.14, Section 10.04(28) (formerly 10.04(27)); following the words "woodland products" insert a
comma and the words “such as nuts or fruits harvested” and add a comma following the words “human consumption” on Page 10.15.

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

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

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

Page 10.17, Section 10.05(b)(7); delete the section and insert in lieu thereof the words “(7) Whether or not the farmer practices ‘custom farming’ on the land in question.”

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

Page 10.17, Section 16.05(b)(11), first sentence; following the word “sales” insert the words “for nonfarm uses.”

Page 10.17, Section 10.05(b)(12)(A); following the words “part of” insert the words “or appurtenant to.”
Page 10.17, Section 10.05(b)(12)(B); following the words “contiguous to” insert the words “or operated in common with.”

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

Page 10.18, Section 10.05(b)(12)(B); delete the semicolons and the words “it was purchased at the same time as the tract so used.” Delete the period following the word “purposes” and add the words “or any nonfarm use.”

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

Page 10.20, Section 10.05(c)(4)(C); following the words “(1,000) minimum production value” insert the words “or the small farm five hundred dollars ($500) minimum production and sale.”

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

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

“(2) Farm buildings. — Rental value of farm buildings and other improvements on the farmland shall be valued by determining the replacement cost of the building or structure by usual farm construction practices, and farm labor standards and subtracting therefrom depreciation.¹ Both of these determinations shall be made in accordance with the tax department’s real property appraisal manual² as filed in the state register in accordance with chapter 29A of the code of West Virginia, 1931, as amended, and as it relates to
agricultural buildings and structures. One (1) acre of land shall be assigned to all buildings as a unit situate on the property, regardless of the actual acreage occupied by such buildings and shall be appraised at its farm-use valuation based on the highest class of farmland present on the farm."

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

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

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

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

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

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

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

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

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

(f) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, relating to the state tax commissioner (listing of interests in natural resources for the
first statewide reappraisal; provision for penalties), are authorized.

(g) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by county commissions sitting as administrative appraisal review boards), are authorized.

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

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

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

(i) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-
making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (administrative review of appraisals by the state tax commissioner), are authorized.

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

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

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

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

(n) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-seven, modified by the state tax
commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of November, one thousand nine hundred eighty-seven, relating to the state tax commissioner (telecommunications tax), are authorized.

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

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

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

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

(s) The legislative rules filed in the state register on the second day of September, one thousand nine hundred eighty-eight, modified by the state tax com-
missioner to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-fourth day of February, one
thousand nine hundred eighty-nine, relating to the
state tax commissioner (solid waste assessment fee),
are authorized.

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

(u) The legislative rules filed in the state register on
the nineteenth day of September, one thousand nine
hundred eighty-eight, modified by the state tax com-
missioner to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-fourth day of February, one
thousand nine hundred eighty-nine, relating to the
state tax commissioner (exemption of property from
ad valorem property taxation), are authorized.

(v) The legislative rules filed in the state register on
the sixteenth day of September, one thousand nine
hundred eighty-eight, modified by the state tax com-
missioner to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the thirteenth day of January, one thou-
sand nine hundred eighty-nine, relating to the state
tax commissioner (consumers sales and service tax and
use tax), are authorized.

(w) The legislative rules filed in the state register on
the twenty-third day of June, one thousand nine
hundred eighty-nine, relating to the state tax depart-
ment (personal income tax), are authorized.

(x) The legislative rules filed in the state register on
the twenty-ninth day of June, one thousand nine
hundred eighty-nine, relating to the state tax depart-
ment (severance tax), are authorized.
(y) The legislative rules filed in the state register on the fourth day of August, one thousand nine hundred eighty-nine, modified by the state tax department to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the state tax department (solid waste assessment fee), are authorized.

(z) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (business franchise tax), are authorized.

(aa) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (business and occupation tax), are authorized.

(bb) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety, relating to the department of tax and revenue (consumers sales and service tax and use tax), are authorized with the amendments set forth below:

On page eight, Section 2.28, after the word “as” by inserting the words “art, science,”.

On pages eight and nine, Section 2.28.1, after the word “intellectual” by deleting the word “or” and inserting in lieu thereof the words “physical and”.
On page nine, Section 2.28.2, by deleting the words "or instruction".

On page nine, Section 2.28.2, after the word "training" by adding the word "or".

On page nine, Section 2.28.2, by deleting the words "or any portion of a school curriculum classified as physical education".

On page nine, by deleting all of Section 2.28.2.1.

On page nine, Section 2.28.2.2, by deleting the section number.

On page nine, Section 2.28.2.2 by deleting the words "or instruction".

On page nine, Section 2.28.2.2, after the word "training" by adding the word "or".

On page nine, Section 2.28.2.2, after the word "conditioning" by inserting a period and striking the remainder of the sentence.

On page one hundred twelve, section 59.2, after the words "sales of the service of cremation" by adding the words "sales on perpetual care trust fund deposits".

And,

On page one hundred twenty-eight, section 91.2, after the words "include food" by inserting the following: "as defined in section 2.30 of this rule;".

(cc) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (motor carrier road tax), are authorized.

(dd) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of
tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (gasoline and special fuel excise tax), are authorized.

(ee) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (corporation net income tax), are authorized.

(ff) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (soft drinks tax), are authorized.

ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of highways.

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

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

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

11 Page 11 after “49 CFR part 171.16” add the words “as amended through March 8, 1986.”
(b) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred eighty-four, relating to the commissioner of highways (construction and reconstruction of state roads), are authorized with the amendments set forth below:

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

Page 16, Sec. 8.08, line 22, (unnumbered), after the word “the” by striking the words “Railroad’s Chief”.

Page 19, Sec. 8.08, line 25, (unnumbered), by striking “Railroad’s Chief” and adding the following new language:

Any approval by the Department of any activity by the Contractor upon the right-of-way or premises of any Railroad which is provided for in this Section (8.08) (including, but not limited to, approval of work, methods, or procedures of work to be done, and the condition of premises after completion of work by the Contractor) shall in no way create any liability by the Department to the Railroad except to the extent provided otherwise by law and the Contractor shall, during all periods of construction and thereafter, indemnify and save harmless the department from any and all liability to the Railroad or any third parties for any damages as a result of the work of the Contractor, the methods and procedures for performing work, the failure of the Contractor to properly remove equipment, surplus material and other debris upon the Railroad premises, or the condition of the premises of the Railroad during construction or after completion of construction by the Contractor as approved by the Department or otherwise.

Page 18, Sec. 8.08, subdivision (a), line 22, (unnumbered), by striking the words “single limit” and inserting in lieu thereof the following language: “per occurrence”.

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

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

(c) The legislative rules filed in the state register on the seventh day of September, one thousand nine hundred eighty-four, modified by the commissioner of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of October, one thousand nine hundred eighty-four, relating to the commissioner of highways (transportation of hazardous waste), are authorized with the amendment set forth below:

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

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

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

On page 18, the first line of §3.03 shall read as follows:
“3.03. Transporters who only accept Hazardous Waste from”.

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

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

(g) The legislative rules filed in the state register on the first day of December, one thousand nine hundred eighty-seven, relating to the commissioner of highways (construction and reconstruction of state roads), are authorized.

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

(i) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the division of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred eighty-nine, relating to the division of highways (use of state road rights-of-way and areas adjacent thereto), are authorized with the amendments set forth below:
On Pages 14 and 15, Section 7.5, by deleting the following language:

“Upon receipt of a permit application an application number shall be assigned by the Division of Highways. The applicant shall be notified of the temporary application number and shall then be required to publish a Class II legal advertisement in the newspaper(s) serving the area where the proposed outdoor advertising sign, display or device is proposed to be located. A copy of the certificate of publication shall be provided to the Department within ten (10) days of the final publication date.

“As a minimum the advertisement shall include the application number, the location (including ownership of the property upon which the sign is to be placed) and shall notify the public that comments will be received by the Division of Highways, Highway Services Section, until 10 days after the final publication. The advertisement shall also state that all comments must include the specific application number to which they refer.

“Any person who claims to be affected by the proposed sign may submit written comments to the Division of Highways, Highways Services Section, and may request a public hearing within ten days of the final publication. Within ten working days of the close of the comment period the Division shall determine whether to approve, deny, or hold a public hearing for said permit.

“When the Division determines that a public hearing is required it shall notify the person(s) who requested the hearing and the permit applicant. The Division shall cause notice to be published and hold the hearing in accordance with Administrative Regulations, Commissioner of Highways, Chapter 17-2A, Series I (1982), Section 3, Hearing Procedures (hereinafter WV Adm. Reg. 17-2A).

“The Division Administrator shall assess the Division’s costs of the hearing against the permit applicant or against the party requesting the hearing if he finds
that either the application for the permit or the request for hearing was filed in bad faith.

"Any party adversely affected by the final decision of the Division Administrator may apply for judicial review through application for a writ of certiorari to the Circuit Court of Kanawha County in accordance with W. Va. Code § 53-3-1 and W. Va. Code § 14-2-2.

"The regulations in the preceding six paragraphs relating to publication of notice of an application, comments on a pending application, notice of hearing, hearing on permit, assessment of costs and judicial review shall not apply to an application for a permit for an advertising sign, display or device to be located within the boundaries of an incorporated municipality or of a county-zoned commercial or industrial area."

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred eighty-nine, modified by the division of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of November, one thousand nine hundred eighty-nine, relating to the division of highways (construction and reconstruction of state roads), are authorized.

(k) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the division of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred eighty-nine, relating to the division of highways (acquisition, disposal, lease and management of real property and appurtenant structures and relocation assistance), are authorized.

§64-8-2. Division of motor vehicles.

(a) The legislative rules filed in the state register on the second day of December, one thousand nine hundred eighty-two, relating to the commissioner of motor vehicles (denial of driving privileges), are authorized with the amendments set forth below:
By inserting the words “licensed in the United States” after the phrase “physician of the applicant’s choice,” on page five, line two, and page seven, line one; and by striking out the words “licensed vision specialist” and inserting in lieu thereof the words “an optometrist or ophthalmologist licensed in the United States,” on page five, line three, and on page seven, line two.

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

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

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

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

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

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

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

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

(j) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred eighty-six, modified by the commissioner of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of October, one thousand nine hundred eighty-six, relating to the commissioner of motor vehicles (federal safety standards inspection program), are authorized.

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

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

And,

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

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

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of agriculture.

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

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

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

(d) The legislative rules filed in the state register on
the fourth day of June, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (feeding untreated garbage to swine), are authorized.

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

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

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

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

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

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

(k) The legislative rules filed in the state register on the thirteenth day of January, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of January, one thousand nine hundred eighty-six, relating to the commissioner of agriculture (licensing of livestock dealers), are authorized.
(l) The legislative rules filed in the state register on the eighteenth day of June, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (West Virginia pesticide use and application act), are authorized.

(m) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the director of the division of forestry of the department of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the director of the division of forestry of the department of agriculture (ginseng), are authorized.

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

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

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

(q) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine
hundred eighty-eight, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-eight, relating to the commissioner of agriculture (animal disease control), are authorized.

(r) The legislative rules filed in the state register on the fifteenth day of May, one thousand nine hundred eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of August, one thousand eight-hundred eighty-nine, relating to the commissioner of agriculture (production of milk and cream for manufacturing purposes), are authorized.

(s) The legislative rules filed in the state register on the seventh day of August, one thousand nine hundred eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred eighty-nine, relating to the commissioner of agriculture (animal disease control), are authorized.


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


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

(b) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred eighty-five, relating to the attorney general (fair treatment of crime victims and witnesses), are authorized.
(c) The legislative rules filed in the state register on
the nineteenth day of September, one thousand nine
hundred eighty-six, modified by the attorney general
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the first day of December, one thousand nine hundred
eighty-six, relating to the attorney general (prevention
of unfair or deceptive acts or practices in home
improvement and home construction transactions), are
authorized. These rules were proposed by the attorney
general pursuant to section one hundred three, article
six and section one hundred two, article seven of
chapter forty-six-a of this code with the following
amendments:

"Amending the title to the proposed legislative rule
wherever said title may appear, on lines three and
four thereof, by striking the words 'and home
construction'.

On the index page following '3.' by striking the
words 'and home construction'.

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

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

'unless: (a) it appears in printed or typed face larger
than the largest type used in the written contract,
apart'.

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

'2.4 "Home Construction" means, for the purpose of
this Rule, the repair, remodeling or the building of
additions to existing single-family dwelling units,
including single-family homes, condominium units or
any other dwelling unit to be used by any person
primarily for personal or family use, but shall not
include new single-family home construction or the
rebuilding of all or substantially all of an existing or
preexisting single-family dwelling.'

Page 3, section 2.6, on line two thereof, after the
second comma by inserting the word 'replacement'.

Page 3, section 3., by striking the words 'and home
construction' from the section heading.

Page 3, section 3.1, lines one and two, by striking the
words 'or home construction'.

Page 4, section 3.1.4, on lines one and two thereof, by
striking the words 'or home construction'.

Page 4, section 3.1.8, on line two thereof, by striking
the words 'or home construction'.

Page 4, section 3.1.9, on lines two and three thereof,
by striking the words 'or home construction'.

Page 5, section 3.1.12, on lines one and two thereof,
by striking the words 'or home construction'.

Page 6, section 3.1.26, by striking all of section 3.1.26
and renumbering the subsequent subsections.

Page 7, section 3.1.29, on lines one and two thereof,
by striking the words 'or home construction'.

Page 7, section 3.1.29, on line six thereof, following
the word 'contract' by inserting a period and striking
the remainder of the section.

Page 7, following section 3.1.29 by adding a new
section to be designated section 3.1.29, to read as
follows:

'thief to file a certificate in the office of the Clerk
of the County Commission in the county in which the
principal place of business of the seller is located,
setting forth the assumed name in or by which the
business is being conducted in conformity with the
provisions of Chapter 47, Article 8, Section 2 of the
Code of West Virginia, 1931, as amended.'
Page 7, section 3.2, on lines two and three thereof, by striking the words, 'or home solicitation sale of home construction' and the comma on line three.

Page 9, section 4.1, on line eight thereof, by deleting the period and inserting the following:

'to the extent permitted by statute' and a period.'

Page 10, section 4.2, on line 9 thereof, by striking the period and inserting the following:

"to the extent permitted by statute" and a period.

(d) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of December, one thousand nine hundred eighty-six, relating to the attorney general (prevention of unfair or deceptive acts or practices in the sale of damaged goods or products), are authorized.

(e) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of November, one thousand nine hundred eighty-seven, relating to the attorney general (administration of preneed burial contracts), are authorized with the following amendments set forth below:

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

And,

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

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

And,

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

(f) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-nine, relating to the attorney general (allowing persons who are indirectly injured by violations of the West Virginia antitrust act to recover damages), are authorized.

(g) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-nine, relating to the attorney general (health spas), are authorized.


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

Section 14.06 delete the words "as subsequently amended" and reinsert the words "as amended March 30, 1982."

Section 14.07 place a period after "1976" and delete the words "as subsequently amended."

(b) The legislative rules filed in the state register on
§64-9-5. Board of barbers and beauticians.

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

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

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

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

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

§3-2-9. Repeal of rule — This rule will automatically be repealed on July 1, 1991, unless extended prior to that date by an act of the Legislature.”

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

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

§3-3-6. Repeal of rule — This rule will automatically be repealed on July 1, 1991, unless extended prior to that date by an act of the Legislature.”

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

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

§3-1-11. Repeal of rule — This rule will automatically be repealed on July 1, 1991, unless extended prior to that date by an act of the Legislature.”

(e) The legislative rules filed in the state register on the tenth day of June, one thousand nine hundred eighty-eight, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred eighty-eight, relating to the board of barbers and beauticians (operation of beauty shops and schools of beauty culture), are authorized with the amendments set forth below:
On page 4, by inserting a new section, designated section 3-4-6, to read as follows:

"§3-4-6. Repeal of rule — This rule will automatically be repealed on July 1, 1991, unless extended prior to that date by an act of the Legislature."

And,

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

"3.25 Notwithstanding any law to the contrary or interpretation of law to the contrary, any licensed beautician may trim beards or mustaches."

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

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

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

"§3-5-8. Repeal of rule — This rule will automatically be repealed on July 1, 1991, unless extended prior to that date by an act of the Legislature."


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

§64-9-7. State boards of examination or registration; West Virginia board of chiropractic examiners.

The legislative rules filed in the state register on the
twenty-sixth day of October, one thousand nine hundred eighty-seven, modified by the West Virginia board of chiropractic examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of January, one thousand nine hundred eighty-eight, relating to the West Virginia board of chiropractic examiners (West Virginia board of chiropractic examiners), are authorized.

§64-9-8. West Virginia board of examiners in counseling.

The legislative rules filed in the state register on the twentieth day of March, one thousand nine hundred eighty-eight, modified by the West Virginia board of examiners in counseling to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of September, one thousand nine hundred eighty-nine, relating to the West Virginia board of examiners in counseling (licensing), are authorized.


The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred eighty-eight, modified by the governor's committee on crime, delinquency and corrections to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of September, one thousand nine hundred eighty-eight, relating to the governor's committee on crime, delinquency and corrections (basic training academy, annual in-service and biennial in-service training standards), are authorized.

§64-9-10. West Virginia board of dental examiners.

The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred eighty-nine, modified by the West Virginia board of dental examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one
thousand nine hundred eighty-nine, relating to the West Virginia board of dental examiners (West Virginia board of dental examiners), are authorized.


(a) The legislative rules filed in the state register on the twenty-seventh day of July, one thousand nine hundred eighty-four, modified by the board of embalmers and funeral directors to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of January, one thousand nine hundred eighty-five, relating to the board of embalmers and funeral directors (apprenticeship), are authorized.

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

§64-9-12. West Virginia state board of registration for professional engineers.

(a) The legislative rules filed in the state register on the twenty-ninth day of November, one thousand nine hundred eighty-five, modified by the West Virginia state board of registration for professional engineers to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of January, one thousand nine hundred eighty-six, relating to the West Virginia state board of registration for professional engineers (legislative rules governing the West Virginia state board of registration for professional engineers), are authorized.

(b) The legislative rules filed in the state register on the twenty-third day of December, one thousand nine hundred eighty-seven, modified by the West Virginia
state board of registration for professional engineers to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twenty-ninth day of January, one thousand nine
hundred eighty-eight, relating to the West Virginia
state board of registration for professional engineers
(rules of the West Virginia state board of registration
for professional engineers), are authorized.


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

§64-9-14. West Virginia housing development fund.

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


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

§64-9-16. Board of medicine.

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

“§24.12.

(b) It shall be the responsibility of the supervising physician to obtain consent in writing from the patient before Type A physician assistants employed in a satellite clinic may render general medical or surgical services, except in emergencies.

§24.16.

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

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

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

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

(e) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-nine, relating to the board of medicine (dispensing of legend drugs by physicians and podiatrists), are authorized with the following amendments:

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

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

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

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

c. Legend drugs which are not controlled substances provided by free clinics or under West Virginia state authorized programs, including the medicaid, family planning, maternal and child health, and early and periodic screening and diagnosis and treatment programs: Provided, That all labeling provisions of section 8 shall be applicable except the requirements of
§64-9-17. West Virginia board of examiners for licensed practical nurses.

(a) The legislative rules filed in the state register on the thirtieth day of July, one thousand nine hundred eighty-six, modified by the West Virginia board of examiners for licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of September, one thousand nine hundred eighty-six, relating to the West Virginia board of examiners for licensed practical nurses (policies relating to licensure of the licensed practical nurse), are authorized.

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

(c) The legislative rules filed in the state register on the thirtieth day of July, one thousand nine hundred eighty-six, relating to the West Virginia board of examiners for licensed practical nurses (fees for services rendered by the board), are authorized.

§64-9-18. Board of examiners for registered professional nurses.

The legislative rules filed in the state register on the thirteenth day of September, one thousand nine hundred eighty-three, relating to the board of examiners for registered professional nurses (qualifications of graduates of foreign nursing schools for admission to the professional nurse licensing examination), are authorized.


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

§64-9-20. Board of pharmacy.

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

(b) The legislative rules filed in the state register on the twelfth day of September, one thousand nine hundred eighty-nine, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred eighty-nine, relating to the board of pharmacy (board of pharmacy), are authorized.


(a) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred eighty-four, relating to the board of examiners of psychologist (examination fee), are authorized.

(b) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the board of examiners of psychologists to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of November, one thousand nine hundred eighty-eight, relating to the board of examiners of psychologists (penalties and fees), are authorized.


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

§64-9-23. Real estate commission.

The legislative rules filed in the state register on the
fourth day of December, one thousand nine hundred
eighty-nine, modified by the real estate commission to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the eighth day of January, one thousand nine hundred
ninety, relating to the real estate commission (renewal
of license - continuing education), are authorized.


(a) The legislative rules filed in the state register on
the fifteenth day of April, one thousand nine hundred
eighty-five, modified by the secretary of state to meet
the objections of the legislative rule-making review
committee and refiled in the state register on the
eighth day of October, one thousand nine hundred
eighty-five, relating to the secretary of state (standard
size and format for rules and related documents filed
in the secretary of state’s office), are authorized.

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

(c) The legislative rules filed in the state register on
the first day of September, one thousand nine hun-
dred eighty-nine, modified by the secretary of state to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twentieth day of November, one thousand nine
hundred eighty-nine, relating to the secretary of state
(West Virginia farm product lien central filing system), are authorized.


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


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


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

"On page 1, §2.1, by striking all of §2.1 and inserting in lieu thereof the following: '2.1 Commercial whitewater outfitter means any person, partnership, corporation or other organization, or any combination thereof, duly authorized and operating from within or from without the state, which for monetary profit or gain, provides whitewater expeditions or rents whitewater craft or equipment for use in whitewater expeditions on any river, portions of rivers or waters of the state.'"
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the day of 1990.

Governor