

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1992

ENROLLED

SENATE BILL NO. 1

(By Senator Andette, Mr. President.)

PASSED March 14 1992

In Effect from Passage

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SECRETARY OF STATE

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Senate Bill No. 1

First Extraordinary Session, 1992

(BY SENATOR BURDETTE, MR. PRESIDENT)

[Passed March 14, 1992; in effect from passage.]

AN ACT to amend and reenact sections five and seven, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section eight; to amend and reenact sections two, four and eight, article three of said chapter; to further amend said article by adding thereto two new sections, designated sections fourteen and fifteen; to amend and reenact sections two, three and eight, article five of said chapter; to amend and reenact section four, article six of said chapter; to amend and reenact sections one, two, three, five and six, article seven of said chapter; to further amend said article by adding thereto a new section, designated section eight; to amend and reenact section two, article eight of said chapter; to amend and reenact sections one, five, eight, nine, sixteen, seventeen, twenty, twenty-three and twenty-four, article nine of said chapter; and to further amend said article by adding thereto five new sections, designated sections twenty-nine, thirty, thirty-one, thirty-two and thirty-three, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the proce

dures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; directing and authorizing certain of the agencies to promulgate certain legislative rules on file in the office of the secretary of state during the first extraordinary session of the Legislature held in the year one thousand nine hundred ninety-two; authorizing the board of risk and insurance management to promulgate legislative rules relating to the discontinuation of the professional malpractice program, as modified; authorizing the secretary of the department of administration to promulgate legislative rules relating to the reporting of state assets by financial institutions, as modified; authorizing the ethics commission to promulgate legislative rules relating to contributions, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to gifts, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to interests in public contracts, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to lobbying, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to private gain, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to voting, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to employment, as modified and amended; authorizing the division of banking to promulgate legislative rules relating to the West Virginia consumer credit and protection act, as modified; authorizing the division of banking to promulgate legislative rules relating to lease financing transactions,

as modified; authorizing the division of banking to promulgate legislative rules relating to the operation of state-chartered financial institutions in West Virginia, as modified; authorizing the division of banking to promulgate legislative rules relating to the West Virginia industrial bank and industrial loan company act, as modified; authorizing the division of banking to promulgate legislative rules relating to the West Virginia consumer credit and protection act and the money and interest article of chapter forty-seven, as modified; authorizing the division of banking to promulgate legislative rules relating to permissible additional charges in connection with a consumer credit sale, as modified; authorizing the division of energy to promulgate legislative rules relating to the standards for certification of blasters for surface coal mines and surface areas of underground coal mines, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special motorboating, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special fishing, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to boating, as modified; authorizing and directing the division of natural resources to promulgate legislative rules relating to water pollution control permit fee schedules, as amended; authorizing the division of tourism and parks to promulgate legislative rules relating to the public use of West Virginia state parks, state forests and state hunting and fishing areas under the division of tourism and parks, as modified and amended; authorizing the public energy authority to promulgate legislative rules relating to the establishment of rules and procedure for the exercise of the power of eminent domain for qualified projects, as modified; authorizing the public energy authority to promulgate legislative rules relating to the establishment of a fee schedule and cost allocations to the issuance of bonds by the West Virginia public energy authority, as modified; authorizing the division of health to promulgate legislative rules relating to specialized health procedures, as modified; authorizing

the division of health to promulgate legislative rules relating to emergency medical services, as modified; authorizing and directing the division of health to promulgate legislative rules relating to swimming pools and bathing beaches, as amended; authorizing the secretary of the department of health and human resources to promulgate legislative rules relating to retail food store sanitation, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to health services offered by health professionals, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the review for automatic rate changes, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to certificates of need, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to exemptions for shared services, as modified and amended; authorizing the health care cost review authority to promulgate legislative rules relating to the development of life care retirement centers, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the conversion of acute care beds to skilled nursing care beds, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to financial disclosure, as modified and amended; authorizing the human rights commission to promulgate legislative rules relating to sexual harassment, as modified; authorizing the human rights commission to promulgate legislative rules relating to the exemption of private clubs, as modified; authorizing the human rights commission to promulgate legislative rules relating to religious discrimination, as modified; authorizing the human rights commission to promulgate legislative rules relating to waiver of rights; authorizing the division of public safety to promulgate legislative rules relating to contracted police or security services, as modified; authorizing the division of public safety to promulgate legislative rules relating to the carrying of handguns by retired or medically discharged members, as modified; authorizing the division of public safety to

promulgate legislative rules relating to modified vehicle inspections, as amended; authorizing the alcohol beverage control commission to promulgate legislative rules relating to the retail sale of wine in grocery stores, wine speciality shops and private wine restaurants; authorizing the insurance commissioner to promulgate legislative rules relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to examiners' compensation, qualifications and classification, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to permanent regulations on medicare supplement insurance, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to "tail" malpractice insurance covering certain medical and allied health care providers, as modified; authorizing the board of investments to promulgate legislative rules relating to the establishment of imprest funds, as modified; authorizing the board of investments to promulgate legislative rules relating to the administration of the consolidated pension fund by the West Virginia board of investments, as modified; authorizing the board of investments to promulgate legislative rules relating to the procedures for processing payments from the state treasury, as modified; authorizing the board of investments to promulgate legislative rules relating to the selection of state depositories for disbursement accounts through competitive bidding, as modified; authorizing the board of investments to promulgate legislative rules relating to the administration of the consolidated fund by the West Virginia board of investments, as modified; authorizing the board of investments to promulgate legislative rules relating to the selection of state depositories for receipt accounts, as modified and amended; authorizing the board of investments to promulgate legislative rules relating to the procedures for the deposit of moneys with the board of investments and the treasurer's office by state agencies, as modified; authorizing the racing commission to promulgate legislative rules relating to thoroughbred

racing, as modified; authorizing the racing commission to promulgate legislative rules relating to greyhound racing; authorizing the state tax commissioner to promulgate legislative rules relating to the valuation of timberland and managed timberland, as modified; authorizing the state tax commissioner to promulgate legislative rules relating to bingo, as modified; authorizing the state tax commissioner to promulgate legislative rules relating to the property transfer tax, as modified; authorizing the division of tax to promulgate legislative rules relating to the municipal business and occupation tax, as modified and amended; authorizing the division of tax to promulgate legislative rules relating to the soft drinks tax, as modified and amended; authorizing the division of tax to promulgate legislative rules relating to the corporation net income tax, as modified and amended; authorizing the state tax commissioner to promulgate legislative rules relating to the appraisal of producing and reserve oil and natural gas property for periodic statewide reappraisals for ad valorem property tax purposes, as modified; authorizing the state tax commissioner to promulgate legislative rules relating to the severance tax, as modified; authorizing the division of tax to promulgate legislative rules relating to the business franchise tax, as modified; authorizing the division of tax to promulgate legislative rules relating to exceptions to confidentiality of taxpayer information and disclosure of certain taxpayer information, as modified; authorizing the division of tax to promulgate legislative rules relating to the consumers sales and service tax and use tax, as modified and amended; authorizing the property valuation training and procedures commission to promulgate legislative rules relating to tax map sales, as modified; authorizing the division of motor vehicles to promulgate legislative rules relating to the denial, suspension, revocation or nonrenewal of driving privileges, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to commercial feed, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to wood destroying insect treatment standards,

as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the fee structure for the pesticide control act of 1990, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to animal disease control, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the West Virginia plant pest act, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the licensing of pesticide businesses, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to certified pesticide applicators, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the assessment of civil penalties and the procedures for consent agreements and negotiated settlements, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the aerial application of herbicides to rights-of-way, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to frozen desserts and imitation frozen desserts, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to the West Virginia apiary law of 1991, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the disposal of dead poultry, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to the licensing of livestock dealers, as modified; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the procedures, criteria and curricula for the examination and licensure of barbers, beauticians and manicurists, as modified; authorizing the board of barbers and beauticians to promulgate legislative rules relating to a fee schedule, as modified and amended; authorizing the board of barbers and beauticians to promulgate legislative rules relating to licensing schools of barbering and beauty culture; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the operation of barber shops, beauty shops and schools

of barbering and beauty culture; authorizing the board of barbers and beauticians to promulgate legislative rules relating to operational standards for schools of barbering and beauty culture, as modified; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the qualifications, training, examination and licensing of instructors in barbering and beauty culture, as modified; authorizing the board of examiners in counseling to promulgate legislative rules relating to licensing, as modified; authorizing the governor's committee on crime, delinquency and correction to promulgate legislative rules relating to protocol for law enforcement response to domestic violence, as modified and amended; authorizing the board of medicine to promulgate legislative rules relating to continuing education for physicians and podiatrists, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to the policies and procedures for the development and maintenance of educational programs in practical nursing, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to policies regulating licensure of the licensed practical nurse, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to legal standards of nursing practice for the licensed practical nurse, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to fees for services rendered by the board, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to continuing competence, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to computers, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to the licensure of wholesale drug distributors, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to mail order houses, as modified; authorizing the real estate commission to

promulgate legislative rules relating to the requirements in licensing real estate brokers and salesmen and the conduct of brokerage businesses, as modified; authorizing the secretary of state to promulgate legislative rules relating to absentee voting by military voters who are members of reserve units called to active duty; authorizing the board of accountancy to promulgate legislative rules relating to professional conduct, as modified; authorizing the board of architects to promulgate legislative rules relating to the board, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to the board, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to requirements of licensure and certification, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to the renewal of licensure or certification, as modified; authorizing the board of veterinary medicine to promulgate legislative rules relating to the organization and operation of the board, as modified; authorizing the board of veterinary medicine to promulgate legislative rules relating to a schedule of fees, as modified; authorizing the board of veterinary medicine to promulgate legislative rules relating to standards of practice, as modified and amended; authorizing the board of veterinary medicine to promulgate legislative rules relating to the registration of veterinary technicians, as modified; and authorizing the contractor licensing board to promulgate legislative rules relating to the West Virginia contractor's licensing act, as modified and amended.

Be it enacted by the Legislature of West Virginia:

That sections five and seven, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight; that sections two, four and eight, article three of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated

sections fourteen and fifteen; that sections two, three and eight, article five of said chapter be amended and reenacted; that section four, article six of said chapter be amended and reenacted; that sections one, two, three, five and six, article seven of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight; that section two, article eight of said chapter be amended and reenacted; that sections one, five, eight, nine, sixteen, seventeen, twenty, twenty-three and twenty-four, article nine be amended and reenacted; and that said article be further amended by adding thereto five new sections, designated sections twenty-nine, thirty, thirty-one, thirty-two and thirty-three, all to read as follows:

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

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

1 (a) The legislative rules filed in the state register on
2 the twenty-first day of October, one thousand nine
3 hundred eighty-three, relating to the board of risk and
4 insurance management⁴ (mine subsidence), are
5 authorized.

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

16 (c) The legislative rules filed in the state register on
17 the twenty-eighth day of July, one thousand nine
18 hundred eighty-nine, modified by the board of risk
19 and insurance management to meet the objections of
20 the legislative rule-making review committee and
21 refiled in the state register on the seventeenth day of
22 October, one thousand nine hundred eighty-nine,
23 relating to the board of risk and insurance manage-

24 ment (West Virginia board of risk and insurance
25 management), are authorized.

26 (d) The legislative rules filed in the state register on
27 the eleventh day of September, one thousand nine
28 hundred ninety-one, modified by the board of risk and
29 insurance management to meet the objections of the
30 legislative rule-making review committee and refiled
31 in the state register on the fourteenth day of January,
32 one thousand nine hundred ninety-two, relating to the
33 board of risk and insurance management (discontinua-
34 tion of professional malpractice program), are
35 authorized.

§64-2-7. Secretary of the department of administration.

1 (a) The legislative rules filed in the state register on
2 the twenty-sixth day of September, one thousand nine
3 hundred ninety, modified by the secretary of the
4 department of administration to meet the objections of
5 the legislative rule-making review committee and
6 refiled in the state register on the twenty-fourth day
7 of January, one thousand nine hundred ninety-one,
8 relating to the secretary of the department of admin-
9 istration (plan of operation for the information and
10 communication services division), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-sixth day of September, one thousand nine
13 hundred ninety, modified by the secretary of the
14 department of administration to meet the objections of
15 the legislative rule-making review committee and
16 refiled in the state register on the twenty-fourth day
17 of January, one thousand nine hundred ninety-one,
18 relating to the secretary of the department of admin-
19 istration (parking), are authorized.

20 (c) The legislative rules filed in the state register on
21 the twenty-sixth day of September, one thousand nine
22 hundred ninety, modified by the secretary of the
23 department of administration to meet the objections of
24 the legislative rule-making review committee and
25 refiled in the state register on the twenty-fourth day
26 of January, one thousand nine hundred ninety-one,
27 relating to the secretary of the department of admin-

28 istration (leasing space on behalf of state spending
29 units), are authorized.

30 (d) The legislative rules filed in the state register on
31 the nineteenth day of June, one thousand nine hun-
32 dred ninety-one, modified by the secretary of the
33 department of administration to meet the objections of
34 the legislative rule-making review committee and
35 refiled in the state register on the thirtieth day of
36 August, one thousand nine hundred ninety-one, relat-
37 ing to the secretary of the department of administra-
38 tion (reporting of state assets by financial institutions),
39 are authorized.

§64-2-8. Ethics commission.

1 (a) The legislative rules filed in the state register on
2 the thirty-first day of January, one thousand nine
3 hundred ninety-one, modified by the ethics commis-
4 sion to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the thirty-first day of October, one thou-
7 sand nine hundred ninety-one, relating to the ethics
8 commission (contributions), are authorized, with the
9 amendment set forth below:

10 On page one, subsection 3.4, by striking out the
11 words "use their official title or position in the
12 endorsement or support of" and inserting in lieu
13 thereof "endorse".

14 (b) The legislative rules filed in the state register on
15 the thirty-first day of January, one thousand nine
16 hundred ninety-one, modified by the ethics commis-
17 sion to meet the objections of the legislative rule-
18 making review committee and refiled in the state
19 register on the thirty-first day of October, one thou-
20 sand nine hundred ninety-one, relating to the ethics
21 commission (gifts), are authorized, with the amend-
22 ments set forth below:

23 On page two, subsection 3.1, by striking out the word
24 "significant";

25 On page two, section four, subsection 4.1, by striking

26 out “\$20” and inserting in lieu thereof “\$25”;

27 On page three, subsection 4.2, after the words “hotel
28 room” by inserting a period and striking out the
29 remainder of the sentence;

30 On page three, subsection 5.1, by striking out the
31 word “unlawful” and inserting in lieu thereof
32 “improper”;

33 On page three, subsection 5.1, after the words
34 “health club fees” by striking out the period and
35 adding “, unless such expenses are offered to all of the
36 panelists or speakers.”;

37 On page four, subsection 6.2, by striking out the
38 word “unlawful” and inserting in lieu thereof
39 “improper”.

40 And,

41 On page four, section 7, at the end of the section by
42 striking out the period and adding the following: “:
43 *Provided*, That public officials and public employees
44 may accept complimentary tickets to sporting events,
45 if the tickets are incidental to the conduct of their
46 official or ceremonial duties.”

47 (c) The legislative rules filed in the state register on
48 the thirty-first day of January, one thousand nine
49 hundred ninety-one, modified by the ethics commis-
50 sion to meet the objections of the legislative rule-
51 making review committee and refiled in the state
52 register on the thirty-first day of October, one thou-
53 sand nine hundred ninety-one, relating to the ethics
54 commission (interest in public contracts), are autho-
55 rized, with the amendment set forth below:

56 On page two, subsection 6.2, by striking out the
57 words “complete in every particular and including the
58 exact” and inserting in lieu thereof “including the”.

59 (d) The legislative rules filed in the state register on
60 the thirty-first day of January, one thousand nine
61 hundred ninety-one, modified by the ethics commis-
62 sion to meet the objections of the legislative rule-
63 making review committee and refiled in the state

64 register on the thirty-first day of October, one thou-
65 sand nine hundred ninety-one, relating to the ethics
66 commission (lobbying), are authorized, with the
67 amendment set forth below:

68 On page three, subsection 4.3, after the words
69 "copies of forms" by inserting a period and striking
70 out the remainder of the sentence.

71 (e) The legislative rules filed in the state register on
72 the thirty-first day of January, one thousand nine
73 hundred ninety-one, modified by the ethics commis-
74 sion to meet the objections of the legislative rule-
75 making review committee and refiled in the state
76 register on the seventeenth day of December, one
77 thousand nine hundred ninety-one, relating to the
78 ethics commission (private gain), are authorized, with
79 the amendments set forth below:

80 On page one, subsection 2.2, after the words "A
81 public official" by inserting "acting in his or her
82 capacity as a public official";

83 On page one, subsection 2.2, after the words "the
84 public official." by adding a new sentence to read as
85 follows: "The provisions of this subsection shall not
86 apply to a public official acting in his or her private
87 capacity.";

88 On pages one and two, by striking out all of section
89 three;

90 On pages two through four, by renumbering the
91 remaining sections;

92 On page two, subsection 4.1, by striking out the
93 words "persons in high office" and inserting in lieu
94 thereof "a public official or public employee";

95 On page two, subsection 4.1, by striking out the
96 words "close friends" and inserting in lieu thereof
97 "cohabitating sexual partners";

98 On page two, subsection 4.2, after the word "sister"
99 by striking out the remainder of the sentence and
100 inserting in lieu thereof "or spouse.";

101 On page two, subsection 4.3, by striking out the
102 words "close friend" and inserting in lieu thereof
103 "cohabitating sexual partner";

104 On page three, subdivision 4.3.b, by striking out the
105 words "close friend" and inserting in lieu thereof
106 "cohabitating sexual partner";

107 On page three, by striking out all of paragraph
108 4.3.b.2 and inserting in lieu thereof a new paragraph
109 4.3.b.2 to read as follows:

110 "A public official or public employee should at least
111 have some independent person take part in the
112 selection. He or she should avoid using a subordinate
113 for the independent person.";

114 On page three, by striking out all of subsection 4.4
115 and inserting in lieu thereof a new subsection to read
116 as follows:

117 "4.4 All hiring by public officials and public
118 employees of relatives prior to the twenty-ninth day of
119 February, one thousand nine hundred ninety-two is
120 not subject to review under the ethics act, in Chapter
121 6B of the West Virginia Code.";

122 On page three, subsection 4.5, by striking out the
123 words "close friend" and inserting in lieu thereof
124 "cohabitating sexual partner";

125 On page three, after subsection 4.5, by adding
126 thereto a new subsection, designated subsection 4.6, to
127 read as follows:

128 "4.6 It is improper for a public official or public
129 employee to terminate the employment of a person
130 without sufficient cause for the purpose of hiring a
131 relative, friend or political supporter."

132 On page three, subsection 5.2, after the words
133 "supervisor during work hours.", by adding the
134 following sentence: "This subsection does not apply to
135 de minimus work or services.";

136 On page four, by striking out all of subsection 6.2
137 and inserting in lieu thereof a new subsection 6.2, to

138 read as follows:

139 "6.2 Improper Use - Public officials and public
140 employees shall not use government property for
141 personal projects or activities that result in private
142 gain. This subsection does not apply to the de minimus
143 use of government property.";

144 And,

145 On page four, by striking out all of section 9 and
146 inserting in lieu thereof a new section 9 to read as
147 follows:

148 "Full-time appointed public officials and part-time
149 and full-time public employees may not receive
150 private compensation for performing private work
151 during public work hours. This section shall not apply
152 to de minimus private work."

153 (f) The legislative rules filed in the state register on
154 the thirty-first day of January, one thousand nine
155 hundred ninety-one, modified by the ethics commis-
156 sion to meet the objections of the legislative rule-
157 making review committee and refiled in the state
158 register on the seventeenth day of December, one
159 thousand nine hundred ninety-one, relating to the
160 ethics commission (voting), are authorized, with the
161 amendments set forth below:

162 On page one, subsection 2.2, by striking out the
163 second and third paragraphs of subsection 2.2;

164 And,

165 On page one, after subsection 2.3, by adding a new
166 subsection, designated subsection 2.4 to read as follows:

167 "2.4 In any case where a Senator or Delegate is
168 voting as part of their official duties of office, the
169 members of the Senate and the members of the House
170 of Delegates are governed by the rules of their
171 respective houses. The provisions of subsection 2.3 of
172 this rule shall not apply to members of the Legislature
173 when acting as a member thereof."

174 (g) The legislative rules filed in the state register on

175 the thirty-first day of January, one thousand nine
176 hundred ninety-one, modified by the ethics Commis-
177 sion to meet the objections of the legislative rule-
178 making review committee and refiled in the state
179 register on the seventeenth day of December, one
180 thousand nine hundred ninety-one, relating to the
181 ethics commission (employment), are authorized, with
182 the amendments set forth below:

183 On page two, subsection 3.3, by striking out the
184 words "if there is a reasonable probability that the
185 person will be regulated. There must be" and insert-
186 ing in lieu thereof "upon";

187 On page two, subdivision 4.2.c, after the word
188 "prohibition" by inserting the words "for all practical
189 purposes";

190 On page three, by striking out all of subsections 4.5,
191 4.6 and 4.7;

192 And,

193 On page three, by renumbering the remaining
194 subsections.

**ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE,
LABOR AND ENVIRONMENTAL RESOURCES TO
PROMULGATE LEGISLATIVE RULES.**

§64-3-2. Division of banking.

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

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

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

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

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

33 (f) The legislative rules filed in the state register on
34 the twelfth day of August, one thousand nine hundred
35 ninety-one, modified by the division of banking to
36 meet the objections of the legislative rule-making
37 review committee and refiled in the state register on
38 the fifteenth day of November, one thousand nine
39 hundred ninety-one, relating to the division of banking
40 (West Virginia consumer credit and protection act),
41 are authorized.

42 (g) The legislative rules filed in the state register on
43 the ninth day of August, one thousand nine hundred
44 ninety-one, modified by the division of banking to
45 meet the objections of the legislative rule-making
46 review committee and refiled in the state register on
47 the fifteenth day of November, one thousand nine
48 hundred ninety-one, relating to the division of banking
49 (lease financing transactions), are authorized.

50 (h) The legislative rules filed in the state register on
51 the ninth day of August, one thousand nine hundred
52 ninety-one, modified by the division of banking to
53 meet the objections of the legislative rule-making

54 review committee and refiled in the state register on
55 the fifteenth day of November, one thousand nine
56 hundred ninety-one, relating to the division of banking
57 (operation of state-chartered financial institutions in
58 West Virginia), are authorized.

59 (i) The legislative rules filed in the state register on
60 the twelfth day of August, one thousand nine hundred
61 ninety-one, modified by the division of banking to
62 meet the objections of the legislative rule-making
63 review committee and refiled in the state register on
64 the fifteenth day of November, one thousand nine
65 hundred ninety-one, relating to the division of banking
66 (West Virginia industrial bank and industrial loan
67 company act), are authorized.

68 (j) The legislative rules filed in the state register on
69 the twelfth day of August, one thousand nine hundred
70 ninety-one, modified by the division of banking to
71 meet the objections of the legislative rule-making
72 review committee and refiled in the state register on
73 the fifteenth day of November, one thousand nine
74 hundred ninety-one, relating to the division of banking
75 (West Virginia consumer credit and protection act and
76 the money and interest article of chapter forty-seven),
77 are authorized.

78 (k) The legislative rules filed in the state register on
79 the ninth day of August, one thousand nine hundred
80 ninety-one, modified by the division of banking to
81 meet the objections of the legislative rule-making
82 review committee and refiled in the state register on
83 the fifteenth day of November, one thousand nine
84 hundred ninety-one, relating to the division of banking
85 (permissible additional charges in connection with a
86 consumer credit sale), are authorized.

§64-3-4. Division of energy.

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

5 (b) The legislative rules filed in the state register on

6 the seventeenth day of August, one thousand nine
7 hundred eighty-three, relating to the department of
8 energy (governing the safety of those employed in and
9 around surface mines), are authorized.

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

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

17 Page ix, after section 35.04 add the following:

18 “*35.05 Extra Powers of the Administrator64.”

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

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

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

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

33 Page 64, after section 35.04 add the following section:

34 35.05 Extra Powers of the Administrator.

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

40 (d) The legislative rules filed in the state register on
41 the eleventh day of August, one thousand nine hun-

42 dred eighty-six, modified by the director of the
43 division of oil and gas of the department of energy to
44 meet the objections of the legislative rule-making
45 review committee and refiled in the state register on
46 the fifteenth day of December, one thousand nine
47 hundred eighty-six, relating to the director of the
48 division of oil and gas of the department of energy (oil
49 and gas wells and other wells), are authorized.

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

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

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

81 (h) The legislative rules filed in the state register on

82 the fourteenth day of November, one thousand nine
83 hundred eighty-six, modified by the commissioner of
84 the department of energy to meet the objections of the
85 legislative rule-making review committee and refiled
86 in the state register on the sixteenth day of December,
87 one thousand nine hundred eighty-six, relating to the
88 commissioner of the department of energy (standards
89 for certification of coal mine electricians), are autho-
90 rized with the following amendments:

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

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

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

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

104 And,

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

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

118 (j) The legislative rules filed in the state register on
119 the eleventh day of August, one thousand nine hun-

120 dred eighty-six, modified by the commissioner of the
121 department of energy to meet the objections of the
122 legislative rule-making review committee and refiled
123 in the state register on the fifteenth day of December,
124 one thousand nine hundred eighty-six, relating to the
125 commissioner of the department of energy (miscella-
126 neous water pollution control), are authorized.

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

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

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

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

158 (o) The legislative rules filed in the state register on
159 the third day of April, one thousand nine hundred

160 eighty-seven, relating to the department of energy
161 (standards for certification of underground belt exam-
162 iners for underground coal mines), are authorized.

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

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

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

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

187 And,

188 On page three, section 6, by striking all of subsection
189 6.1 and inserting in lieu thereof, the following:

190 "6.1 The department shall establish fixed rate fees
191 for reproduction of documents, records, and files on
192 the basis of the actual cost of such reproduction and
193 shall document such costs: *Provided*, That where total
194 costs are less than five dollars, no fee shall be charged."

195 (s) The legislative rules filed in the state register on
196 the twelfth day of May, one thousand nine hundred
197 eighty-seven, modified by the commissioner of the

198 department of energy to meet the objections of the
199 legislative rule-making review committee and refiled
200 in the state register on the fourteenth day of August,
201 one thousand nine hundred eighty-seven, relating to
202 the commissioner of the department of energy (blas-
203 ters certification for surface coal mines and surface
204 areas of coal mines), are authorized.

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

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

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

233 (w) The legislative rules filed in the state register on
234 the sixteenth day of November, one thousand nine
235 hundred eighty-nine, modified by the division of
236 energy to meet the objections of the legislative rule-
237 making review committee and refiled in the state

238 register on the twenty-fifth day of January, one
239 thousand nine hundred ninety, relating to the division
240 of energy (surface mining reclamation), are authorized
241 with the amendments set forth below:

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

246 And,

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

250 "(2) In the event the Commissioner is unable to
251 collect the costs from the permittee, the Commissioner
252 shall in a timely manner but not later than one
253 hundred eighty days after forfeiture of the site-specific
254 bond utilize moneys in the Special Reclamation Fund
255 created by Subsection (g), Section 11 of the Act, to
256 accomplish the completion of reclamation, including
257 the requirements of Section 23 of the Act and Subsec-
258 tion 14.5 of these regulations governing water quality."

259 (x) The legislative rules filed in the state register on
260 the twenty-fifth day of May, one thousand nine
261 hundred ninety, modified by the division of energy to
262 meet the objections of the legislative rule-making
263 review committee and refiled in the state register on
264 the seventeenth day of July, one thousand nine
265 hundred ninety, relating to the division of energy
266 (miscellaneous water pollution control), are authorized.

267 (y) The legislative rules filed in the state register on
268 the first day of November, one thousand nine hundred
269 ninety, modified by the division of energy to meet the
270 objections of the legislative rule-making review com-
271 mittee and refiled in the state register on the twenty-
272 second day of January, one thousand nine hundred
273 ninety-one, relating to the division of energy (West
274 Virginia surface mining and reclamation regulations),
275 are authorized with the amendment set forth below:

276 On page one hundred fifty-three, section 12.2(c)(4),

277 after the number “(4)”, by inserting the words “For
278 permits issued after the effective date of these
279 regulations,”.

280 (z) The legislative rules filed in the state register on
281 the eleventh day of July, one thousand nine hundred
282 ninety-one, modified by the division of energy to meet
283 the objections of the legislative rule-making review
284 committee and refiled in the state register on the
285 twenty-second day of October, one thousand nine
286 hundred ninety-one, relating to the division of energy
287 (standards for certification of blasters for surface coal
288 mines and surface areas of underground coal mines),
289 are authorized.

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

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

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

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

10 And,

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

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

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

21 “Upon request of any applicant, the division shall
22 meet with the applicant for prefiling review of the
23 application. The division, with the cooperation of the

24 solid waste authority, shall assist the applicant in
25 preparing a complete and proper application which
26 would not be rejected as incomplete.”

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

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

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

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

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

58 Page 10-5, by striking §10B.19 and inserting in lieu
59 thereof a new §10B.19, to read as follows: “‘Effluent
60 limitations guidelines’ means a regulation published
61 by the Administrator under Section 304(b) or Section
62 301(b)(1)(B) of the CWA to adopt or revise effluent

63 limitations or levels of effluent quality attainable
64 through the application of secondary or equivalent
65 treatment. For the coal industry these regulations are
66 published at 40 C.F.R. Parts 434 and 133. (See: Appen-
67 dix G and H)."

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

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

77 (i) The legislative rules filed in the state register on
78 the third day of December, one thousand nine hun-
79 dred eighty-four, modified by the department of
80 natural resources to meet the objections of the legis-
81 lative rule-making review committee and refiled in
82 the state register on the thirteenth day of February,
83 one thousand nine hundred eighty-five, relating to the
84 department of natural resources (hazardous waste
85 management), are authorized.

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

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

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

101 (l) The legislative rules filed in the state register on

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

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

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

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

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

134 And,

135 On page four, §1.9.1.a by inserting the words “which-
136 ever is less,” after the words “ten percent or more of
137 gross personal income for a calendar year.”

138 (p) The legislative rules filed in the state register on
139 the fifth day of March, one thousand nine hundred
140 eighty-six, relating to the department of natural

141 resources (hazardous waste management), are
142 authorized.

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

148 (r) The legislative rules filed in the state register on
149 the tenth day of June, one thousand nine hundred
150 eighty-seven, relating to the director of the depart-
151 ment of natural resources (outfitters and guides), are
152 authorized.

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

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

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

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

177 (w) The legislative rules filed in the state register on
178 the twenty-eighth day of July, one thousand nine
179 hundred eighty-seven, modified by the director of the

180 department of natural resources to meet the objections
181 of the legislative rule-making review committee and
182 refiled in the state register on the seventh day of
183 August, one thousand nine hundred eighty-seven,
184 relating to the director of the department of natural
185 resources (boating regulations), are authorized with
186 the amendment set forth below:

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

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

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

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

216 (aa) The legislative rules filed in the state register on
217 the twenty-seventh day of January, one thousand nine
218 hundred eighty-eight, relating to the director of the
219 department of natural resources (catching and selling

220 bait fish), are authorized.

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

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

230 (cc) The legislative rules filed in the state register on
231 the seventeenth day of March, one thousand nine
232 hundred eighty-nine, modified by the division of
233 natural resources to meet the objections of the legis-
234 lative rule-making review committee and refiled in
235 the state register on the sixteenth day of January, one
236 thousand nine hundred ninety, relating to the division
237 of natural resources (solid waste management), are
238 authorized with the amendments set forth below:

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

241 "3.2.6. Within two hundred (200) feet of faults that
242 have had displacement in Holocene time (i.e., during
243 the last eleven thousand years);"

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

247 "3.14.25. **Environmental Compliance History.** The
248 chief or the director may refuse to grant any permit
249 if he has reasonable cause to believe, as indicated by
250 documented evidence, that the applicant, or any
251 officer, director or manager, thereof, or shareholder
252 owning twenty percent (20%) or more of its capital
253 stock, beneficial or otherwise, or other person conduct-
254 ing or managing the affairs of the applicant or of the
255 proposed permitted premises, in whole or part, has
256 exhibited a pattern of violation of the environmental
257 statutes or regulations of this State, any other state, or
258 the federal government."

259 On page 104, section 4.5.4.a, by inserting after the
260 words "at that landfill" the following:

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

268 And,

269 On pages 147 through 151, sections 4.11.5 and 4.11.6,
270 by deleting the current language and inserting in lieu
271 thereof the following:

272 **"4.11.5. Corrective Action Program.**

273 Whenever a statistically significant increase is found
274 in a Phase II or Phase III monitoring parameter, or
275 when groundwater contamination is otherwise identi-
276 fied by the Chief at sites without monitoring pro-
277 grams, which is determined by the Chief to have
278 resulted in a significant adverse effect on an aquifer,
279 and which is attributable to a solid waste facility, the
280 Chief may require appropriate corrective or remedial
281 action pursuant to W. Va. Code Chapter 20, Article 5A,
282 and Chapter 20, Article 5F to abate, remediate or
283 correct such pollution. Any such corrective or reme-
284 dial action order shall take into account any applicable
285 groundwater quality protection standards, the existing
286 use of such waters, the reasonable uses of such waters,
287 background water quality, and the protection of
288 human health and the environment."

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

294 (ee) The legislative rules filed in the state register on
295 the twenty-seventh day of January, one thousand nine
296 hundred eighty-nine, relating to the director of the
297 department of natural resources (transporting and

298 selling wildlife pelts), are authorized.

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

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

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

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

327 On page two, after section 2.6, by inserting the
328 following:

329 "Customer" means any person that purchases waste
330 disposal services from a facility permitted under
331 article five-a, chapter twenty of the code of West
332 Virginia, one thousand nine hundred thirty-one, as
333 amended. For the purposes of these regulations,
334 commercial and other non-single family dwelling
335 customers shall be translated into customer equiva-
336 lents by dividing the total daily estimated volume of

337 waste water by three hundred and fifty gallons per
338 day.” and renumbering the remaining subsections.

339 On page nine, section 7.2, by striking out the words
340 “seven hundred fifty dollars (\$750).” and inserting in
341 lieu thereof the following:

342 “determined using Table D, but in no case shall be
343 less than two hundred fifty dollars (\$250).”

344 And,

345 On page thirteen, by striking out all of Table D,
346 Schedule of Annual Permit Fees, and inserting in lieu
347 thereof a new Table D, designated “Schedule of
348 Annual Permit Fees”, to read as follows:

349 “TABLE D		
350 SCHEDULE OF ANNUAL PERMIT FEES		
351 SEWAGE FACILITIES		
352	Number of Customers	Annual Permit Fee
353	less than 1000	\$ 250
354	1000 to 1499	\$ 500
355	1500 to 1999	\$ 750
356	2000 to 2499	\$ 1000
357	2500 to 2999	\$ 1250
358	3000 to 3499	\$ 1500
359	3500 to 3999	\$ 1750
360	4000 to 4499	\$ 2000
361	4500 to 4999	\$ 2250
362	greater than 5000	\$ 2500
363 INDUSTRIAL OR OTHER WASTE FACILITIES		
364	Average Discharge Volume	Annual Permit Fee
365	(gallons per day)	
366	less than 1,000	\$ 50
367	1,001 to 10,000	\$ 500
368	10,001 to 50,000	\$ 1000
369	greater than 50,000	\$ 2500”

370 (ii) The legislative rules filed in the state register on

371 the twenty-fifth day of July, one thousand nine
372 hundred eighty-nine, modified by the director of the
373 department of natural resources to meet the objections
374 of the legislative rule-making review committee and
375 refiled in the state register on the fifteenth day of
376 September, one thousand nine hundred eighty-nine,
377 relating to the director of the department of natural
378 resources (revocation of hunting and fishing licenses),
379 are authorized.

380 (jj) The legislative rules filed in the state register on
381 the twentieth day of December, one thousand nine
382 hundred eighty-nine, modified by the division of
383 natural resources to meet the objections of the legis-
384 lative rule-making review committee and refiled in
385 the state register on the twenty-fourth day of January,
386 one thousand nine hundred ninety, relating to the
387 division of natural resources (state water pollution
388 control revolving fund program), are authorized.

389 (kk) The legislative rules filed in the state register
390 on the twenty-ninth day of March, one thousand nine
391 hundred ninety, modified by the division of natural
392 resources to meet the objections of the legislative rule-
393 making review committee and refiled in the state
394 register on the thirtieth day of August, one thousand
395 nine hundred ninety, relating to the division of
396 natural resources (assessment of civil administrative
397 penalties), are authorized.

398 (ll) The legislative rules filed in the state register on
399 the sixth day of August, one thousand nine hundred
400 ninety, relating to the division of natural resources
401 (water pollution control permit fee schedules), are
402 authorized.

403 (mm) The legislative rules filed in the state register
404 on the fifteenth day of June, one thousand nine
405 hundred ninety, modified by the division of natural
406 resources to meet the objections of the legislative rule-
407 making review committee and refiled in the state
408 register on the twenty-second day of August, one
409 thousand nine hundred ninety, relating to the division
410 of natural resources (underground storage tank insur-

411 ance trust fund), are authorized with the amendment
412 set forth below:

413 On page four, after subsection 5.1, by inserting a
414 new subdivision 5.1.1 to read as follows:

415 “5.1.1 The fee shall be one hundred dollars per tank
416 per year (\$100/tank/year) for a period of not less than
417 one (1) year and not more than three (3) years. Second
418 and third year capitalization fees may be levied if
419 there is an inadequate surplus of funds, as determined
420 by the Board of Risk and Insurance Management, the
421 Division of Natural Resources and the Underground
422 Storage Tank Advisory Committee pursuant to W. Va.
423 Code, §20-5H-7.”

424 (nn) The legislative rules filed in the state register
425 on the thirteenth day of August, one thousand nine
426 hundred ninety, modified by the division of natural
427 resources to meet the objections of the legislative rule-
428 making review committee and refiled in the state
429 register on the second day of October, one thousand
430 nine hundred ninety, relating to the division of
431 natural resources (underground storage tanks), are
432 authorized with the amendment set forth below:

433 On page four, section five, subsection 5.1, after the
434 word “requirements” by striking out the remainder of
435 the subsection and inserting in lieu thereof, the
436 following:

437 “of Title 47, Series 37 (Underground Storage Tank
438 Fee Assessments); Title 47, Series 36, Section 4 (Noti-
439 fication Requirements); and Title 47, Series 37A,
440 Section 5 (Capitalization Fees) of the Code of State
441 Regulations and the owner or operator presents proof
442 of the certification to the carrier.”

443 (oo) The legislative rules filed in the state register on
444 the thirteenth day of August, one thousand nine
445 hundred ninety, relating to the division of natural
446 resources (dam safety), are authorized.

447 (pp) The legislative rules filed in the state register
448 on the thirteenth day of August, one thousand nine
449 hundred ninety, modified by the division of natural

450 resources to meet the objections of the legislative rule-
451 making review committee and refiled in the state
452 register on the twenty-eighth day of November, one
453 thousand nine hundred ninety, relating to the division
454 of natural resources (hazardous waste management),
455 are authorized.

456 (qq) The legislative rules filed in the state register
457 on the first day of July, one thousand nine hundred
458 ninety-one, modified by the division of natural resour-
459 ces to meet the objections of the legislative rule-
460 making review committee and refiled in the state
461 register on the nineteenth day of September, one
462 thousand nine hundred ninety-one, relating to the
463 division of natural resources (special motorboating
464 regulations), are authorized.

465 (rr) The legislative rules filed in the state register on
466 the first day of May, one thousand nine hundred
467 ninety-one, modified by the division of natural resour-
468 ces to meet the objections of the legislative rule-
469 making review committee and refiled in the state
470 register on the twenty-second day of July, one thou-
471 sand nine hundred ninety-one, relating to the division
472 of natural resources (special fishing regulations), are
473 authorized with the amendment set forth below:

474 On page one, by striking out subsection 2.1 and
475 inserting in lieu thereof, a new subsection 2.1, to read
476 as follows:

477 "2.1 'Daylight hours' means the time period between
478 sixty minutes before sunrise and sixty minutes after
479 sunset."

480 (ss) The legislative rules filed in the state register on
481 the first day of July, one thousand nine hundred
482 ninety-one, modified by the division of natural resour-
483 ces to meet the objections of the legislative rule-
484 making review committee and refiled in the state
485 register on the twenty-first day of November, one
486 thousand nine hundred ninety-one, relating to the
487 division of natural resources (boating regulations), are
488 authorized.

489 (tt) The Legislature hereby authorizes and directs
490 the division of natural resources to promulgate the
491 legislative rule relating to water pollution control
492 permit fee schedules, 47 CSR 26, effective the twenty-
493 second day of April, one thousand nine hundred
494 ninety-one, with the amendment set forth below:

495 On page eight, subdivision 7.4.1, at the end of the
496 subdivision by striking the period and adding the
497 following:

498 “: *Provided*, That if the chief determines that a
499 facility is in substantial compliance with its existing
500 permit, the fee is one thousand two hundred fifty
501 dollars (\$1,250.00).”

§64-3-14. Division of tourism and parks.

1 The legislative rules filed in the state register on the
2 twenty-sixth day of April, one thousand nine hundred
3 ninety-one, modified by the division of tourism and
4 parks to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the twenty-seventh day of September, one
7 thousand nine hundred ninety-one, relating to the
8 division of tourism and parks (public use of West
9 Virginia state parks, state forests and state hunting
10 and fishing areas under the division of tourism and
11 parks), are authorized with the amendment set forth
12 below:

13 On page five, subsection 2.21 by striking out the
14 words “and Tomlinson Run”.

§64-3-15. Public energy authority.

1 (a) The legislative rules filed in the state register on
2 the twentieth day of December, one thousand nine
3 hundred ninety, modified by the public energy author-
4 ity to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the twenty-sixth day of July, one thousand
7 nine hundred ninety-one, relating to the public energy
8 authority (establishment of rules and procedure for
9 the exercise of the powers of eminent domain for
10 qualified projects), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twentieth day of December, one thousand nine
13 hundred ninety, modified by the public energy author-
14 ity to meet the objections of the legislative rule-
15 making review committee and refiled in the state
16 register on the twenty-sixth day of July, one thousand
17 nine hundred ninety-one, relating to the public energy
18 authority (establishment of a fee schedule and cost
19 allocations to the issuance of bonds by the West
20 Virginia public energy authority), are authorized.

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND
HUMAN RESOURCES TO PROMULGATE LEGISLA-
TIVE RULES.**

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

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

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

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

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

26 graphs renumbered.

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

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

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

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

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

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

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

62 (k) The legislative rules filed in the state register on
63 the third day of June, one thousand nine hundred

64 eighty-two, relating to the state board of health
65 (controlled substances research program and certifica-
66 tion), are authorized.

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

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

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

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

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

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

94 §4.1. In the first sentence delete the word "obtain-
95 ing" and insert in lieu thereof the words "applying
96 for". In the second sentence after "4.3" add "and 4.5."

97 §4.2. At the end of the second sentence, strike the
98 period and add the words "unless emergency condi-
99 tions prevail as noted under §4.3."

100 With the balance of §4.2 and create a new §4.3 with
101 the following changes: In the first sentence delete the

102 word "deadline" and insert in lieu thereof the word
103 "requirements." Add after the first sentence the
104 sentence, "Emergency conditions and unavoidable
105 circumstances are those conditions involving acts of
106 God, water outages or disruption of water service,
107 unsatisfactory water quality or quantity or public
108 health threats." In the third sentence delete the word
109 "exceed" and insert in lieu thereof the words "be
110 made in excess of."

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

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

120 And,

121 §5.2. Delete the words "four (4)" and insert in lieu
122 thereof the words "two (2)" and delete the words
123 "active, continuous."

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

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

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

137 (t) The legislative rules filed in the state register on
138 the third day of October, one thousand nine hundred
139 eighty-four, relating to the state board of health (retail

140 food store sanitation), are authorized.

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

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

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

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

168 “3.9 Quorum — When applied to the EMSAC, a
169 majority of the members thereof, except in the
170 instance when at any meeting of the EMSAC, where
171 a quorum is not present and the director causes to be
172 deposited in the United States mail, postage prepaid,
173 return receipt requested, to each member of the
174 EMSAC within three days, a notice calling a meeting
175 of the EMSAC at some convenient place in the state of
176 West Virginia two weeks after the meeting at which
177 no quorum was present. Quorum means any number
178 of members of the EMSAC who attend such subse-
179 quent meeting. Any member missing two consecutive

180 meetings shall be removed from the EMSAC.”

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

182 And,

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

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

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

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

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

214 (aa) The legislative rules filed in the state register on
215 the twenty-first day of November, one thousand nine
216 hundred eighty-six, modified by the state board of
217 health to meet the objections of the legislative rule-

218 making review committee and refiled in the state
219 register on the twenty-third day of December, one
220 thousand nine hundred eighty-six, relating to the state
221 board of health (licensure of behavioral health cen-
222 ters), are authorized.

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

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

242 (dd) The legislative rules filed in the state register
243 on the ninth day of December, one thousand nine
244 hundred eighty-six, modified by the state board of
245 health to meet the objections of the legislative rule-
246 making review committee and refiled in the state
247 register on the twenty-third day of December, one
248 thousand nine hundred eighty-six, relating to the state
249 board of health (vital statistics), are authorized.

250 (ee) The legislative rules filed in the state register on
251 the eleventh day of September, one thousand nine
252 hundred eighty-seven, relating to the director of the
253 department of health (immunization criteria for
254 transfer students), are authorized.

255 (ff) The legislative rules filed in the state register on
256 the sixteenth day of November, one thousand nine
257 hundred eighty-seven, relating to the director of the

258 department of health (hazardous substances), are
259 authorized with the amendment set forth below:

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

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

270 (hh) The legislative rules filed in the state register
271 on the twenty-second day of June, one thousand nine
272 hundred eighty-eight, modified by the state board of
273 health to meet the objections of the legislative rule-
274 making review committee and refiled in the state
275 register on the fifteenth day of September, one
276 thousand nine hundred eighty-eight, relating to the
277 state board of health (licensure of hospice care pro-
278 grams), are authorized.

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

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

289 3.8 Water Well — Any excavation or penetration in
290 the ground, whether drilled, bored, cored, driven or
291 jetted that enters or passes through an aquifer for
292 purposes that may include, but are not limited to: A
293 water supply, exploration for water, dewatering or
294 heat pump wells, except that this definition shall not
295 include ground water monitoring activities and all
296 activities for the exploration, development, production,

297 storage and recovery of coal, oil and gas and other
298 mineral resources which are regulated under chapter
299 22, 22a or 22b of the code.

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

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

318 (ll) The legislative rules filed in the state register on
319 the nineteenth day of October, one thousand nine
320 hundred eighty-eight, modified by the state board of
321 health to meet the objections of the legislative rule-
322 making review committee and refiled in the state
323 register on the twentieth day of December, one
324 thousand nine hundred eighty-eight, relating to the
325 state board of health (volatile synthetic organic chem-
326 icals), are authorized.

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

335 (nn) The legislative rules filed in the state register
336 on the thirtieth day of August, one thousand nine

337 hundred eighty-nine, modified by the division of
338 health to meet the objections of the legislative rule-
339 making review committee and refiled in the state
340 register on the seventeenth day of November, one
341 thousand nine hundred eighty-nine, relating to the
342 division of public health (AIDS-related medical testing
343 and confidentiality), are authorized.

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

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

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

363 (rr) The legislative rules filed in the state register on
364 the twenty-third day of July, one thousand nine
365 hundred ninety, modified by the board of health to
366 meet the objections of the legislative rule-making
367 review committee and refiled in the state register on
368 the fifth day of September, one thousand nine hun-
369 dred ninety, relating to the board of health (fees for
370 permits), are authorized with the amendments set
371 forth below:

372 On page two, subsection 3.6, by striking out all of the
373 subsection and renumbering the subsequent
374 subsections.

375 On page four, subsection 5.4, by striking out all of

376 the subsection and renumbering the subsequent
377 subsections.

378 And,

379 On page six, Table 64-30c, by striking out Table 64-
380 30c and inserting in lieu thereof a new table, to read
381 as follows:

382

TABLE 64-30C.

383 Individual On-Site and Innovative Alternative Type

384

Sewage System Permit Fees

385

Type of System

Fees for Permit

386

Class I (New or Modified)

\$100

387

Class II (New or Modified)

\$100

388

Home Aeration Unit

\$100

389 (ss) The legislative rules filed in the state register on
390 the seventh day of December, one thousand nine
391 hundred ninety, modified by the board of health to
392 meet the objections of the legislative rule-making
393 review committee and refiled in the state register on
394 the twenty-second day of January, one thousand nine
395 hundred ninety-one, relating to the board of health
396 (public water systems, bottled water and laboratory
397 certification), are authorized.

398 (tt) The legislative rules filed in the state register on
399 the thirteenth day of December, one thousand nine
400 hundred ninety, modified by the board of health to
401 meet the objections of the legislative rule-making
402 review committee and refiled in the state register on
403 the twenty-second day of January, one thousand nine
404 hundred ninety-one, relating to the board of health
405 (vital statistics), are authorized.

406 (uu) The legislative rules filed in the state register
407 on the seventh day of January, one thousand nine
408 hundred ninety-one, modified by the division of health
409 to meet the objections of the legislative rule-making
410 review committee and refiled in the state register on
411 the twenty-second day of January, one thousand nine

412 hundred ninety-one, relating to the division of health
413 (fees for services), are authorized.

414 (vv) The legislative rules filed in the state register
415 on the twenty-eighth day of December, one thousand
416 nine hundred ninety, modified by the division of
417 health to meet the objections of the legislative rule-
418 making review committee and refiled in the state
419 register on the twenty-sixth day of July, one thousand
420 nine hundred ninety-one, relating to the division of
421 health (specialized health procedures), are authorized.

422 (ww) The legislative rules filed in the state register
423 on the second day of January, one thousand nine
424 hundred ninety-one, modified by the division of health
425 to meet the objections of the legislative rule-making
426 review committee and refiled in the state register on
427 the sixteenth day of May, one thousand nine hundred
428 ninety-one, relating to the division of health (emer-
429 gency medical services), are authorized.

430 (xx) The legislative rules filed in the state register
431 on the tenth day of September, one thousand nine
432 hundred ninety-one, modified by the secretary of the
433 department of health and human resources to meet
434 the objections of the legislative rule-making review
435 committee and refiled in the state register on the third
436 day of January, one thousand nine hundred ninety-
437 two, relating to the secretary of the department of
438 health and human resources (retail food store sanita-
439 tion), are authorized.

440 (yy) The Legislature hereby authorizes and directs
441 the division of health to promulgate the legislative
442 rule relating to swimming pools and bathing beaches,
443 64 CSR 16, effective the fifth day of May, one thousand
444 nine hundred eighty, with the amendment set forth
445 below:

446 On page five, section 11.3 by striking out the period
447 following the word "beach" and adding the following:
448 "Provided, That at hotels, motels, apartment com-
449 plexes, or condominiums which have swimming pools
450 of five feet or less in depth at the deepest point,
451 employment of lifeguards is recommended but not

452 mandatory, whether or not the establishment charges
453 an admission fee (gate receipt, annual pass or mem-
454 bership dues). If no lifeguards are employed, the
455 management shall post a sign in a prominent location
456 near the swimming pool stating "SWIM AT YOUR
457 OWN RISK - ALL PERSONS UNDER THE AGE OF
458 14 MUST BE ACCOMPANIED BY AN ADULT."

§64-5-3. Health care cost review authority.

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

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

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

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

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

31 (f) The legislative rules filed in the state register on

32 the third day of September, one thousand nine hun-
33 dred eighty-seven, modified by the West Virginia
34 health care cost review authority to meet the objec-
35 tions of the legislative rule-making review committee
36 and refiled in the state register on the twenty-seventh
37 day of January, one thousand nine hundred eighty-
38 eight, relating to the West Virginia health care cost
39 review authority (exemptions from certificate of need
40 review), are authorized.

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

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

60 On page 5, Section 4.1, after the words: "affected by
61 the increase." by inserting the following language:
62 "The hospital shall also reconcile any excesses in gross
63 revenue, gross patient revenue, gross inpatient reve-
64 nue or charges per discharge. Within fifteen days of
65 submission the Authority shall inform the hospital if it
66 accepts the justification for excesses provided by the
67 hospital."

68 And,

69 On page 6, section 4.2, after the words "the excess in
70 gross outpatient revenue" by striking the period and
71 inserting the following:

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

75 (i) The legislative rules filed in the state register on
76 the eleventh day of September, one thousand nine
77 hundred eighty-nine, modified by the West Virginia
78 health care cost review authority to meet the objec-
79 tions of the legislative rule-making review committee
80 and refiled in the state register on the fifth day of
81 December, one thousand nine hundred eighty-nine,
82 relating to the West Virginia health care cost review
83 authority (exemption for conversion of acute care beds
84 to skilled nursing care beds), are authorized.

85 (j) The legislative rules filed in the state register on
86 the thirtieth day of July, one thousand nine hundred
87 ninety, modified by the health care cost review
88 authority to meet the objections of the legislative rule-
89 making review committee and refiled in the state
90 register on the twenty-fifth day of September, one
91 thousand nine hundred ninety, relating to the health
92 care cost review authority (exemption for shared
93 services), are authorized.

94 (k) The legislative rules filed in the state register on
95 the thirty-first day of July, one thousand nine hun-
96 dred ninety, modified by the health care cost review
97 authority to meet the objections of the legislative rule-
98 making review committee and refiled in the state
99 register on the twenty-fifth day of September, one
100 thousand nine hundred ninety, relating to the health
101 care cost review authority (health services offered by
102 health professionals), are authorized.

103 (l) The legislative rules filed in the state register on
104 the eleventh day of September, one thousand nine
105 hundred ninety, modified by the West Virginia health
106 care cost review authority to meet the objections of
107 the legislative rule-making review committee and
108 refiled in the state register on the twenty-fourth day
109 of January, one thousand nine hundred ninety-one,
110 relating to the West Virginia health care cost review
111 authority (conversion of acute care beds to one hun-

112 dred skilled nursing care beds), are authorized.

113 (m) The legislative rules filed in the state register on
114 the twelfth day of August, one thousand nine hundred
115 ninety-one, modified by the health care cost review
116 authority to meet the objections of the legislative rule-
117 making review committee and refiled in the state
118 register on the eighth day of November, one thousand
119 nine hundred ninety-one, relating to the health care
120 cost review authority (health services offered by
121 health professionals), are authorized.

122 (n) The legislative rules filed in the state register on
123 the first day of May, one thousand nine hundred
124 ninety-one, modified by the health care cost review
125 authority to meet the objections of the legislative rule-
126 making review committee and refiled in the state
127 register on the twenty-second day of July, one thou-
128 sand nine hundred ninety-one, relating to the health
129 care cost review authority (review for automatic rate
130 changes), are authorized.

131 (o) The legislative rules filed in the state register on
132 the ninth day of August, one thousand nine hundred
133 ninety-one, modified by the health care cost review
134 authority to meet the objections of the legislative rule-
135 making review committee and refiled in the state
136 register on the sixteenth day of October, one thousand
137 nine hundred ninety-one, relating to the health care
138 cost review authority (certificate of need), are
139 authorized.

140 (p) The legislative rules filed in the state register on
141 the twelfth day of August, one thousand nine hundred
142 ninety-one, modified by the health care cost review
143 authority to meet the objections of the legislative rule-
144 making review committee and refiled in the state
145 register on the sixteenth day of October, one thousand
146 nine hundred ninety-one, relating to the health care
147 cost review authority (exemption for shared services),
148 are authorized with the amendments set forth below:

149 On page six, subsection 4.4, after the words
150 "Charleston newspapers", by striking out the word
151 "and" and inserting in lieu thereof a comma;

152 On page six, subsection 4.4, after the words "State
153 Register" by adding the words "and a newspaper of
154 general circulation within the area of the facility.";

155 On page seven, subsection 4.5, after the words
156 "notice in the Saturday Charleston newspapers", by
157 striking out the word "and" and inserting in lieu
158 thereof a comma;

159 On page seven, subsection 4.5, before the words "the
160 state agency shall within ten", by striking out the
161 comma and inserting the words "and a newspaper of
162 general circulation within the area of the facility";

163 And,

164 On page seven, subsection 4.5, after the words
165 "decision in the Saturday Charleston newspapers", by
166 striking out the remainder of the sentence and insert-
167 ing in lieu thereof the following: " , the state register
168 and a newspaper of general circulation within the area
169 of the facility."

170 (q) The legislative rules filed in the state register on
171 the twenty-seventh day of June, one thousand nine
172 hundred ninety-one, modified by the health care cost
173 review authority to meet the objections of the legisla-
174 tive rule-making review committee and refiled in the
175 state register on the twenty-third day of September,
176 one thousand nine hundred ninety-one, relating to the
177 health care cost review authority (development of life
178 care retirement centers), are authorized.

179 (r) The legislative rules filed in the state register on
180 the twenty-seventh day of June, one thousand nine
181 hundred ninety-one, modified by the health care cost
182 review authority to meet the objections of the legisla-
183 tive rule-making review committee and refiled in the
184 state register on the twenty-third day of September,
185 one thousand nine hundred ninety-one, relating to the
186 health care cost review authority (conversion of acute
187 care beds to skilled nursing care beds), are authorized.

188 (s) The legislative rules filed in the state register on
189 the ninth day of August, one thousand nine hundred
190 ninety-one, modified by the health care cost review

191 authority to meet the objections of the legislative rule-
192 making review committee and refiled in the state
193 register on the tenth day of January, one thousand
194 nine hundred ninety-two, relating to the health care
195 cost review authority (financial disclosure), are autho-
196 rized with the amendment set forth below:

197 On page eighteen, after subsection 5.3, by adding
198 thereto a new subsection, designated subsection 5.4, to
199 read as follows:

200 "5.4 A covered facility which is a nonprofit,
201 community-based primary care center providing
202 primary care services without regard to ability to pay
203 which provides the board with a year-end audited
204 financial statement prepared in accordance with
205 generally accepted auditing standards and with gov-
206 ernmental auditing standards issued by the comptrol-
207 ler general of the United States shall be considered to
208 have complied with the disclosure requirements of
209 sections 3 and 4 of this rule."

§64-5-8. Human rights commission.

1 (a) The legislative rules filed in the state register on
2 the tenth day of August, one thousand nine hundred
3 ninety, modified by the human rights commission to
4 meet the objections of the legislative rule-making
5 review committee and refiled in the state register on
6 the twelfth day of December, one thousand nine
7 hundred ninety, relating to the human rights commis-
8 sion (discrimination against the handicapped), are
9 authorized.

10 (b) The legislative rules filed in the state register on
11 the twenty-second day of March, one thousand nine
12 hundred ninety-one, modified by the human rights
13 commission to meet the objections of the legislative
14 rule-making review committee and refiled in the state
15 register on the fourteenth day of August, one thousand
16 nine hundred ninety-one, relating to the human rights
17 commission (sexual harassment), are authorized.

18 (c) The legislative rules filed in the state register on
19 the twenty-second day of March, one thousand nine

20 hundred ninety-one, modified by the human rights
21 commission to meet the objections of the legislative
22 rule-making review committee and refiled in the state
23 register on the eighteenth day of November, one
24 thousand nine hundred ninety-one, relating to the
25 human rights commission (exemption of private
26 clubs), are authorized.

27 (d) The legislative rules filed in the state register on
28 the twenty-second day of March, one thousand nine
29 hundred ninety-one, modified by the human rights
30 commission to meet the objections of the legislative
31 rule-making review committee and refiled in the state
32 register on the eighteenth day of November, one
33 thousand nine hundred ninety-one, relating to the
34 human rights commission (religious discrimination),
35 are authorized.

36 (e) The legislative rules filed in the state register as
37 an emergency rule on the twenty-second day of
38 March, one thousand nine hundred ninety-one, relat-
39 ing to the human rights commission (waiver of rights
40 under the human rights act), are authorized.

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

§64-6-4. Division of public safety.

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

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

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

17 (c) The legislative rules filed in the state register on
18 the ninth day of August, one thousand nine hundred
19 ninety, modified by the division of public safety to
20 meet the objections of the legislative rule-making
21 review committee and refiled in the state register on
22 the twentieth day of December, one thousand nine
23 hundred ninety, relating to the division of public
24 safety (West Virginia state police career progression
25 system), are authorized.

26 (d) The Legislature hereby authorizes and directs
27 the division of public safety to promulgate legislative
28 rules relating to the requirements and qualifications
29 for official inspection stations and the issuance of
30 permits for the stations. Such legislative rules, in
31 establishing requirements and qualifications for offi-
32 cial inspection stations shall not require bay doors at
33 such stations to be greater than eight feet in height.

34 (e) The legislative rules filed in the state register on
35 the twelfth day of August, one thousand nine hundred
36 ninety-one, modified by the division of public safety to
37 meet the objections of the legislative rule-making
38 review committee and refiled in the state register on
39 the nineteenth day of November, one thousand nine
40 hundred ninety-one, relating to the division of public
41 safety (contracted police or security services), are
42 authorized.

43 (f) The legislative rules filed in the state register on
44 the twelfth day of August, one thousand nine hundred
45 ninety-one, modified by the division of public safety to
46 meet the objections of the legislative rule-making
47 review committee and refiled in the state register on
48 the nineteenth day of November, one thousand nine
49 hundred ninety-one, relating to the division of public
50 safety (carrying of handguns by retired or medically
51 discharged members), are authorized.

52 (g) The legislative rules filed in the state register on
53 the sixth day of January, one thousand nine hundred
54 ninety-two, relating to the division of public safety
55 (modified vehicle inspections), are authorized with the
56 amendments set forth below:

57 On page two, paragraph 2.2.3.3, by striking out the
58 words "two licensed inspector mechanics" and insert-
59 ing in lieu thereof "one licensed inspector mechanic";

60 And,

61 On page two, paragraph 2.2.3.4, by striking out the
62 word "two-car" and inserting in lieu thereof "one-
63 car".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 (4) Has had any license revoked under the liquor
69 laws of any state or the United States within five years

70 next preceding the filing date of the application;

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

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

78 (7) Has been adjudicated an incompetent;

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

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

85 (e) The legislative rules filed in the state register on
86 the first day of August, one thousand nine hundred
87 ninety, modified by the alcohol beverage control
88 commissioner to meet the objections of the legislative
89 rule-making review committee and refiled in the state
90 register on the eighteenth day of October, one thou-
91 sand nine hundred ninety, relating to the alcohol
92 beverage control commissioner (retail licensee opera-
93 tions), are authorized with the amendment set forth
94 below:

95 On page twelve, section four, subsection 4.8.1, after
96 the word “stored” by changing the period to a colon
97 and adding the following: “*Provided*, That the commis-
98 sioner may, for good cause shown, permit a retail
99 licensee holding three or more private club licenses to
100 receive and store alcoholic liquors at warehouses or
101 sites off premises.”

102 (f) The legislative rules filed in the state register on
103 the first day of August, one thousand nine hundred
104 ninety, modified by the alcohol beverage control
105 commission to meet the objections of the legislative
106 rule-making review committee and refiled in the state
107 register on the twentieth day of November, one

108 thousand nine hundred ninety, relating to the alcohol
109 beverage control commissioner (licensing of retail
110 liquor stores), are authorized.

111 (g) The legislative rules filed in the state register on
112 the first day of August, one thousand nine hundred
113 ninety, modified by the alcohol beverage control
114 commissioner to meet the objections of the legislative
115 rule-making review committee and refiled in the state
116 register on the eighteenth day of October, one thou-
117 sand nine hundred ninety, relating to the alcohol
118 beverage control commissioner (private club licenses),
119 are authorized.

120 (h) The legislative rules filed in the state register on
121 the first day of August, one thousand nine hundred
122 ninety, modified by the alcohol beverage control
123 commissioner to meet the objections of the legislative
124 rule-making review committee and refiled in the state
125 register on the eighteenth day of October, one thou-
126 sand nine hundred ninety, relating to the alcohol
127 beverage control commissioner (bailment policies and
128 procedures), are authorized.

129 (i) The legislative rules filed in the state register on
130 the tenth day of August, one thousand nine hundred
131 ninety, modified by the alcohol beverage control
132 commissioner to meet the objections of the legislative
133 rule-making review committee and refiled in the state
134 register on the eighteenth day of October, one thou-
135 sand nine hundred ninety, relating to the alcohol
136 beverage control commissioner (farm wineries), are
137 authorized.

138 (j) The legislative rules filed in the state register on
139 the tenth day of August, one thousand nine hundred
140 ninety, modified by the alcohol beverage control
141 commissioner to meet the objections of the legislative
142 rule-making review committee and refiled in the state
143 register on the twenty-third day of October, one
144 thousand nine hundred ninety, relating to the alcohol
145 beverage control commissioner (retail sale of wine in
146 grocery stores, wine specialty shops and private wine
147 restaurants), are authorized.

148 (k) The legislative rules filed in the state register on
149 the ninth day of August, one thousand nine hundred
150 ninety-one, relating to the alcohol beverage control
151 commission (retail sale of wine in grocery stores, wine
152 speciality shops and private wine restaurants), are
153 authorized.

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

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

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

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

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

24 (e) The legislative rules filed in the state register on
25 the thirty-first day of July, one thousand nine hun-
26 dred eighty-seven, modified by the insurance commis-
27 sioner to meet the objections of the legislative rule-
28 making review committee and refiled in the state
29 register on the seventh day of November, one thou-
30 sand nine hundred eighty-seven, relating to the
31 insurance commissioner (medical malpractice loss
32 experience and loss expense reporting requirements),

33 are authorized.

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

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

54 (h) The legislative rules filed in the state register on
55 the second day of February, one thousand nine hun-
56 dred ninety, modified by the insurance commissioner
57 to meet the objections of the legislative rule-making
58 review committee and refiled in the state register on
59 the twenty-ninth day of May, one thousand nine
60 hundred ninety, relating to the insurance commis-
61 sioner (accident and sickness rate filing), are
62 authorized.

63 (i) The legislative rules filed in the state register on
64 the tenth day of August, one thousand nine hundred
65 ninety, modified by the insurance commissioner to
66 meet the objections of the legislative rule-making
67 review committee and refiled in the state register on
68 the ninth day of October, one thousand nine hundred
69 ninety, relating to the insurance commissioner (group
70 coordination of benefits), are authorized.

71 (j) The legislative rules filed in the state register on
72 the tenth day of August, one thousand nine hundred

73 ninety, modified by the insurance commissioner to
74 meet the objections of the legislative rule-making
75 review committee and refiled in the state register on
76 the seventeenth day of January, one thousand nine
77 hundred ninety-one, relating to the insurance commis-
78 sioner (AIDS regulations), are authorized.

79 (k) The legislative rules filed in the state register on
80 the third day of December, one thousand nine hun-
81 dred ninety, relating to the insurance commissioner
82 (health insurance benefits for temporomandibular and
83 craniomandibular disorders), are authorized.

84 (l) The legislative rules filed in the state register on
85 the twelfth day of August, one thousand nine hundred
86 ninety-one, modified by the insurance commissioner
87 to meet the objections of the legislative rule-making
88 review committee and refiled in the state register on
89 the thirteenth day of January, one thousand nine
90 hundred ninety-two, relating to the insurance commis-
91 sioner (guaranteed loss ratios as applied to individual
92 sickness and accident insurance policies), are
93 authorized.

94 (m) The legislative rules filed in the state register on
95 the ninth day of August, one thousand nine hundred
96 ninety-one, modified by the insurance commissioner
97 to meet the objections of the legislative rule-making
98 review committee and refiled in the state register on
99 the thirteenth day of January, one thousand nine
100 hundred ninety-two, relating to the insurance commis-
101 sioner (examiners' compensation, qualifications and
102 classification), are authorized.

103 (n) The legislative rules filed in the state register on
104 the seventeenth day of July, one thousand nine
105 hundred ninety-one, modified by the insurance com-
106 missioner to meet the objections of the legislative rule-
107 making review committee and refiled in the state
108 register on the thirteenth day of January, one thou-
109 sand nine hundred ninety-two, relating to the insur-
110 ance commissioner (permanent regulations on medi-
111 care supplement insurance), are authorized.

112 (o) The legislative rules filed in the state register on
113 the twelfth day of August, one thousand nine hundred
114 ninety-one, modified by the insurance commissioner

115 to meet the objections of the legislative rule-making
116 review committee and refiled in the state register on
117 the thirteenth day of January, one thousand nine
118 hundred ninety-two, relating to the insurance commis-
119 sioner ("tail" malpractice insurance covering certain
120 medical and allied health care providers), are
121 authorized.

§64-7-3. Board of investments.

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

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

11 (c) The legislative rules filed in the state register on
12 the ninth day of January, one thousand nine hundred
13 ninety, modified by the state board of investments to
14 meet the objections of the legislative rule-making
15 review committee and refiled in the state register on
16 the twenty-fourth day of January, one thousand nine
17 hundred ninety, relating to the state board of invest-
18 ments (administration of the consolidated fund), are
19 authorized.

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

29 (e) The legislative rules filed in the state register on
30 the thirtieth day of November, one thousand nine
31 hundred ninety, modified by the state board of invest-

32 ments to meet the objections of the legislative rule-
33 making review committee and refiled in the state
34 register on the seventeenth day of May, one thousand
35 nine hundred ninety-one, relating to the state board of
36 investments (establishment of imprest funds), are
37 authorized.

38 (f) The legislative rules filed in the state register on
39 the thirtieth day of November, one thousand nine
40 hundred ninety, modified by the state board of invest-
41 ments to meet the objections of the legislative rule-
42 making review committee and refiled in the state
43 register on the seventeenth day of May, one thousand
44 nine hundred ninety-one, relating to the state board of
45 investments (administration of the consolidated pen-
46 sion fund by the West Virginia state board of invest-
47 ments), are authorized.

48 (g) The legislative rules filed in the state register on
49 the thirtieth day of November, one thousand nine
50 hundred ninety, modified by the state board of invest-
51 ments to meet the objections of the legislative rule-
52 making review committee and refiled in the state
53 register on the seventeenth day of May, one thousand
54 nine hundred ninety-one, relating to the state board of
55 investments (procedures for processing payments from
56 the state treasury), are authorized.

57 (h) The legislative rules filed in the state register on
58 the thirtieth day of November, one thousand nine
59 hundred ninety, modified by the state board of invest-
60 ments to meet the objections of the legislative rule-
61 making review committee and refiled in the state
62 register on the seventeenth day of May, one thousand
63 nine hundred ninety-one, relating to the state board of
64 investments (selection of state depositories for dis-
65 bursement accounts through competitive bidding), are
66 authorized.

67 (i) The legislative rules filed in the state register on
68 the thirtieth day of November, one thousand nine
69 hundred ninety, modified by the state board of invest-
70 ments to meet the objections of the legislative rule-
71 making review committee and refiled in the state

72 register on the seventeenth day of May, one thousand
73 nine hundred ninety-one, relating to the state board of
74 investments (administration of the consolidated fund
75 by the West Virginia state board of investments), are
76 authorized.

77 (j) The legislative rules filed in the state register on
78 the thirtieth day of November, one thousand nine
79 hundred ninety, modified by the state board of invest-
80 ments to meet the objections of the legislative rule-
81 making review committee and refiled in the state
82 register on the seventeenth day of May, one thousand
83 nine hundred ninety-one, relating to the state board of
84 investments (selection of state depositories for receipt
85 accounts), are authorized with the amendment set
86 forth below:

87 On page three, section four, by striking out the
88 period after the word "agency" and adding the words
89 "but shall select a depository in the same community
90 or geographical area as the agency."

91 (k) The legislative rules filed in the state register on
92 the thirtieth day of November, one thousand nine
93 hundred ninety, modified by the state board of invest-
94 ments to meet the objections of the legislative rule-
95 making review committee and refiled in the state
96 register on the seventeenth day of May, one thousand
97 nine hundred ninety-one, relating to the state board of
98 investments (procedures for deposit of moneys with
99 the board of investments and treasurer's office by
100 state agencies), are authorized.

§64-7-5. Racing commission.

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

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

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

10 the twenty-third day of April, one thousand nine
11 hundred eighty-two, relating to the West Virginia
12 racing commission (Rule 107), are authorized.

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

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

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

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

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

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

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

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

46 (j) The legislative rules filed in the state register on
47 the twentieth day of September, one thousand nine

48 hundred eighty-three, relating to the West Virginia
49 racing commission (Rule 455) greyhound racing, are
50 authorized.

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

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

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

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

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

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

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

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

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

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

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

114 “All moneys held by any licensee for the payment of
115 outstanding and unredeemed pari-mutuel tickets, if
116 not claimed within ninety (90) days after the close of
117 the horse race meeting in connection with which the
118 tickets were issued, shall be turned over by the
119 licensee to the Racing Commission within fifteen (15)
120 days after the expiration of such ninety (90) day period
121 and the licensee shall give such information as the
122 Racing Commission may require concerning such
123 outstanding and unredeemed tickets; viz. The outs
124 ledger enumerating all outstanding tickets at the close
125 of each meeting, to contain a record of all tickets

126 redeemed in the ninety (90) day period following,
127 together with all redeemed tickets which shall bear
128 the stamp of the cashier(s) making redemption: A
129 stamp indicating 'Outs Ticket'. In addition, a statement
130 to accompany said ledger and tickets, setting forth the
131 quantity and amount of each denomination redeemed
132 in the ninety (90) day period, with a grand total
133 indicating the sum paid in 'Outs'. This sum subtracted
134 from the outs on the closing day to equal the remit-
135 tance of the Association in settlement of the 'Out'
136 account for the meeting."

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

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

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

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

164 (y) The legislative rules filed in the state register on
165 the tenth day of August, one thousand nine hundred

166 ninety, modified by the West Virginia racing commis-
167 sion to meet the objections of the legislative rule-
168 making review committee and refiled in the state
169 register on the fourteenth day of January, one thou-
170 sand nine hundred ninety-one, relating to the West
171 Virginia racing commission (thoroughbred racing), are
172 authorized.

173 (z) The legislative rules filed in the state register on
174 the twenty-ninth day of October, one thousand nine
175 hundred ninety, modified by the West Virginia racing
176 commission to meet the objections of the legislative
177 rule-making review committee and refiled in the state
178 register on the fourteenth day of January, one thou-
179 sand nine hundred ninety-one, relating to the West
180 Virginia racing commission (greyhound racing), are
181 authorized with the amendment set forth below:

182 On pages seventy-four-a through seventy-eight,
183 section forty-five, by striking out all of subsection
184 45.38.

185 (aa) The legislative rules filed in the state register on
186 the twenty-ninth day of July, one thousand nine
187 hundred ninety-one, modified by the racing commis-
188 sion to meet the objections of the legislative rule-
189 making review committee and refiled in the state
190 register on the twentieth day of September, one
191 thousand nine hundred ninety-one, relating to the
192 racing commission (thoroughbred racing), are
193 authorized.

194 (bb) The legislative rules filed in the state register
195 on the fifteenth day of August, one thousand nine
196 hundred ninety-one, relating to the West Virginia
197 racing commission (greyhound racing), are authorized.

§64-7-6. Tax department.

1 (a) The legislative rules filed in the state register on
2 the fifth day of January, one thousand nine hundred
3 eighty-four, relating to the state tax commissioner
4 (appraisal of property for periodic statewide reapprais-
5 als for ad valorem property tax purposes), are au-
6 thORIZED with the amendments set forth below:

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

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

23 On page 11, section 11.04(b)(11), definition of “Mine-
24 able Coal,” by striking the subsection and substituting
25 in lieu thereof the following: “(11) Mineable Coal. Coal
26 which can be mined under present day mining tech-
27 nology and economics.”

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

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

38 On page 31, section 11.04(c)(5)(B), by striking the
39 words and numbers “Five Dollars (\$5.00)” and insert-
40 ing in lieu thereof the following: “One Dollar (\$1.00).”

41 On page 53, section 11.05(h) by striking the symbol
42 and figures “(\$5.00)” and inserting in lieu the follow-
43 ing: “(\$1.00).”

44 On page 73, section 11.06(h) by striking the symbol
45 and figures “\$5.00” and inserting in lieu the following:

46 "\$1.00."

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

52 On page 86, section 11.07(k) delete all of subsection
53 (k).

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

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

60 And,

61 On page 115, section 11.09(a)(3) in the first sentence,
62 insert after the word "land" the words "excluding
63 farmland."

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

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

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

76 And,

77 55.12(c) (page 182.36) after the word "for," strike the
78 word "erroneous."

79 (c) The legislative rules filed in the state register on
80 the twenty-eighth day of September, one thousand
81 nine hundred eighty-four, modified by the state tax

82 commissioner to meet the objections of the legislative
83 rule-making review committee and refiled in the state
84 register on the fourteenth day of November, one
85 thousand nine hundred eighty-four, and on the
86 twenty-first day of March, one thousand nine hundred
87 eighty-five, relating to the state tax commissioner
88 (estimated corporation net income tax), are authorized.

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

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

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

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

103 Page 10.1, Title; following the word "FARMLAND"
104 insert the words "AND STRUCTURES SITUATED
105 THEREON."

106 Page 10.1, Section 10, Title; following the word
107 "Farmland" add the words "and Structures Situated
108 Thereon."

109 Page 10.1, Section 10.01(b); following the word
110 "farmland" insert the words "and structures situated
111 thereon."

112 Page 10.2, Section 10.02(a), first sentence; following
113 the word "farmland" insert the words "and structures
114 situated thereon."

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

119 Page 10.3, Section 10.02(b), last sentence; following
120 the word "farmland" insert the words "and structures
121 situated thereon."

122 Page 10.8, Section 10.04(5)(B), last sentence; delete
123 the period and add "or the incapability to be adapted
124 to alternative uses."

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

128 Page 10.9, Section 10.04(6), following the last sen-
129 tence; add the sentence "For the purposes of this
130 definition, 'contiguous tracts' are farmlands which are
131 in close proximity, but not necessarily adjacent:
132 *Provided*, That all such contiguous tracts are operated
133 as part of the same farm management plan."

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

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

141 Page 10.11, Section 10.04; delete the word "Novem-
142 ber" and insert in lieu thereof the word "September."
143 Delete the period following the word "valuation" and
144 add the words, "for the assessment year beginning
145 July first of each year."

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

158 to 10.04(13) through 10.04(29), respectively.

159 Page 10.14, Section 10.04(28) (formerly 10.04(27));
160 following the words "woodland products" insert a
161 comma and the words "such as nuts or fruits har-
162 vested" and add a comma following the words
163 "human consumption" on Page 10.15.

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

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

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

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

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

194 Page 10.17, Section 10.05(b)(11), first sentence; follow-
195 ing the word "sales" insert the words "for nonfarm
196 uses."

197 Page 10.17, Section 10.05(b)(12)(A); following the
198 words “part of” insert the words “or appurtenant to.”

199 Page 10.17, Section 10.05(b)(12)(B); following the
200 words “contiguous to” insert the words “or operated
201 in common with.”

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

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

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

217 Page 10.20, Section 10.05(c)(4)(C); following the words
218 “(1,000) minimum production value” insert the words
219 “or the small farm five hundred dollars (\$500) mini-
220 mum production and sale.”

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

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

228 “(2) Farm buildings. — Rental value of farm build-
229 ings and other improvements on the farmland shall be
230 valued by determining the replacement cost of the
231 building or structure by usual farm construction
232 practices, and farm labor standards and subtracting
233 therefrom depreciation¹. Both of these determinations
234 shall be made in accordance with the tax department’s

235 real property appraisal manual² as filed in the state
236 register in accordance with chapter 29A of the code of
237 West Virginia, 1931, as amended, and as it relates to
238 agricultural buildings and structures. One (1) acre of
239 land shall be assigned to all buildings as a unit situate
240 on the property, regardless of the actual acreage
241 occupied by such buildings and shall be appraised at
242 its farm-use valuation based on the highest class of
243 farmland present on the farm.”

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

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

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

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

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

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

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

262 And,

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

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

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

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

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

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

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

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

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

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

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

344 (m) The legislative rules filed in the state register on
345 the fourth day of February, one thousand nine hun-
346 dred eighty-six, modified by the state tax commis-
347 sioner to meet the objections of the legislative rule-
348 making review committee and refiled in the state
349 register on the fourteenth day of January, one thou-
350 sand nine hundred eighty-seven, relating to the state
351 tax commissioner (business and occupation tax), are

352 authorized.

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

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

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

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

385 (r) The legislative rules filed in the state register on
386 the fourteenth day of August, one thousand nine
387 hundred eighty-seven, modified by the state tax
388 commissioner to meet the objections of the legislative
389 rule-making review committee and refiled in the state
390 register on the twelfth day of January, one thousand
391 nine hundred eighty-eight, relating to the state tax

392 commissioner (severance tax), are authorized.

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

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

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

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

429 (w) The legislative rules filed in the state register on
430 the twenty-third day of June, one thousand nine
431 hundred eighty-nine, relating to the state tax depart-

432 ment (personal income tax), are authorized.

433 (x) The legislative rules filed in the state register on
434 the twenty-ninth day of June, one thousand nine
435 hundred eighty-nine, relating to the state tax depart-
436 ment (severance tax), are authorized.

437 (y) The legislative rules filed in the state register on
438 the fourth day of August, one thousand nine hundred
439 eighty-nine, modified by the state tax department to
440 meet the objections of the legislative rule-making
441 review committee and refiled in the state register on
442 the eleventh day of December, one thousand nine
443 hundred eighty-nine, relating to the state tax depart-
444 ment (solid waste assessment fee), are authorized.

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

454 (aa) The legislative rules filed in the state register on
455 the eleventh day of August, one thousand nine hun-
456 dred eighty-nine, modified by the department of tax
457 and revenue to meet the objections of the legislative
458 rule-making review committee and refiled in the state
459 register on the eleventh day of December, one thou-
460 sand nine hundred eighty-nine, relating to the depart-
461 ment of tax and revenue (business and occupation
462 tax), are authorized.

463 (bb) The legislative rules filed in the state register
464 on the fourteenth day of August, one thousand nine
465 hundred eighty-nine, modified by the department of
466 tax and revenue to meet the objections of the legisla-
467 tive rule-making review committee and refiled in the
468 state register on the nineteenth day of January, one
469 thousand nine hundred ninety, relating to the depart-
470 ment of tax and revenue (consumers sales and service
471 tax and use tax), are authorized with the amendments

472 set forth below:

473 On page eight, Section 2.28, after the word "as" by
474 inserting the words "art, science,".

475 On pages eight and nine, Section 2.28.1, after the
476 word "intellectual" by deleting the word "or" and
477 inserting in lieu thereof the words "physical and".

478 On page nine, Section 2.28.2, by deleting the words
479 "or instruction."

480 On page nine, Section 2.28.2, after the word "train-
481 ing" by adding the word "or".

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

485 On page nine, by deleting all of Section 2.28.2.1.

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

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

490 On page nine, Section 2.28.2.2, after the word "train-
491 ing" by adding the word "or".

492 On page nine, Section 2.28.2.2, after the word "con-
493 ditioning" by inserting a period and striking the
494 remainder of the sentence.

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

498 And,

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

502 (cc) The legislative rules filed in the state register on
503 the eleventh day of August, one thousand nine hun-
504 dred eighty-nine, modified by the department of tax
505 and revenue to meet the objections of the legislative
506 rule-making review committee and refiled in the state

507 register on the eleventh day of December, one thou-
508 sand nine hundred eighty-nine, relating to the depart-
509 ment of tax and revenue (motor carrier road tax), are
510 authorized.

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

520 (ee) The legislative rules filed in the state register on
521 the eleventh day of August, one thousand nine hun-
522 dred eighty-nine, modified by the department of tax
523 and revenue to meet the objections of the legislative
524 rule-making review committee and refiled in the state
525 register on the eleventh day of December, one thou-
526 sand nine hundred eighty-nine, relating to the depart-
527 ment of tax and revenue (corporation net income tax),
528 are authorized.

529 (ff) The legislative rules filed in the state register on
530 the eleventh day of August, one thousand nine hun-
531 dred eighty-nine, modified by the department of tax
532 and revenue to meet the objections of the legislative
533 rule-making review committee and refiled in the state
534 register on the eleventh day of December, one thou-
535 sand nine hundred eighty-nine, relating to the depart-
536 ment of tax and revenue (soft drinks tax), are
537 authorized.

538 (gg) The legislative rules filed in the state register on
539 the twenty-first day of February, one thousand nine
540 hundred ninety-one, relating to the state tax commis-
541 sioner (business investment and jobs expansion tax
542 credit, corporations headquarters relocation tax credit,
543 and small business tax credit), are authorized.

544 (hh) The legislative rules filed in the state register
545 on the twentieth day of December, one thousand nine
546 hundred ninety, modified by the state tax commis-

547 sioner to meet the objections of the legislative rule-
548 making review committee and refiled in the state
549 register on the twenty-sixth day of April, one thou-
550 sand nine hundred ninety-one, relating to the state tax
551 commissioner (valuation of timberland and managed
552 timberland), are authorized.

553 (ii) The legislative rules filed in the state register on
554 the twenty-second day of April, one thousand nine
555 hundred ninety-one, modified by the state tax com-
556 missioner to meet the objections of the legislative rule-
557 making review committee and refiled in the state
558 register on the sixteenth day of September, one
559 thousand nine hundred ninety-one, relating to the
560 state tax commissioner (bingo rules and regulations),
561 are authorized.

562 (jj) The legislative rules filed in the state register on
563 the thirty-first day of July, one thousand nine hun-
564 dred ninety-one, modified by the state tax commis-
565 sioner to meet the objections of the legislative rule-
566 making review committee and refiled in the state
567 register on the sixteenth day of September, one
568 thousand nine hundred ninety-one, relating to the
569 state tax commissioner (property transfer tax), are
570 authorized.

571 (kk) The legislative rules filed in the state register
572 on the eighth day of August, one thousand nine
573 hundred ninety-one, modified by the division of tax to
574 meet the objections of the legislative rule-making
575 review committee and refiled in the state register on
576 the seventh day of January, one thousand nine hun-
577 dred ninety-two, relating to the division of tax (munic-
578 ipal business and occupation tax), are authorized with
579 the amendments set forth below:

580 On page forty-six, section 2g, by striking out all of
581 subsection 2g.3;

582 And,

583 On pages forty-six and forty-seven, by renumbering
584 the remaining subsections.

585 (ll) The legislative rules filed in the state register on

586 the eighth day of August, one thousand nine hundred
587 ninety-one, modified by the division of tax to meet the
588 objections of the legislative rule-making review com-
589 mittee and refiled in the state register on the tenth
590 day of January, one thousand nine hundred ninety-
591 two, relating to the division of tax (soft drinks tax), are
592 authorized with the amendments set forth below:

593 On page six, subsection 5.2, in the section heading,
594 by striking out the word "breakfast" and inserting in
595 lieu thereof "certain bottled";

596 And,

597 On page six, subsection 5.2, after the word "mixes"
598 by inserting the words "low-alcoholic brewed bever-
599 ages such as near beer."

600 (mm) The legislative rules filed in the state register
601 on the eighth day of August, one thousand nine
602 hundred ninety-one, modified by the division of tax to
603 meet the objections of the legislative rule-making
604 review committee and refiled in the state register on
605 the tenth day of January, one thousand nine hundred
606 ninety-two, relating to the division of tax (corporation
607 net income tax), are authorized with the amendment
608 set forth below:

609 On page twelve, subdivision 6.4.3, by striking out all
610 of subdivision 6.4.3.

611 (nn) The legislative rules filed in the state register
612 on the eighteenth day of June, one thousand nine
613 hundred ninety-one, modified by the state tax com-
614 missioner to meet the objections of the legislative rule-
615 making review committee and refiled in the state
616 register on the tenth day of January, one thousand
617 nine hundred ninety-two, relating to the state tax
618 commissioner (appraisal of producing and reserve oil
619 and natural gas property for periodic statewide reap-
620 praisals for ad valorem property tax purposes), are
621 authorized.

622 (oo) The legislative rules filed in the state register on
623 the ninth day of August, one thousand nine hundred
624 ninety-one, modified by the state tax commissioner to

625 meet the objections of the legislative rule-making
626 review committee and refiled in the state register on
627 the tenth day of January, one thousand nine hundred
628 ninety-two, relating to the state tax commissioner
629 (severance tax), are authorized.

630 (pp) The legislative rules filed in the state register
631 on the eighth day of August, one thousand nine
632 hundred ninety-one, modified by the division of tax to
633 meet the objections of the legislative rule-making
634 review committee and refiled in the state register on
635 the tenth day of January, one thousand nine hundred
636 ninety-two, relating to the division of tax (business
637 franchise tax), are authorized.

638 (qq) The legislative rules filed in the state register
639 on the eighth day of August, one thousand nine
640 hundred ninety-one, modified by the division of tax to
641 meet the objections of the legislative rule-making
642 review committee and refiled in the state register on
643 the tenth day of January, one thousand nine hundred
644 ninety-two, relating to the division of tax (exceptions
645 to confidentiality of taxpayer information and disclo-
646 sure of certain taxpayer information), are authorized.

647 (rr) The legislative rules filed in the state register on
648 the ninth day of August, one thousand nine hundred
649 ninety-one, modified by the division of tax to meet the
650 objections of the legislative rule-making review com-
651 mittee and refiled in the state register on the thir-
652 teenth day of January, one thousand nine hundred
653 ninety-two, relating to the division of tax (consumers
654 sales and service tax and use tax), are authorized with
655 the amendments set forth below:

656 On page six, by deleting all of subdivisions 2.25.2 and
657 2.25.4;

658 On page six, subsection 2.25 by renumbering the
659 remaining subdivisions;

660 On page forty-five, paragraph 8.1.1.1, after the words
661 "licensed social workers", by inserting "enrolled
662 agents, professional foresters,";

663 On page forty-five, paragraph 8.1.1.1, after the word

664 “electricians”, by striking out the words “enrolled
665 agents”;

666 “On page forty-five, paragraph 8.1.1.1, after the word
667 “musicians” by striking out the word “auctioneers,”;

668 “On page fifty-six, subdivision 9.2.19, after the word
669 “laws” by striking out the colon and inserting the
670 following “, such as, for example, sales by credit
671 unions under W. Va. Code §31-10-33 the sale of services
672 by owners, trainers or jockeys which are essential to
673 the effective conduct of a horse or dog racing meeting
674 under W. Va. Code §19-23-12, or the commission of an
675 auctioneer licensed under W. Va. Code §19-2C-1 et
676 seq.;;

677 On page one hundred five, subsection 33.5, by
678 striking out the words “child care”;

679 On page one hundred ten, subsection 38.1 after the
680 words “daily charge.”, by inserting the following
681 sentence: “The daily charge subject to the consumers
682 sales and service tax does not include complimentary
683 items such as shampoo, coffee and newspapers given
684 to guests by hotels and motels.”

685 On page one hundred forty-three, subsection 86.1,
686 after the word “auctioneer” by inserting the following
687 “licensed under W. Va. Code §19-2C-1 et seq.”;

688 On page one hundred forty-three, subsection 86.1,
689 after the word “is” by inserting the word “not”;

690 On page one hundred forty-three, subsection 86.2
691 after the word “tax” by inserting the following “on
692 the full sales price of the sales”;

693 On page one hundred forty-three, subsection 86.3, in
694 the last sentence after the word “services” by insert-
695 ing the following “by an auctioneer not licensed in
696 accordance with the W. Va. Code §19-2C-1 et. seq.”;

697 On page one hundred forty-three, subsection 86.3, in
698 the last sentence after the word “sold” by striking out
699 the period and adding the following “: *Provided*, That
700 an auctioneer licensed in accordance with W. Va. Code
701 §19-2C-1 et seq. is not required to collect sales tax on

702 such fees or commissioners.”;

703 And,

704 On page one hundred forty-three, subsection 86.4, by
705 striking out the first sentence and inserting, in lieu
706 thereof, the following sentence: “An auctioneer is
707 taxable on all of his or her purchases except purchases
708 for resale.”

**§64-7-8. Property valuation training and procedures
commission.**

1 The legislative rules filed in the state register on the
2 seventeenth day of April, one thousand nine hundred
3 ninety-one, modified by the property valuation train-
4 ing and procedures commission to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the thirty-first day of
7 July, one thousand nine hundred ninety-one, relating
8 to the property valuation training and procedures
9 commission (tax map sales), are authorized.

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTA-
TION TO PROMULGATE LEGISLATIVE RULES.**

§64-8-2. Division of motor vehicles.

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

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

14 (b) The legislative rules filed in the state register on
15 the ninth day of November, one thousand nine hun-
16 dred eighty-three, relating to the commissioner of
17 motor vehicles (driving under the influence, drivers’

18 license revocation administrative hearings), are
19 authorized.

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

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

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

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

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

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

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

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

76 (k) The legislative rules filed in the state register on
77 the seventeenth day of August, one thousand nine
78 hundred eighty-seven, modified by the commissioner
79 of motor vehicles to meet the objections of the legis-
80 lative rule-making review committee and refiled in
81 the state register on the twenty-second day of Septem-
82 ber, one thousand nine hundred eighty-seven, relating
83 to the commissioner of motor vehicles (denial, suspen-
84 sion, revocation or renewal of driving privileges), are
85 authorized with the amendments set forth below:

86 On page 7, section 7.2 after the words "75 m.p.h.",
87 add the words "except on highways where the estab-
88 lished speed limit is 65 m.p.h., and conviction was in
89 excess of 80 m.p.h.,"

90 And,

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

95 (l) The legislative rules filed in the state register on

96 the twenty-second day of November, one thousand
 97 nine hundred eighty-eight, modified by the commis-
 98 sioner of motor vehicles to meet the objections of the
 99 legislative rule-making review committee and refiled
 100 in the state register on the twentieth day of January,
 101 one thousand nine hundred eighty-nine, relating to
 102 the commissioner of motor vehicles (denial, suspen-
 103 sion, revocation or nonrenewal of driving privileges),
 104 are authorized.

105 (m) The legislative rules filed in the state register on
 106 the thirteenth day of August, one thousand nine
 107 hundred ninety-one, modified by the division of motor
 108 vehicles to meet the objections of the legislative rule-
 109 making review committee and refiled in the state
 110 register on the twenty-sixth day of September, one
 111 thousand nine hundred ninety-one, relating to the
 112 division of motor vehicles (denial, suspension, revoca-
 113 tion or nonrenewal of driving privileges), are autho-
 114 rized with the amendment set forth below:

115 "On page nine, after the words "Following too
 116 closely 3", by striking out the number "3" and
 117 inserting in lieu thereof the number "2".

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

§64-9-1. Commissioner of Agriculture.

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

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

10 (c) The legislative rules filed in the state register on
 11 the eighth day of February, one thousand nine hun-
 12 dred eighty-four, relating to the commissioner of
 13 agriculture (conduct of beef industry self-

14 improvement assessment program referendum), are
15 authorized.

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

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

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

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

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

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

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

47 (k) The legislative rules filed in the state register on
48 the thirteenth day of January, one thousand nine
49 hundred eighty-six, modified by the commissioner of
50 agriculture to meet the objections of the legislative
51 rule-making review committee and refiled in the state

52 register on the thirty-first day of January, one thou-
53 sand nine hundred eighty-six, relating to the commis-
54 sioner of agriculture (licensing of livestock dealers),
55 are authorized.

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

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

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

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

89 (p) The legislative rules filed in the state register on
90 the fifteenth day of September, one thousand nine
91 hundred eighty-eight, relating to the commissioner of

92 agriculture (sale and distribution of commercial
93 fertilizer), are authorized.

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

103 (r) The legislative rules filed in the state register on
104 the fifteenth day of May, one thousand nine hundred
105 eighty-nine, modified by the commissioner of agricul-
106 ture to meet the objections of the legislative rule-
107 making review committee and refiled in the state
108 register on the twenty-first day of August, one thou-
109 sand nine hundred eighty-nine, relating to the com-
110 missioner of agriculture (production of milk and
111 cream for manufacturing purposes), are authorized.

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

121 (t) The legislative rules filed in the state register on
122 the tenth day of August, one thousand nine hundred
123 ninety, modified by the commissioner of agriculture to
124 meet the objections of the legislative rule-making
125 review committee and refiled in the state register on
126 the fifth day of October, one thousand nine hundred
127 ninety, relating to the commissioner of agriculture
128 (meat inspection), are authorized.

129 (u) The legislative rules filed in the state register on
130 the tenth day of August, one thousand nine hundred
131 ninety, modified by the commissioner of agriculture to

132 meet the objections of the legislative rule-making
133 review committee and refiled in the state register on
134 the third day of October, one thousand nine hundred
135 ninety, relating to the commissioner of agriculture
136 (agricultural liming materials), are authorized.

137 (v) The legislative rules filed in the state register on
138 the tenth day of August, one thousand nine hundred
139 ninety, modified by the commissioner of agriculture to
140 meet the objections of the legislative rule-making
141 review committee and refiled in the state register on
142 the third day of October, one thousand nine hundred
143 ninety, relating to the commissioner of agriculture
144 (public markets), are authorized.

145 (w) The legislative rules filed in the state register on
146 the nineteenth day of September, one thousand nine
147 hundred ninety, modified by the commissioner of
148 agriculture to meet the objections of the legislative
149 rule-making review committee and refiled in the state
150 register on the ninth day of November, one thousand
151 nine hundred ninety, relating to the commissioner of
152 agriculture (animal disease control), are authorized.

153 (x) The legislative rules filed in the state register on
154 the eighth day of August, one thousand nine hundred
155 ninety-one, modified by the commissioner of agricul-
156 ture to meet the objections of the legislative rule-
157 making review committee and refiled in the state
158 register on the twenty-fourth day of September, one
159 thousand nine hundred ninety-one, relating to the
160 commissioner of agriculture (commercial feed), are
161 authorized with the amendments set forth below:

162 On page two, after subsection 3.3., by adding a new
163 subsection, designated subsection 3.4., to read as
164 follows:

165 “3.4. The commissioner will not assess a tonnage fee
166 on any commercial feed or feed ingredients used in
167 the manufacture of poultry contract feed.”;

168 On page five, after subsection 4.3.m., by adding a
169 new subsection, designated subsection 4.3.n., to read as
170 follows:

171 "4.3.n. The commissioner will consider poultry
172 contract feed to be customer-formula feed.";

173 And,

174 On page eight, after subsection 5.5., by adding a new
175 subsection, designated subsection 5.6., to read as
176 follows:

177 "5.6. Poultry contract feed labels shall conform to
178 the requirements of West Virginia Code §19-14-8d,
179 except that:

180 5.6.a. the name of the grower or feeder will substi-
181 tute for the requirements for the name of the pur-
182 chaser; and,

183 5.6.b. the net weight (avoir dupois) of the commer-
184 cial feed and each feed ingredient used in the feed
185 shall not be required to be listed."

186 (y) The legislative rules filed in the state register on
187 the fourth day of June, one thousand nine hundred
188 ninety-one, modified by the commissioner of agricul-
189 ture to meet the objections of the legislative rule-
190 making review committee and refiled in the state
191 register on the second day of August, one thousand
192 nine hundred ninety-one, relating to the commissioner
193 of agriculture (wood destroying insect treatment
194 standards), are authorized.

195 (z) The legislative rules filed in the state register on
196 the twentieth day of December, one thousand nine
197 hundred ninety, modified by the commissioner of
198 agriculture to meet the objections of the legislative
199 rule-making review committee and refiled in the state
200 register on the thirtieth day of April, one thousand
201 nine hundred ninety-one, relating to the commissioner
202 of agriculture (fee structure for the pesticide control
203 act of 1990), are authorized.

204 (aa) The legislative rules filed in the state register on
205 the eighth day of August, one thousand nine hundred
206 ninety-one, modified by the commissioner of agricul-
207 ture to meet the objections of the legislative rule-
208 making review committee and refiled in the state

209 register on the twelfth day of November, one thousand
210 nine hundred ninety-one, relating to the commissioner
211 of agriculture (animal disease control), are authorized.

212 (bb) The legislative rules filed in the state register
213 on the eighth day of August, one thousand nine
214 hundred ninety-one, modified by the commissioner of
215 agriculture to meet the objections of the legislative
216 rule-making review committee and refiled in the state
217 register on the tenth day of September, one thousand
218 nine hundred ninety-one, relating to the commissioner
219 of agriculture (West Virginia plant pest act), are
220 authorized.

221 (cc) The legislative rules filed in the state register on
222 the twenty-sixth day of July, one thousand nine
223 hundred ninety-one, modified by the commissioner of
224 agriculture to meet the objections of the legislative
225 rule-making review committee and refiled in the state
226 register on the sixteenth day of October, one thousand
227 nine hundred ninety-one, relating to the commissioner
228 of agriculture (licensing of pesticide businesses), are
229 authorized.

230 (dd) The legislative rules filed in the state register
231 on the eighth day of August, one thousand nine
232 hundred ninety-one, modified by the commissioner of
233 agriculture to meet the objections of the legislative
234 rule-making review committee and refiled in the state
235 register on the second day of October, one thousand
236 nine hundred ninety-one, relating to the commissioner
237 of agriculture (certified pesticide applicators), are
238 authorized.

239 (ee) The legislative rules filed in the state register on
240 the eighth day of August, one thousand nine hundred
241 ninety-one, modified by the commissioner of agricul-
242 ture to meet the objections of the legislative rule-
243 making review committee and refiled in the state
244 register on the twenty-fourth day of September, one
245 thousand nine hundred ninety-one, relating to the
246 commissioner of agriculture (assessment of civil
247 penalties and procedures for consent agreements and
248 negotiated settlements), are authorized.

249 (ff) The legislative rules filed in the state register on
250 the eighth day of August, one thousand nine hundred
251 ninety-one, modified by the commissioner of agricul-
252 ture to meet the objections of the legislative rule-
253 making review committee and refiled in the state
254 register on the twenty-fourth day of September, one
255 thousand nine hundred ninety-one, relating to the
256 commissioner of agriculture (aerial application of
257 herbicides to rights-of-way), are authorized.

258 (gg) The legislative rules filed in the state register on
259 the eighth day of August, one thousand nine hundred
260 ninety-one, modified by the commissioner of agricul-
261 ture to meet the objections of the legislative rule-
262 making review committee and refiled in the state
263 register on the twenty-fourth day of September, one
264 thousand nine hundred ninety-one, relating to the
265 commissioner of agriculture (frozen desserts and
266 imitation frozen desserts), are authorized, with the
267 amendment set forth below:

268 "On page twelve, by striking out all of section 15 and
269 substituting a new section 15, to read as follows:

270 §61-4B-15. Enforcement policy.

271 15.1. The commissioner may assess a violation of W.
272 Va. Code §19-11B-1 et seq. or of these rules against the
273 manufacturer of product and/or the distributor of the
274 mix used to manufacture the product.

275 15.2. The commissioner will assess any violations of
276 W. Va. Code §19-11B-1 et seq. or of this rule to the
277 distributor for mix sampled from unopened contain-
278 ers. The company will not be assessed additional
279 cumulative notices of violations until the commis-
280 sioner has determined that the firm has had adequate
281 notice of the previous notice, generally 10 days from
282 the mailing of the notice of violation.

283 15.3. Whenever one of the last five consecutive
284 official product sample(s) taken on separate days
285 within a one year period are found to be adulterated
286 or misbranded, the commissioner shall send a written
287 "First Notice" to the manufacturer or distributor

288 whichever is appropriate. This notice shall notify the
289 manufacturer or distributor of the violation of W. Va.
290 Code §19-11B-1 et seq. or of these rules and the
291 enforcement policy established by this section of the
292 rule.

293 15.4. Whenever two of the last five consecutive
294 official product sample(s) taken on separate days
295 within a one year period are found to be adulterated
296 or misbranded the commissioner shall send a written
297 "Second Notice" to the manufacturer or distributor
298 whichever is appropriate.

299 15.4.a. The commissioner shall collect additional
300 official product sample(s) within 21 days of the sending
301 of a Second Notice to the manufacturer or distributor,
302 but shall not collect product samples before the lapse
303 of 7 days from the sending of a Second Notice.

304 15.5. Whenever three of the last five consecutive
305 official product sample(s) taken on separate days
306 within a one year period are found to be adulterated
307 or misbranded the commissioner shall send a written
308 "Third Notice" to the manufacturer or distributor
309 whichever is appropriate.

310 15.5.a. The commissioner shall collect additional
311 official product sample(s) within 21 days of the sending
312 of the Third Notice to the manufacturer or distributor,
313 but shall not collect additional product samples before
314 the lapse of 7 days from the date of sending of the
315 notice.

316 15.6. The commissioner will issue a "Shut-down
317 Order" for a period of 24 hours to a manufacturer or
318 distributor when the record of the firm indicates that
319 effective action has not been taken to correct the
320 causes of the violations, for instance when three out of
321 the last five samples from the same machine are
322 violative. The "Shut-down Order" will normally be
323 issued with the "Third Notice". The "Shut-down
324 Order" will give the reasons for the order, state the
325 portion of the manufacturing or distributing operation
326 that is prohibited from operating while the order is in
327 effect, give conditions of the order, state the length of

328 time that the Shut-down Order will be in effect and
329 specify a time and place for a hearing to be held in
330 this matter. Except that in the case where the public
331 health, safety or welfare is at risk, the commissioner
332 will issue an immediate Shut-down Order and give
333 notice to the manufacturer or distributor under the
334 provisions of subdivision 15.6.a. of this rule.

335 15.6.a. The commissioner will issue an immediate
336 Shut-down Order without giving the manufacturer or
337 distributor the opportunity to be heard where there is
338 a hazard to the public health, safety or welfare. In
339 these cases, the manufacturer or distributor will be
340 given the opportunity to request a hearing before the
341 commissioner after the notification of the order is
342 received by the manufacturer or distributor. All Shut-
343 down Orders issued due to noncompliance with subdi-
344 visions 8.1.c., 8.1.d. or 8.1.g. of this rule are considered
345 to involve a risk to the public health, safety or welfare.

346 15.6.b. The manufacturer or distributor will be
347 responsible for causing all operations covered by the
348 Shut-down Order to cease and follow all other condi-
349 tions of the order. At the end of the period of the
350 order, the manufacturer or distributor may resume
351 operations without further action by the commissioner.

352 15.7. If after a Shut-down Order has been issued the
353 commissioner finds that effective corrective action has
354 not been taken, he may issue a suspension of the
355 Frozen Desserts Manufacturer Permit. The suspension
356 shall state the time that the suspension will become
357 effective, give the reasons for the suspension and
358 specify a time and place for a hearing to be held in
359 this matter. Except that in the case of a summary
360 suspension the commissioner will give the manufac-
361 turer the opportunity to request a hearing in this
362 matter subsequent to the notification of the suspension.

363 15.7.a. All suspensions due to nonconformance to
364 subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are
365 summary suspensions.

366 15.7.b. A suspension of the Frozen Desserts Manufac-
367 turer Permit remains in effect until the manufacturer

368 submits and the commissioner accepts a written plan
369 of correction and a request for a reinstatement of the
370 permit.

371 15.7.c. The commissioner has seven days from the
372 date of receipt of this application to respond to a
373 suspension in the case of violations of subdivisions
374 8.1.c., 8.1.d. or 8.1.g. of this rule and fourteen days to
375 respond for all other violations of W. Va. Code §19-11B-
376 1 et seq. or these rules. The commissioner will accept
377 or deny the application for a reinstatement of the
378 permit and will give the terms and conditions under
379 which the permit will be reinstated.

380 15.8. If the commissioner finds that after the firm
381 has resumed production following a suspension of
382 their Frozen Desserts Manufacturer Permit that
383 effective corrective action has not been taken, then the
384 commissioner will hold a hearing to determine if the
385 Frozen Desserts Manufacturer Permit should be
386 revoked.

387 15.9. Persons who manufacture a product on an
388 intermittent or infrequent basis, so that the standard
389 enforcement policy cannot apply, will enter into a
390 consent agreement with the commissioner for correc-
391 tion of all items found to be not in conformance with
392 W. Va. Code §19-11B-1 et seq. or these rules.

393 15.10. Whenever an antibiotic or pesticide residue
394 test is found to be above tolerance, the commissioner
395 shall notify the manufacturer and/or distributor
396 immediately of this fact and shall begin an investiga-
397 tion to determine the cause of the residue. The
398 commissioner shall require that any person found to
399 be responsible for the residue shall correct the cause
400 of the residue prior to the resumption of the manufac-
401 turing or distribution of the product.

402 15.11. A person who performs a recall by voluntarily
403 removing product from sale and distribution in an
404 effective manner so as to limit the potential harm to
405 the health and well-being of the public may be eligible
406 for exemptions from the normal enforcement policy.
407 The commissioner shall consider the facts of each case

408 when making a decision on an exemption.

409 15.12. The commissioner may apply the enforcement
410 policy in a liberal manner in cases where all official
411 product sample results that involve a product in the
412 form actually sold to the public have been found to be
413 in conformance with W. Va. Code §19-11B-1 et seq. or
414 these rules.

415 15.13. The commissioner may suspend the standard
416 enforcement policy in cases where such action is
417 necessary to protect the public health, safety or
418 welfare.

419 15.14. Resamples will only be taken from machines
420 that were shown to be producing violative product the
421 previous visit, except for resamples needed to check
422 that the nonviolative status is being maintained
423 according to the following schedule:

424 15.14.a. After a first notice and one nonviolative
425 sample, resamples will be taken between 5 to 6 months
426 after the nonviolative sample.

427 15.14.b. After a second notice and one nonviolative
428 sample, resamples will be taken between 3-4 months
429 after the nonviolative sample.

430 15.14.c. Other resamples may be considered neces-
431 sary to determine that the nonviolative status is being
432 maintained.”

433 (hh) The legislative rules filed in the state register
434 on the eighth day of August, one thousand nine
435 hundred ninety-one, modified by the commissioner of
436 agriculture to meet the objections of the legislative
437 rule-making review committee and refiled in the state
438 register on the twenty-fourth day of September, one
439 thousand nine hundred ninety-one, relating to the
440 commissioner of agriculture (West Virginia apiary law
441 of 1991), are authorized.

442 (ii) The legislative rules filed in the state register on
443 the eighth day of August, one thousand nine hundred
444 ninety-one, modified by the commissioner of agricul-
445 ture to meet the objections of the legislative rule-

446 making review committee and refiled in the state
447 register on the twenty-fourth day of September, one
448 thousand nine hundred ninety-one, relating to the
449 commissioner of agriculture (disposal of dead poultry),
450 are authorized with the amendments set forth below:

451 On page two, section two, by adding a new subsection
452 to read as follows:

453 "2.8 'Disposal pit' means an opening dug in the
454 ground to a minimum depth of six feet, containing a
455 minimum capacity of 150 cubic feet, covered with a
456 minimum of 12 inches of dirt, and provided with one
457 or more openings for the introduction of poultry. The
458 openings shall be a minimum size of eight inches
459 square and equipped with tight lids. A disposal pit
460 shall be located in a site which will prevent contam-
461 ination of the groundwater or the surface water. This
462 site should conform to the standards established in this
463 rule."

464 On page two, subsection 3.1, after the word "incin-
465 erator," by adding the words "disposal pit,"

466 And,

467 On page two, by adding a new section, designated
468 section 4, to read as follows:

469 "61-1C-4. Standards for Site Location for Disposal
470 Pits.

471 4.1 No part of a disposal pit system shall be located
472 in a poorly drained or filled area, or in any area where
473 seasonal flooding occurs.

474 4.2 No part of a disposal pit system shall be located
475 within 10 feet of a building, foundation or property
476 line.

477 4.3 No part of a disposal pit system shall be located
478 within 50 feet of a public water supply line or within
479 10 feet of a private water supply system.

480 4.4 A disposal pit shall be located at least 50 feet from
481 a private well or groundwater supply.

482 4.5 There shall be a minimum of three feet between

483 the bottom of a disposal pit and seasonal groundwater or
484 rock, shale or any other impermeable layer.

485 4.6 The evaluation of the site for installation of a disposal
486 pit shall be based upon percolation test results. Percolation
487 tests shall be performed in the following manner:

488 4.6.1 Location - At least two holes shall be placed over
489 the selected site. The results of these two test holes will be
490 averaged.

491 4.6.2 Holes shall be dug or bored from six to eight
492 inches in diameter at the site where the disposal pit will be
493 installed. The holes should be at least 24 inches in depth.

494 4.6.3 The bottom and sides of the holes shall be
495 scratched with a sharp pointed instrument or wire brush to
496 remove any smeared soil surfaces which interfere with the
497 absorption of water into the soil.

498 4.6.4 Loose dirt shall be removed from the bottom of
499 the test holes and two inches of coarse sand or fine gravel
500 shall be placed into the holes to prevent sealing.

501 4.6.5 An eight or ten penny nail shall be placed in the
502 wall of each hole exactly six inches above the level of sand
503 or gravel.

504 4.6.6 The test hole shall be completely filled with
505 water to ground level. Water in the hole shall be kept to a
506 depth of at least 12 inches for a minimum period of four
507 hours before beginning the percolation rate measurement.

508 4.7 Percolation rate measurement - Upon completion of
509 the above, the water depth in the holes shall be adjusted to
510 the level of the nail. The number of minutes it takes for
511 this six inches of water (all the water) to be absorbed into
512 the soil shall be accurately determined. This time in
513 minutes, divided by six, gives the rate of fall per inch. The
514 average rate of fall must be between five minutes and 60
515 minutes."

516 (jj) The legislative rules filed in the state register on the
517 eighth day of August, one thousand nine hundred ninety-
518 one, modified by the commissioner of agriculture to meet
519 the objections of the legislative rule-making review com-
520 mittee and refiled in the state register on the twenty-fourth

521 day of September, one thousand nine hundred ninety-
522 one, relating to the commissioner of agriculture
523 (licensing of livestock dealers), are authorized.

§64-9-5. Board of barbers and beauticians.

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

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

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

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

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

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

32 (c) The legislative rules filed in the state register on
33 the tenth day of June, one thousand nine hundred
34 eighty-eight, modified by the board of barbers and

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

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

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

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

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

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

64 (e) The legislative rules filed in the state register on
65 the tenth day of June, one thousand nine hundred
66 eighty-eight, modified by the board of barbers and
67 beauticians to meet the objections of the legislative
68 rule-making review committee and refiled in the state
69 register on the eighth day of December, one thousand
70 nine hundred eighty-eight, relating to the board of
71 barbers and beauticians (operation of beauty shops and
72 schools of beauty culture), are authorized with the
73 amendments set forth below:

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

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

79 And,

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

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

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

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

97 And,

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

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

103 (g) The legislative rules filed in the state register on
104 the tenth day of August, one thousand nine hundred
105 ninety, modified by the board of barbers and beauti-
106 cians to meet the objections of the legislative rule-
107 making review committee and refiled in the state
108 register on the seventh day of December, one thou-
109 sand nine hundred ninety, relating to the board of
110 barbers and beauticians (licensing of schools of barber-

111 ing and beauty culture), are authorized with the
112 amendment set forth below:

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

115 “§3-5-8. **Repeal of rule** — This rule will automatically
116 be repealed on July 1, 1992, unless extended prior to
117 that date by an act of the Legislature.”

118 (h) The legislative rules filed in the state register on
119 the tenth day of August, one thousand nine hundred
120 ninety, modified by the board of barbers and beauti-
121 cians to meet the objections of the legislative rule-
122 making review committee and refiled in the state
123 register on the seventh day of December, one thou-
124 sand nine hundred ninety, relating to the board of
125 barbers and beauticians (qualifications, training,
126 examination and registration of instructors in barber-
127 ing and beauty culture), are authorized with the
128 amendment set forth below:

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

131 “§3-2-9. **Repeal of rule** — This rule will automatically
132 be repealed on July 1, 1992, unless extended prior to
133 that date by an act of the Legislature.”

134 (i) The legislative rules filed in the state register on
135 the tenth day of August, one thousand nine hundred
136 ninety, modified by the board of barbers and beauti-
137 cians to meet the objections of the legislative rule-
138 making review committee and refiled in the state
139 register on the seventh day of December, one thou-
140 sand nine hundred ninety, relating to the board of
141 barbers and beauticians (minimum curriculum for
142 schools of barbering), are authorized with the amend-
143 ment set forth below:

144 On page 7, by inserting a new section, designated
145 section 3-6-14, to read as follows:

146 “§3-6-14. **Repeal of rule** — This rule will automati-
147 cally be repealed on July 1, 1992, unless extended prior
148 to that date by an act of the Legislature.”

149 (j) The legislative rules filed in the state register on
150 the tenth day of August, one thousand nine hundred
151 ninety, modified by the board of barbers and beauti-
152 cians to meet the objections of the legislative rule-
153 making review committee and refiled in the state
154 register on the seventh day of December, one thou-
155 sand nine hundred ninety, relating to the board of
156 barbers and beauticians (curriculum and minimum
157 requirements, subjects and hour schedule, rules and
158 regulations for schools of beauty culture operation in
159 West Virginia; joint barbers and beauticians license),
160 are authorized with the amendment set forth below:

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

163 “§3-1-11. **Repeal of rule** — This rule will automati-
164 cally be repealed on July 1, 1992, unless extended prior
165 to that date by an act of the Legislature.”

166 (k) The legislative rules filed in the state register on
167 the tenth day of August, one thousand nine hundred
168 ninety, modified by the board of barbers and beauti-
169 cians to meet the objections of the legislative rule-
170 making review committee and refiled in the state
171 register on the seventh day of December, one thou-
172 sand nine hundred ninety, relating to the board of
173 barbers and beauticians (operation of barber and
174 beauty shops and schools of barbering and beauty
175 culture), are authorized with the amendment set forth
176 below:

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

179 “§3-3-6. **Repeal of rule** — This rule will automatically
180 be repealed on July 1, 1992, unless extended prior to
181 that date by an act of the Legislature.”

182 (l) The legislative rules filed in the state register on
183 the thirteenth day of August, one thousand nine
184 hundred ninety-one, modified by the board of barbers
185 and beauticians to meet the objections of the legisla-
186 tive rule-making review committee and refiled in the
187 state register on the thirty-first day of December, one

188 thousand nine hundred ninety-one, relating to the
189 board of barbers and beauticians (procedures, criteria
190 and curricula for examination and licensure of
191 barbers, beauticians and manicurists), are authorized.

192 (m) The legislative rules filed in the state register on
193 the thirteenth day of August, one thousand nine
194 hundred ninety-one, modified by the board of barbers
195 and beauticians to meet the objections of the legisla-
196 tive rule-making review committee and refiled in the
197 state register on the twenty-sixth day of December,
198 one thousand nine hundred ninety-one, relating to the
199 board of barbers and beauticians (fee schedule), are
200 authorized with the amendment set forth below:

201 On page one, subsection 2.14. by striking out "\$5.00"
202 and inserting in lieu thereof "\$10.00".

203 (n) The legislative rules filed in the state register on
204 the thirteenth day of August, one thousand nine
205 hundred ninety-one, relating to the board of barbers
206 and beauticians (licensing schools of barbering and
207 beauty culture), are authorized.

208 (o) The legislative rules filed in the state register on
209 the thirteenth day of August, one thousand nine
210 hundred ninety-one, relating to the board of barbers
211 and beauticians (operation of barber, beauty shops,
212 and schools of barbering and beauty culture), are
213 authorized.

214 (p) The legislative rules filed in the state register on
215 the thirteenth day of August, one thousand nine
216 hundred ninety-one, modified by the board of barbers
217 and beauticians to meet the objections of the legisla-
218 tive rule-making review committee and refiled in the
219 state register on the thirty-first day of December, one
220 thousand nine hundred ninety-one, relating to the
221 board of barbers and beauticians (operational stan-
222 dards for schools of barbering and beauty culture), are
223 authorized.

224 (q) The legislative rules filed in the state register on
225 the thirteenth day of August, one thousand nine
226 hundred ninety-one, modified by the board of barbers

227 and beauticians to meet the objections of the legisla-
228 tive rule-making review committee and refiled in the
229 state register on the thirty-first day of December, one
230 thousand nine hundred ninety-one, relating to the
231 board of barbers and beauticians (qualifications,
232 training, examination and licensing of instructors in
233 barbering and beauty culture), are authorized.

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

1 (a) The legislative rules filed in the state register on
2 the twentieth day of March, one thousand nine hun-
3 dred eighty-nine, modified by the West Virginia board
4 of examiners in counseling to meet the objections of
5 the legislative rule-making review committee and
6 refiled in the state register on the twelfth day of
7 September, one thousand nine hundred eighty-nine,
8 relating to the West Virginia board of examiners in
9 counseling (licensing), are authorized.

10 (b) The legislative rules filed in the state register on
11 the eighteenth day of July, one thousand nine hun-
12 dred ninety-one, modified by the board of examiners
13 in counseling to meet the objections of the legislative
14 rule-making review committee and refiled in the state
15 register on the sixth day of December, one thousand
16 nine hundred ninety-one, relating to the board of
17 examiners in counseling (licensing), are authorized.

**§64-9-9. Governor's committee on crime, delinquency and
corrections.**

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

12 (b) The legislative rules filed in the state register on

13 the ninth day of August, one thousand nine hundred
14 ninety-one, modified by the governor's committee on
15 crime, delinquency and corrections to meet the objec-
16 tions of the legislative rule-making review committee
17 and refiled in the state register on the fifteenth day of
18 January, one thousand nine hundred ninety-two,
19 relating to the governor's committee on crime, delin-
20 quency and corrections (protocol for law enforcement
21 response to domestic violence), are authorized with
22 the amendments set forth below:

23 On page 1, section 2.1 by striking out the words
24 "member of the Department of Natural Resources,"

25 On page 1, by striking out subsection 2.2.4;

26 On page 1, by striking out section 3;

27 On page 4, section 6.2.1 after the word "home" by
28 adding "or business";

29 On page 6, section 6.4.6 by striking out the word
30 "abuse";

31 On page 6, section 7.2.3 after the words "protective
32 order" by adding "and the officer has actual knowl-
33 edge that a valid protective order exists.";

34 On page 6, by striking out sections 7.2.4 and 7.2.5;

35 On page 7, by striking out section 7.3.5;

36 On page 8, section 7.5, following the word "prosecu-
37 tion", by striking out the period and by adding the
38 following proviso: "": *Provided*, That this section does
39 not authorize a search of the premises unless a search
40 warrant has been obtained or consent was given by
41 the occupant of the premises.";

42 On page 8, by striking out sections 7.6 and 7.7;

43 On page 8, section 8.1 by striking out the words "the
44 officer determines that a warrantless arrest is appro-
45 priate or that";

46 On page 8, section 8.1 by striking out the words "in
47 the event that a warrantless arrest for a misdemeanor
48 is authorized";

49 On page 8, section 8.1 by striking out the word "If"
50 from the sentence "If a warrant is necessary";

51 On page 9, by adding the following:

52 "9.1.4 Advise the victim or victims that upon request
53 of the victim or victims the officer will provide
54 transportation for, or facilitate transportation of the
55 victim or victims to a shelter or the appropriate court
56 where there is reasonable cause to believe that such
57 victim or victims have suffered or are likely to suffer
58 physical injury.

59 9.1.5 Provide transportation for or facilitate transpor-
60 tation of the victim or victims upon the request of
61 such victim or victims to a shelter or the appropriate
62 court where there is reasonable cause to believe that
63 such victim or victims have suffered or are likely to
64 suffer physical injury.";

65 On page 10, section 10.7.1 by striking out the words
66 "should arrest the assailant upon probable cause to
67 believe that a crime has been committed" and insert-
68 ing in lieu thereof the following "should arrest the
69 assailant if the officer observes the commission of a
70 crime";

71 On page 11, section 11.3 by striking out the word
72 "advise" and inserting in lieu thereof the word
73 "inform"

74 And,

75 On page 11, section 11.3 by striking out the remain-
76 der of section 11.3 beginning with the words "the
77 condition may include".

§64-9-16. Board of medicine.

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

7 "§24.12.

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

13 §24.16.

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

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

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

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

44 (e) The legislative rules filed in the state register on
45 the sixteenth day of September, one thousand nine
46 hundred eighty-eight, modified by the board of med-

47 icine to meet the objections of the legislative rule-
48 making review committee and refiled in the state
49 register on the twenty-fourth day of February, one
50 thousand nine hundred eighty-nine, relating to the
51 board of medicine (dispensing of legend drugs by
52 physicians and podiatrists), are authorized with the
53 following amendments:

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

60 And,

61 Section 3.3 to read as follows: "Physicians or podia-
62 trists who are not registered with the Board as
63 dispensing physicians may not dispense legend drugs.
64 However, the following activities by a physician or
65 podiatrist shall be exempt from the requirements of
66 sections 3 through 8 applicable to dispensing physicians:

67 a. Legend drugs administered to the patient, which
68 are not controlled substance when an appropriate
69 record is made in the patient's chart;

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

74 c. Legend drugs which are not controlled substances
75 provided by free clinics or under West Virginia state
76 authorized programs, including the Medicaid, family
77 planning, maternal and child health, and early and
78 periodic screening and diagnosis and treatment pro-
79 grams: *Provided*, That all labeling provisions of section
80 8 shall be applicable except the requirements of
81 section 8.3 (a)."

82 (f) The legislative rules filed in the state register on
83 the tenth day of August, one thousand nine hundred
84 ninety, modified by the board of medicine to meet the
85 objections of the legislative rule-making review com-

86 mittee and refiled in the state register on the first day
87 of October, one thousand nine hundred ninety, relat-
88 ing to the board of medicine (fees for services ren-
89 dered by the board of medicine), are authorized.

90 (g) The legislative rules filed in the state register on
91 the tenth day of August, one thousand nine hundred
92 ninety, modified by the board of medicine to meet the
93 objections of the legislative rule-making review com-
94 mittee and refiled in the state register on the eleventh
95 day of January, one thousand nine hundred ninety-
96 one, relating to the board of medicine (licensing, and
97 disciplinary and complaint procedures: physicians;
98 podiatrists), are authorized.

99 (h) The legislative rules filed in the state register on
100 the tenth day of August, one thousand nine hundred
101 ninety, modified by the board of medicine to meet the
102 objections of the legislative rule-making review com-
103 mittee and refiled in the state register on the eleventh
104 day of January, one thousand nine hundred ninety-
105 one, relating to the board of medicine (certification,
106 disciplinary and complaint procedures: physician
107 assistants), are authorized.

108 (i) The legislative rules filed in the state register on
109 the tenth day of July, one thousand nine hundred
110 ninety-one, modified by the board of medicine to meet
111 the objections of the legislative rule-making review
112 committee and refiled in the state register on the third
113 day of September, one thousand nine hundred ninety-
114 one, relating to the board of medicine (continuing
115 education for physicians and podiatrists), are
116 authorized.

**§64-9-17. West Virginia board of examiners for licensed
practical nurses.**

1 (a) The legislative rules filed in the state register on
2 the thirtieth day of July, one thousand nine hundred
3 eighty-six, modified by the West Virginia board of
4 examiners for licensed practical nurses to meet the
5 objections of the legislative rule-making review com-
6 mittee and refiled in the state register on the thirtieth
7 day of September, one thousand nine hundred eighty-

8 six, relating to the West Virginia board of examiners
9 for licensed practical nurses (policies relating to
10 licensure of the licensed practical nurse), are
11 authorized.

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

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

23 (d) The legislative rules filed in the state register on
24 the eleventh day of July, one thousand nine hundred
25 ninety-one, modified by the West Virginia board of
26 examiners for licensed practical nurses to meet the
27 objections of the legislative rule-making review com-
28 mittee and refiled in the state register on the twenty-
29 fourth day of September, one thousand nine hundred
30 ninety-one, relating to the West Virginia board of
31 examiners for licensed practical nurses (policies and
32 procedures for development and maintenance of
33 educational programs in practical nursing), are
34 authorized.

35 (e) The legislative rules filed in the state register on
36 the eleventh day of July, one thousand nine hundred
37 ninety-one, modified by the West Virginia board of
38 examiners for licensed practical nurses to meet the
39 objections of the legislative rule-making review com-
40 mittee and refiled in the state register on the twenty-
41 fourth day of September, one thousand nine hundred
42 ninety-one, relating to the West Virginia board of
43 examiners for licensed practical nurses (policies
44 regulating licensure of the licensed practical nurse),
45 are authorized.

46 (f) The legislative rules filed in the state register on
47 the eleventh day of July, one thousand nine hundred

48 ninety-one, modified by the West Virginia board of
49 examiners for licensed practical nurses to meet the
50 objections of the legislative rule-making review com-
51 mittee and refiled in the state register on the nine-
52 tenth day of September, one thousand nine hundred
53 ninety-one, relating to the West Virginia board of
54 examiners for licensed practical nurses (legal stan-
55 dards of nursing practice for the licensed practical
56 nurse), are authorized.

57 (g) The legislative rules filed in the state register on
58 the eleventh day of July, one thousand nine hundred
59 ninety-one, modified by the West Virginia board of
60 examiners for licensed practical nurses to meet the
61 objections of the legislative rule-making review com-
62 mittee and refiled in the state register on the nine-
63 tenth day of September, one thousand nine hundred
64 ninety-one, relating to the West Virginia board of
65 examiners for licensed practical nurses (fees for
66 services rendered by the board), are authorized.

67 (h) The legislative rules filed in the state register on
68 the eleventh day of July, one thousand nine hundred
69 ninety-one, modified by the West Virginia board of
70 examiners for licensed practical nurses to meet the
71 objections of the legislative rule-making review com-
72 mittee and refiled in the state register on the twenty-
73 fourth day of September, one thousand nine hundred
74 ninety-one, relating to the West Virginia board of
75 examiners for licensed practical nurses (continuing
76 competence), are authorized.

§64-9-20. Board of pharmacy.

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

9 (b) The legislative rules filed in the state register on
10 the twelfth day of September, one thousand nine

11 hundred eighty-nine, modified by the board of phar-
12 macy to meet the objections of the legislative rule-
13 making review committee and refiled in the state
14 register on the fifteenth day of November, one thou-
15 sand nine hundred eighty-nine, relating to the board
16 of pharmacy (board of pharmacy), are authorized.

17 (c) The legislative rules filed in the state register on
18 the sixth day of May, one thousand nine hundred
19 ninety, modified by the board of pharmacy to meet the
20 objections of the legislative rule-making review com-
21 mittee and refiled in the state register on the fifth day
22 of June, one thousand nine hundred ninety, relating to
23 the board of pharmacy (continuing education for the
24 licensure of pharmacists), are authorized.

25 (d) The legislative rules filed in the state register on
26 the eleventh day of March, one thousand nine hun-
27 dred ninety-one, modified by the board of pharmacy to
28 meet the objections of the legislative rule-making
29 review committee and refiled in the state register on
30 the twenty-fourth day of May, one thousand nine
31 hundred ninety-one, relating to the board of pharmacy
32 (computer regulations), are authorized.

33 (e) The legislative rules filed in the state register on
34 the twenty-eighth day of August, one thousand nine
35 hundred ninety-one, modified by the board of phar-
36 macy to meet the objections of the legislative rule-
37 making review committee and refiled in the state
38 register on the eighth day of January, one thousand
39 nine hundred ninety-two, relating to the board of
40 pharmacy (licensure of wholesale drug distributors),
41 are authorized.

42 (f) The legislative rules filed in the state register on
43 the twenty-eighth day of August, one thousand nine
44 hundred ninety-one, modified by the board of phar-
45 macy to meet the objections of the legislative rule-
46 making review committee and refiled in the state
47 register on the eighth day of January, one thousand
48 nine hundred ninety-two, relating to the board of
49 pharmacy (mail order house), are authorized.

§64-9-23. Real estate commission.

1 (a) The legislative rules filed in the state register on
2 the fourth day of December, one thousand nine

3 hundred eighty-nine, modified by the real estate
4 commission to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the eighth day of January, one thousand
7 nine hundred ninety, relating to the real estate
8 commission (renewal of license - continuing educa-
9 tion), are authorized.

10 (b) The legislative rules filed in the state register on
11 the twenty-fifth day of July, one thousand nine
12 hundred ninety-one, modified by the real estate
13 commission to meet the objections of the legislative
14 rule-making review committee and refiled in the state
15 register on the twenty-first day of November, one
16 thousand nine hundred ninety-one, relating to the real
17 estate commission (requirements in licensing real
18 estate brokers and salesmen and the conduct of
19 brokerage businesses), are authorized.

§64-9-24. Secretary of state.

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

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

20 (c) The legislative rules filed in the state register on
21 the first day of September, one thousand nine hun-
22 dred eighty-nine, modified by the secretary of state to

23 meet the objections of the legislative rule-making
24 review committee and refiled in the state register on
25 the twentieth day of November, one thousand nine
26 hundred eighty-nine, relating to the secretary of state
27 (West Virginia farm product lien central filing sys-
28 tem), are authorized.

29 (d) The legislative rules filed in the state register on
30 the thirteenth day of August, one thousand nine
31 hundred ninety, relating to the secretary of state
32 (guidelines for the use of nicknames and other desig-
33 nations on the ballot), are authorized.

34 (e) The legislative rules filed in the state register on
35 the fourteenth day of November, one thousand nine
36 hundred ninety, relating to the secretary of state
37 (absentee voting by military voters who are members
38 of reserve units called to active duty), are authorized.

§64-9-29. Board of accountancy.

1 The legislative rules filed in the state register on the
2 fifth day of December, one thousand nine hundred
3 ninety, modified by the board of accountancy to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 fourth day of June, one thousand nine hundred
7 ninety-one, relating to the board of accountancy
8 (professional conduct), are authorized.

§64-9-30. Board of architects.

1 The legislative rules filed in the state register on the
2 twenty-fourth day of January, one thousand nine
3 hundred ninety-one, modified by the board of archi-
4 tects to meet the objections of the legislative rule-
5 making review committee and refiled in the state
6 register on the twenty-fourth day of July, one thou-
7 sand nine hundred ninety-one, relating to the board of
8 architects (rules of the West Virginia board of archi-
9 tects), are authorized.

§64-9-31. Real estate appraiser licensing and certification board.

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

2 the eighteenth day of July, one thousand nine hun-
3 dred ninety-one, modified by the real estate appraiser
4 licensing and certification board to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the eighteenth day of
7 November, one thousand nine hundred ninety-one,
8 relating to the real estate appraiser licensing and
9 certification board (rules and regulations of the real
10 estate appraiser licensing and certification board), are
11 authorized.

12 (b) The legislative rules filed in the state register on
13 the eighteenth day of July, one thousand nine hun-
14 dred ninety-one, modified by the real estate appraiser
15 licensing and certification board to meet the objections
16 of the legislative rule-making review committee and
17 refiled in the state register on the eighteenth day of
18 November, one thousand nine hundred ninety-one,
19 relating to the real estate appraiser licensing and
20 certification board (requirements of licensure and
21 certification), are authorized.

22 (c) The legislative rules filed in the state register on
23 the eighteenth day of July, one thousand nine hun-
24 dred ninety-one, modified by the real estate appraiser
25 licensing and certification board to meet the objections
26 of the legislative rule-making review committee and
27 refiled in the state register on the eighteenth day of
28 November, one thousand nine hundred ninety-one,
29 relating to the real estate appraiser licensing and
30 certification board (renewal of licensure or certifica-
31 tion), are authorized.

§64-9-32. Board of veterinary medicine.

1 (a) The legislative rules filed in the state register on
2 the nineteenth day of August, one thousand nine
3 hundred ninety-one, modified by the board of veteri-
4 nary medicine to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the second day of January, one thousand
7 nine hundred ninety-two, relating to the board of
8 veterinary medicine (organization and operation of the
9 board), are authorized.

10 (b) The legislative rules filed in the state register on
11 the nineteenth day of August, one thousand nine
12 hundred ninety-one, modified by the board of veteri-
13 nary medicine to meet the objections of the legislative
14 rule-making review committee and refiled in the state
15 register on the second day of January, one thousand
16 nine hundred ninety-two, relating to the board of
17 veterinary medicine (schedule of fees), are authorized.

18 (c) The legislative rules filed in the state register on
19 the nineteenth day of August, one thousand nine
20 hundred ninety-one, modified by the board of veteri-
21 nary medicine to meet the objections of the legislative
22 rule-making review committee and refiled in the state
23 register on the second day of January, one thousand
24 nine hundred ninety-two, relating to the board of
25 veterinary medicine (standards of practice), are au-
26 thorized with the amendments set forth below:

27 On page eight, section 3.8., by adding a new subdi-
28 vision, designated subdivision 2, to read as follows:

29 “2) All dental surgery shall be carried out by a
30 licensed veterinarian or a veterinary assistant under
31 the supervision of a licensed veterinarian.

32 And,

33 On page eight by renumbering the remaining
34 subdivision.

35 (d) The legislative rules filed in the state register on
36 the nineteenth day of August, one thousand nine
37 hundred ninety-one, modified by the board of veteri-
38 nary medicine to meet the objections of the legislative
39 rule-making review committee and refiled in the state
40 register on the second day of January, one thousand
41 nine hundred ninety-two, relating to the board of
42 veterinary medicine (registration of veterinary techni-
43 cians), are authorized.

§64-9-33. Contractor licensing board.

1 The legislative rules filed in the state register on the
2 fourth day of October, one thousand nine hundred
3 ninety-one, modified by the contractor licensing board

4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on
6 the twenty-first day of January, one thousand nine
7 hundred ninety-two, relating to the contractor licens-
8 ing board (West Virginia contractor's licensing act),
9 are authorized with the amendment set forth below:

10 On page nine, subsection 5.3, by striking out the
11 words "of \$100.00" and inserting in lieu thereof "as
12 established by the board".

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

James Beck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell E. Holmes
.....
Clerk of the Senate

J. Donald G. Kay
.....
Clerk of the House of Delegates

Scott Swadlow
.....
President of the Senate

Robert C. Bell
.....
Speaker House of Delegates

The within *is approved* on the *1st*
day of *April*, 1992

Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/3/92

Time 10:30 am