WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1992

ENROLLED

SENATE BILL NO. 1

(By Senator [Signature])

PASSED March 14, 1992
In Effect from Passage

SECRETARY OF STATE
OFFICE OF WEST VIRGINIA
1503 CAP - 1 PM 4/40
RECEIVED
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 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 specialty 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; authoriz­
ing 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 proce­
dures commission to promulgate legislative rules relat­
ing 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 com­
mmissioner 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 the twenty-first day of October, one thousand nine hundred eighty-three, relating to the board of risk and insurance management (mine subsidence), are authorized.

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

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

(d) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred ninety-one, modified by the board of risk and insurance management to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred ninety-two, relating to the board of risk and insurance management (discontinuation of professional malpractice program), are authorized.

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

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

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

(c) The legislative rules filed in the state register on the twenty-sixth day of September, one thousand nine hundred ninety, modified by the secretary of the department of administration to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety-one, relating to the secretary of the department of admin-
(d) The legislative rules filed in the state register on the nineteenth day of June, one thousand nine hundred ninety-one, modified by the secretary of the department of administration to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of August, one thousand nine hundred ninety-one, relating to the secretary of the department of administration (reporting of state assets by financial institutions), are authorized.


(a) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (contributions), are authorized, with the amendment set forth below:

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

(b) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (gifts), are authorized, with the amendments set forth below:

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

- On page two, section four, subsection 4.1, by striking
out "$20" and inserting in lieu thereof "$25";

On page three, subsection 4.2, after the words "hotel room" by inserting a period and striking out the remainder of the sentence;

On page three, subsection 5.1, by striking out the word "unlawful" and inserting in lieu thereof "improper";

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

On page four, subsection 6.2, by striking out the word "unlawful" and inserting in lieu thereof "improper".

And,

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

(c) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (interest in public contracts), are authorized, with the amendment set forth below:

On page two, subsection 6.2, by striking out the words "complete in every particular and including the exact" and inserting in lieu thereof "including the".

(d) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state
register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (lobbying), are authorized, with the amendment set forth below:

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

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

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

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

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

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

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

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

On page two, subsection 4.2, after the word "sister" by striking out the remainder of the sentence and inserting in lieu thereof "or spouse.";
On page two, subsection 4.3, by striking out the words "close friend" and inserting in lieu thereof "cohabitating sexual partner";

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

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

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

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

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

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

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

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

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

On page four, by striking out all of subsection 6.2 and inserting in lieu thereof a new subsection 6.2, to
read as follows:

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

And,

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

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

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

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

And,

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

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

(g) The legislative rules filed in the state register on
the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics Commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of December, one thousand nine hundred ninety-one, relating to the ethics commission (employment), are authorized, with the amendments set forth below:

On page two, subsection 3.3, by striking out the words “if there is a reasonable probability that the person will be regulated. There must be” and inserting in lieu thereof “upon”;

On page two, subdivision 4.2.c, after the word “prohibition” by inserting the words “for all practical purposes”;

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

And,

On page three, by renumbering the remaining subsections.

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

§64-3-2. Division of banking.

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

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

(c) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred eighty-three, relating to the commissioner of banking (legal lending limit), are authorized.
(d) The legislative rules filed in the state register on the seventh day of November, one thousand nine hundred eighty-six, modified by the commissioner of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-six, relating to the commissioner of banking (implementing the West Virginia community reinvestment act), are authorized.

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

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

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

(h) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the fifteenth day of November, one thousand nine
hundred ninety-one, relating to the division of banking
(operation of state-chartered financial institutions in
West Virginia), are authorized.

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

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

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

§64-3-4. Division of energy.

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

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

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

Page viii, place an * in front of section 32.02.
Page ix, after section 35.04 add the following:
"*35.05 Extra Powers of the Administrator .........64."
Page 1, section 1.03 in the list of additional regula-
tions, add 35.05; in the list of revised regulations, add
32.02, 32.03 and 33.00.
Page 52, section 32.04 and section 32.05 add at the end
of (ii) the words "and (iii) definition of proration
unit."
Page 53, section 33 after the word "definitions" add
the following sentence: "The following definitions are
applicable to these regulations used for purposes of
implementing the Natural Gas Policy Act of 1978 and
are not intended to be used in any other context."
Page 55, section 33.02 (b)(16) after the word "forma-
tions" in the third lines of (i) and (ii), add the words
"for which a well has been."
Page 64, after section 35.04 add the following section:
35.05 Extra Powers of the Administrator.
"The administrator may also certify or provide a
waiver for a well located within a proration unit as
defined in 32.02 (b)(16) or any other well sought to be
certified under these regulations after notice and
hearing."
(d) The legislative rules filed in the state register on
the eleventh day of August, one thousand nine hun-
dred eighty-six, modified by the director of the
division of oil and gas of the department of energy to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the fifteenth day of December, one thousand nine
hundred eighty-six, relating to the director of the
division of oil and gas of the department of energy (oil
and gas wells and other wells), are authorized.

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

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

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

(h) The legislative rules filed in the state register on
the fourteenth day of November, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (standards for certification of coal mine electricians), are authorized with the following amendments:

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

(w) The legislative rules filed in the state register on the sixteenth day of November, one thousand nine hundred eighty-nine, modified by the division of energy to meet the objections of the legislative rule-making review committee and refiled in the state
On page 64, section 3.25(a)(2), after the words "section 18 of the Act and paragraph" by deleting the "(c)" and inserting in lieu thereof the following: "(a), (b), (c), (d), (i), (j) and (k)."

And,

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

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

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

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

On page one hundred fifty-three, section 12.2(c)(4),
after the number "(4)", by inserting the words "For permits issued after the effective date of these regulations,".

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“3.14.25. Environmental Compliance History. The chief or the director may refuse to grant any permit if he has reasonable cause to believe, as indicated by documented evidence, that the applicant, or any officer, director or manager, thereof, or shareholder owning twenty percent (20%) or more of its capital stock, beneficial or otherwise, or other person conducting or managing the affairs of the applicant or of the proposed permitted premises, in whole or part, has exhibited a pattern of violation of the environmental statutes or regulations of this State, any other state, or the federal government.”
On page 104, section 4.5.4.a, by inserting after the words "at that landfill" the following:

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

And,

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

"4.11.5. Corrective Action Program.

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

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

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

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

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

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

On page five, section 3.3, by deleting the following:

"Submitted fees are not refundable."

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

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

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

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

And,

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

"TABLE D
SCHEDULE OF ANNUAL PERMIT FEES
SEWAGE FACILITIES

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

INDUSTRIAL OR OTHER WASTE FACILITIES

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

(ii) The legislative rules filed in the state register on
the twenty-fifth day of July, one thousand nine hundred eighty-nine, modified by the director of the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (revocation of hunting and fishing licenses), are authorized.

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

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

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

(mm) The legislative rules filed in the state register on the fifteenth day of June, one thousand nine hundred ninety, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of August, one thousand nine hundred ninety, relating to the division of natural resources (underground storage tank insur-
ance trust fund), are authorized with the amendment set forth below:

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

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

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

On page four, section five, subsection 5.1, after the word "requirements" by striking out the remainder of the subsection and inserting in lieu thereof, the following:

"of Title 47, Series 37 (Underground Storage Tank Fee Assessments); Title 47, Series 36, Section 4 (Notification Requirements); and Title 47, Series 37A, Section 5 (Capitalization Fees) of the Code of State Regulations and the owner or operator presents proof of the certification to the carrier."

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

(pp) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety, modified by the division of natural resources...
resources to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-eighth day of November, one
thousand nine hundred ninety, relating to the division
of natural resources (hazardous waste management),
are authorized.

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

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

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

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

(ss) The legislative rules filed in the state register on
the first day of July, one thousand nine hundred
ninety-one, modified by the division of natural resour-
ces to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-first day of November, one
thousand nine hundred ninety-one, relating to the
division of natural resources (boating regulations), are
authorized.
(tt) The Legislature hereby authorizes and directs the division of natural resources to promulgate the legislative rule relating to water pollution control permit fee schedules, 47 CSR 26, effective the twenty-second day of April, one thousand nine hundred ninety-one, with the amendment set forth below:

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

"Provided, That if the chief determines that a facility is in substantial compliance with its existing permit, the fee is one thousand two hundred fifty dollars ($1,250.00)."

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

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

On page five, subsection 2.21 by striking out the words "and Tomlinson Run".

§64-3-15. Public energy authority.

(a) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred ninety, modified by the public energy authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of July, one thousand nine hundred ninety-one, relating to the public energy authority (establishment of rules and procedure for the exercise of the powers of eminent domain for qualified projects), are authorized.
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ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

On page 3, §3.9 shall read as follows:

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

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

And,

On page 7, §4.10.1 shall read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On page four, subsection 5.4, by striking out all of
the subsection and renumbering the subsequent subsections.

And,

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

TABLE 64-30C.

Individual On-Site and Innovative Alternative Type Sewage System Permit Fees

<table>
<thead>
<tr>
<th>Type of System</th>
<th>Fees for Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Class II (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Home Aeration Unit</td>
<td>$100</td>
</tr>
</tbody>
</table>

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

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

(uu) The legislative rules filed in the state register on the seventh day of January, one thousand nine hundred ninety-one, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine
hundred ninety-one, relating to the division of health
(fees for services), are authorized.

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

(ww) The legislative rules filed in the state register
on the second day of January, one thousand nine
hundred ninety-one, modified by the division of health
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the sixteenth day of May, one thousand nine hundred
ninety-one, relating to the division of health (emerg-
ey medical services), are authorized.

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

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

On page five, section 11.3 by striking out the period
following the word "beach" and adding the following:
"Provided, That at hotels, motels, apartment com-
plexes, or condominiums which have swimming pools
of five feet or less in depth at the deepest point,
employment of lifeguards is recommended but not
mandatory, whether or not the establishment charges
an admission fee (gate receipt, annual pass or mem-
bership dues). If no lifeguards are employed, the
management shall post a sign in a prominent location
near the swimming pool stating "SWIM AT YOUR
OWN RISK - ALL PERSONS UNDER THE AGE OF
14 MUST BE ACCOMPANIED BY AN ADULT."

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

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

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

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

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

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

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

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

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

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

And,

On page 6, section 4.2, after the words "the excess in gross outpatient revenue" by striking the period and inserting the following:
"or if any excesses in the above categories (1 through 4) have been sufficiently justified to the Authority as required in Section 4.1 of this rule."

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

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

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

(l) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred ninety, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety-one, relating to the West Virginia health care cost review authority (conversion of acute care beds to one hun-
dred skilled nursing care beds), are authorized.

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

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

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

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

On page six, subsection 4.4, after the words "Charleston newspapers", by striking out the word "and" and inserting in lieu thereof a comma;
On page six, subsection 4.4, after the words "State Register" by adding the words "and a newspaper of general circulation within the area of the facility."

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

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

And,

On page seven, subsection 4.5, after the words "decision in the Saturday Charleston newspapers", by striking out the remainder of the sentence and inserting in lieu thereof the following: ", the state register and a newspaper of general circulation within the area of the facility."

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

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

(s) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the health care cost review
authority to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the tenth day of January, one thousand
nine hundred ninety-two, relating to the health care
cost review authority (financial disclosure), are autho-
rized with the amendment set forth below:

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

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


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

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

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

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

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

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

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

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

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

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

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

On page two, paragraph 2.2.3.3, by striking out the words "two licensed inspector mechanics" and inserting 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
7 (b) The legislative rules filed in the state register on
8 the thirteenth day of August, one thousand nine
9 hundred eighty-two, relating to the alcohol beverage
10 control commissioner (lighting of licensed premises),
11 are authorized.
12
13 (c) The legislative rules filed in the state register on
14 the thirteenth day of August, one thousand nine
15 hundred eighty-two, relating to the alcohol beverage
16 control commissioner (kitchen and dining facilities),
17 are authorized.
18
19 (d) The legislative rules filed in the state register on
20 the twenty-fourth day of August, one thousand nine
21 hundred eighty-two, relating to the alcohol beverage
22 control commissioner (refusal to license private clubs),
23 are authorized with the exception of subsection (a) of
24 the rules which shall be promulgated as set forth
25 below in this section as follows:
26
27 "(a) For purposes of this regulation, the commis-
28 sioner may refuse to grant any license if he has
29 reasonable cause to believe, as indicated by docu-
30 mented evidence, that the applicant, or any officer,
31 director or manager thereof, or shareholder owning
32 twenty percent or more of its capital stock, beneficial
33 or otherwise, or other person conducting or managing
34 the affairs of the applicant or of the proposed licensed
35 premises, in whole or part:
(1) Is not a person of good moral character or repute;
(2) Has maintained a noisy, loud, disorderly or unsanitary establishment;
(3) Has demonstrated, either by his police record or by his record as former licensee under chapter sixty or chapter eleven, article sixteen of the West Virginia code, a lack of respect for law and order, generally, or for the laws and rules governing the sale and distribution of alcoholic beverages or nonintoxicating beer;
(4) Has the general reputation of drinking alcoholic beverages to excess, or is addicted to the use of narcotics; or
(5) Has misrepresented a material fact in applying to the commissioner for a license.

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

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

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

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

(7) Has been adjudicated an incompetent;

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

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

(e) The legislative rules filed in the state register on the first day of August, one thousand nine hundred ninety, modified by the alcohol beverage control commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of October, one thousand nine hundred ninety, relating to the alcohol beverage control commissioner (retail licensee operations), are authorized with the amendment set forth below:

On page twelve, section four, subsection 4.8.1, after the word "stored" by changing the period to a colon and adding the following: "Provided, That the commissioner may, for good cause shown, permit a retail licensee holding three or more private club licenses to receive and store alcoholic liquors at warehouses or sites off premises."

(f) The legislative rules filed in the state register on the first day of August, one thousand nine hundred ninety, modified by the alcohol beverage control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one
thousand nine hundred ninety, relating to the alcohol
beverage control commissioner (licensing of retail
liquor stores), are authorized.

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

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

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

(j) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the alcohol beverage control
commissioner to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-third day of October, one
thousand nine hundred ninety, relating to the alcohol
beverage control commissioner (retail sale of wine in
grocery stores, wine specialty shops and private wine
restaurants), are authorized.
(k) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, relating to the alcohol beverage control commission (retail sale of wine in grocery stores, wine speciality shops and private wine restaurants), are authorized.

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

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

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

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

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

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

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

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

(h) The legislative rules filed in the state register on the second day of February, one thousand nine hundred ninety, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-ninth day of May, one thousand nine hundred ninety, relating to the insurance commissioner (accident and sickness rate filing), are authorized.

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

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred
ninety, modified by the insurance commissioner to
meet the objections of the legislative rule-making
review committee and refiled in the state register on
the seventeenth day of January, one thousand nine
hundred ninety-one, relating to the insurance commis-
sioner (AIDS regulations), are authorized.

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

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

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

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

(o) The legislative rules filed in the state register on
the twelfth day of August, one thousand nine hundred
ninety-one, modified by the insurance commissioner
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the thirteenth day of January, one thousand nine
hundred ninety-two, relating to the insurance commis-
sioner ("tail" malpractice insurance covering certain
medical and allied health care providers), are
authorized.

§64-7-3. Board of investments.

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

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

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

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

(e) The legislative rules filed in the state register on
the thirtieth day of November, one thousand nine
hundred ninety, modified by the state board of invest-
ments to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventeenth day of May, one thousand
nine hundred ninety-one, relating to the state board of
investments (establishment of imprest funds), are
authorized.

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

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

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

(i) The legislative rules filed in the state register on
the thirtieth day of November, one thousand nine
hundred ninety, modified by the state board of invest-
ments to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (administration of the consolidated fund by the West Virginia state board of investments), are authorized.

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

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

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

§64-7-5. Racing commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) The legislative rules filed in the state register on the twenty-fifth day of September, one thousand nine hundred eighty-four, relating to the West Virginia racing commission (thoroughbred racing — Rule 843), are authorized.
(r) The legislative rules filed in the state register on the sixth day of August, one thousand nine hundred eighty-four, relating to the West Virginia racing commission (greyhound racing — Rule 845-I), are authorized.

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

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

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

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

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

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

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

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

(y) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred
ninety, modified by the West Virginia racing commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred ninety-one, relating to the West Virginia racing commission (thoroughbred racing), are authorized.

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

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

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

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

§64-7-6. Tax department.

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

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

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

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

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

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

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

On page 73, section 11.06(h) by striking the symbol and figures "$5.00" and inserting in lieu the following:
On page 81, section 11.07(e)(15)(B)(4) at the end of the second sentence remove the period after the word "property" and insert the words "unless the land is used for some other purpose in which case it will be taxed according to its actual use."

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

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

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

And,

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 10.17, Section 10.05(b)(11), first sentence; following the word "sales" insert the words "for nonfarm uses."
Page 10.17, Section 10.05(b)(12)(A); following the words "part of" insert the words "or appurtenant to."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

(e) The legislative rules filed in the state register on the twenty-second day of May, one thousand nine hundred eighty-five, relating to the state tax commissioner (rules governing the operation of a statewide electronic data processing system network, to facilitate administration of the ad valorem property tax on real and personal property), are authorized.
(f) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, relating to the state tax commissioner (listing of interests in natural resources for the first statewide reappraisal; provision for penalties), are authorized.

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

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

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

"18.3.1 Who May Request Review. — The property owner, Tax Commissioner, protestor or intervenor may request the county commission to certify the evidence and remove and return the record to the circuit court of the county on a writ of certiorari. Parties to the proceeding wherein review by the circuit court is sought shall pay costs and fees as they are incurred: Provided, That the circuit court upon rendering judgment or making any order may award costs to any party in accordance with the provisions of W. Va. Code §53-3-5."
(i) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (administrative review of appraisals by the state tax commissioner), are authorized.

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

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

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

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

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

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

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

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

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

(t) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred eighty-eight, modified by the state tax commissioner to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-first day of September, one thousand nine hundred eighty-eight, relating to the state tax commissioner (solid waste assessment fee), are authorized.

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

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

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

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

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

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

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

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

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

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

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

(hh) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred ninety, modified by the state tax commis-
sioner to meet the objections of the legislative rule-
make review committee and refiled in the state
register on the twenty-sixth day of April, one thou-
sand nine hundred ninety-one, relating to the state tax
commissioner (valuation of timberland and managed
timberland), are authorized.

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

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

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

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

And,

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

(II) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (soft drinks tax), are authorized with the amendments set forth below:

On page six, subsection 5.2, in the section heading, by striking out the word “breakfast” and inserting in lieu thereof “certain bottled”;

And,

On page six, subsection 5.2, after the word “mixes” by inserting the words “low-alcoholic brewed beverages such as near beer.”

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

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

(nn) The legislative rules filed in the state register on the eighteenth day of June, one thousand nine hundred ninety-one, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the state tax commissioner (appraisal of producing and reserve oil and natural gas property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized.

(oo) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the state tax commissioner to
meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the state tax commissioner (severance tax), are authorized.

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

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

(rr) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making committee and refiled in the state register on the thirteenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (consumers sales and service tax and use tax), are authorized with the amendments set forth below:

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

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

On page forty-five, paragraph 8.1.1.1, after the words “licensed social workers”, by inserting “enrolled agents, professional foresters,”;

On page forty-five, paragraph 8.1.1.1, after the word
“electricians”, by striking out the words “enrolled agents”;  

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

§64-8-2. Division of motor vehicles.

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

(m) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-one, modified by the division of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of September, one thousand nine hundred ninety-one, relating to the division of motor vehicles (denial, suspension, revocation or nonrenewal of driving privileges), are authorized with the amendment set forth below:

“On page nine, after the words “Following too closely 3”, by striking out the number “3” and inserting in lieu thereof the number “2”.

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the commissioner of agriculture to
meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of October, one thousand nine hundred ninety, relating to the commissioner of agriculture (agricultural liming materials), are authorized.

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

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

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

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

"3.4. The commissioner will not assess a tonnage fee on any commercial feed or feed ingredients used in the manufacture of poultry contract feed."

On page five, after subsection 4.3.m., by adding a new subsection, designated subsection 4.3.n., to read as follows:
"4.3.n. The commissioner will consider poultry contract feed to be customer-formula feed.";
And,
On page eight, after subsection 5.5., by adding a new subsection, designated subsection 5.6., to read as follows:
"5.6. Poultry contract feed labels shall conform to the requirements of West Virginia Code §19-14-8d, except that:
5.6.a. the name of the grower or feeder will substitute for the requirements for the name of the purchaser; and,
5.6.b. the net weight (avoirdupois) of the commercial feed and each feed ingredient used in the feed shall not be required to be listed."
(y) The legislative rules filed in the state register on the fourth day of June, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of August, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (wood destroying insect treatment standards), are authorized.
(z) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of April, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (fee structure for the pesticide control act of 1990), are authorized.
(aa) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state
register on the twelfth day of November, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (animal disease control), are authorized.

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

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

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

(ee) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (assessment of civil penalties and procedures for consent agreements and negotiated settlements), are authorized.
(ff) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (aerial application of herbicides to rights-of-way), are authorized.

(gg) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (frozen desserts and imitation frozen desserts), are authorized, with the amendment set forth below:

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


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

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

15.3. Whenever one of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded, the commissioner shall send a written "First Notice" to the manufacturer or distributor..."
whichever is appropriate. This notice shall notify the manufacturer or distributor of the violation of W. Va. Code §19-11B-1 et seq. or of these rules and the enforcement policy established by this section of the rule.

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

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

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

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

15.6. The commissioner will issue a "Shut-down Order" for a period of 24 hours to a manufacturer or distributor when the record of the firm indicates that effective action has not been taken to correct the causes of the violations, for instance when three out of the last five samples from the same machine are violative. The "Shut-down Order" will normally be issued with the "Third Notice". The "Shut-down Order" will give the reasons for the order, state the portion of the manufacturing or distributing operation that is prohibited from operating while the order is in effect, give conditions of the order, state the length of
time that the Shut-down Order will be in effect and specify a time and place for a hearing to be held in this matter. Except that in the case where the public health, safety or welfare is at risk, the commissioner will issue an immediate Shut-down Order and give notice to the manufacturer or distributor under the provisions of subdivision 15.6.a. of this rule.

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

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

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

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

15.7.b. A suspension of the Frozen Desserts Manufacturer Permit remains in effect until the manufacturer
submits and the commissioner accepts a written plan of correction and a request for a reinstatement of the permit.

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

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

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

15.10. Whenever an antibiotic or pesticide residue test is found to be above tolerance, the commissioner shall notify the manufacturer and/or distributor immediately of this fact and shall begin an investigation to determine the cause of the residue. The commissioner shall require that any person found to be responsible for the residue shall correct the cause of the residue prior to the resumption of the manufacturing or distribution of the product.

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

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

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

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

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

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

15.14.c. Other resamples may be considered necessary to determine that the nonviolative status is being maintained."

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

(ii) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-fourth day of September, one
thousand nine hundred ninety-one, relating to the
commissioner of agriculture (disposal of dead poultry),
are authorized with the amendments set forth below:

On page two, section two, by adding a new subsec-
tion to read as follows:

“2.8 ‘Disposal pit’ means an opening dug in the
ground to a minimum depth of six feet, containing a
minimum capacity of 150 cubic feet, covered with a
minimum of 12 inches of dirt, and provided with one
or more openings for the introduction of poultry. The
openings shall be a minimum size of eight inches
square and equipped with tight lids. A disposal pit
shall be located in a site which will prevent contam-
ination of the groundwater or the surface water. This
site should conform to the standards established in this
rule.”

On page two, subsection 3.1, after the word “incin-
erator,” by adding the words “disposal pit,”

And,

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

“61-1C-4. Standards for Site Location for Disposal
Pits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

And,

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

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

(g) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (licensing of schools of barber-
ing and beauty culture), are authorized with the amendment set forth below:

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

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

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

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

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

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

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

"§3-6-14. Repeal of rule — This rule will automatically be repealed on July 1, 1992, unless extended prior to that date by an act of the Legislature."
(j) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the board of barbers and beauti-
cians to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventh day of December, one thou-
sand nine hundred ninety, relating to the board of
barbers and beauticians (curriculum and minimum
requirements, subjects and hour schedule, rules and
regulations for schools of beauty culture operation in
West Virginia; joint barbers and beauticians license),
are authorized with the amendment set forth below:

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

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

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

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

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

(l) The legislative rules filed in the state register on
the thirteenth day of August, one thousand nine
hundred ninety-one, modified by the board of barbers
and beauticians to meet the objections of the legisla-
tive rule-making review committee and refiled in the
state register on the thirty-first day of December, one
thousand nine hundred ninety-one, relating to the
board of barbers and beauticians (procedures, criteria
and curricula for examination and licensure of
barbers, beauticians and manicurists), are authorized.

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

On page one, subsection 2.14. by striking out “$5.00”
and inserting in lieu thereof “$10.00”.

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

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

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

(q) The legislative rules filed in the state register on
the thirteenth day of August, one thousand nine
hundred ninety-one, modified by the board of barbers
and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of December, one thousand nine hundred ninety-one, relating to the board of barbers and beauticians (qualifications, training, examination and licensing of instructors in 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 the twentieth day of March, one thousand nine hundred eighty-nine, modified by the West Virginia board of examiners in counseling to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of September, one thousand nine hundred eighty-nine, relating to the West Virginia board of examiners in counseling (licensing), are authorized.

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

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

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

On page 1, by striking out subsection 2.2.4;

On page 1, by striking out section 3;

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

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

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

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

On page 7, by striking out section 7.3.5;

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

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

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

On page 8, section 8.1 by striking out the words "in
the event that a warrantless arrest for a misdemeanor
is authorized";
On page 8, section 8.1 by striking out the word "If" from the sentence "If a warrant is necessary";

On page 9, by adding the following:

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

9.1.5 Provide transportation for or facilitate transportation of the victim or victims upon the request of such victim or victims to a shelter or the appropriate court where there is reasonable cause to believe that such victim or victims have suffered or are likely to suffer physical injury."

On page 10, section 10.7.1 by striking out the words "should arrest the assailant upon probable cause to believe that a crime has been committed" and inserting in lieu thereof the following "should arrest the assailant if the officer observes the commission of a crime";

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

And,

On page 11, section 11.3 by striking out the remainder of section 11.3 beginning with the words "the condition may include".

§64-9-16. Board of medicine.

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

"§24.12.
(b) It shall be the responsibility of the supervising physician to obtain consent in writing from the patient before Type A physician assistants employed in a satellite clinic may render general medical or surgical services, except in emergencies.

§24.16.

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

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

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

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

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

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

And,

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

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

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

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

(f) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the board of medicine to meet the
objections of the legislative rule-making review com-
96mittee and refiled in the state register on the first day
97of October, one thousand nine hundred ninety, relat-
98ing to the board of medicine (fees for services ren-
99dered by the board of medicine), are authorized.

90(g) The legislative rules filed in the state register on
91the tenth day of August, one thousand nine hundred
92ninety, modified by the board of medicine to meet the
93objections of the legislative rule-making review com-
94mittee and refiled in the state register on the eleventh
95day of January, one thousand nine hundred ninety-
96one, relating to the board of medicine (licensing, and
97disciplinary and complaint procedures: physicians;
98podiatrists), are authorized.

99(h) The legislative rules filed in the state register on
100the tenth day of August, one thousand nine hundred
101ninety, modified by the board of medicine to meet the
102objections of the legislative rule-making review com-
103mittee and refiled in the state register on the eleventh
104day of January, one thousand nine hundred ninety-
105one, relating to the board of medicine (certification,
106disciplinary and complaint procedures: physician
107assistants), are authorized.

108(i) The legislative rules filed in the state register on
109the tenth day of July, one thousand nine hundred
110ninety-one, modified by the board of medicine to meet
111the objections of the legislative rule-making review
112committee and refiled in the state register on the third
113day of September, one thousand nine hundred ninety-
114one, relating to the board of medicine (continuing
115education for physicians and podiatrists), are
116authorized.

§64-9-17. West Virginia board of examiners for licensed
practical nurses.

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

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

(d) The legislative rules filed in the state register on the eleventh day of July, one thousand nine hundred ninety-one, modified by the West Virginia board of examiners for licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the West Virginia board of examiners for licensed practical nurses (policies and procedures for development and maintenance of educational programs in practical nursing), are authorized.

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

(f) The legislative rules filed in the state register on the eleventh day of July, one thousand nine hundred
ninety-one, modified by the West Virginia board of
examiners for licensed practical nurses to meet the
objections of the legislative rule-making review com-
mittee and refiled in the state register on the nine-
teenth day of September, one thousand nine hundred
ninety-one, relating to the West Virginia board of
examiners for licensed practical nurses (legal stan-
dards of nursing practice for the licensed practical
nurse), are authorized.

(g) The legislative rules filed in the state register on
the eleventh day of July, one thousand nine hundred
ninety-one, modified by the West Virginia board of
examiners for licensed practical nurses to meet the
objections of the legislative rule-making review com-
mittee and refiled in the state register on the nine-
teenth day of September, one thousand nine hundred
ninety-one, relating to the West Virginia board of
examiners for licensed practical nurses (fees for
services rendered by the board), are authorized.

(h) The legislative rules filed in the state register on
the eleventh day of July, one thousand nine hundred
ninety-one, modified by the West Virginia board of
examiners for licensed practical nurses to meet the
objections of the legislative rule-making review com-
mittee and refiled in the state register on the twenty-
fourth day of September, one thousand nine hundred
ninety-one, relating to the West Virginia board of
examiners for licensed practical nurses (continuing
competence), are authorized.

§64-9-20. Board of pharmacy.

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

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

(c) The legislative rules filed in the state register on the sixth day of May, one thousand nine hundred ninety, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of June, one thousand nine hundred ninety, relating to the board of pharmacy (continuing education for the licensure of pharmacists), are authorized.

(d) The legislative rules filed in the state register on the eleventh day of March, one thousand nine hundred ninety-one, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of May, one thousand nine hundred ninety-one, relating to the board of pharmacy (computer regulations), are authorized.

(e) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-one, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety-two, relating to the board of pharmacy (licensure of wholesale drug distributors), are authorized.

(f) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-one, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety-two, relating to the board of pharmacy (mail order house), are authorized.

§64-9-23. Real estate commission.

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

(b) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred ninety-one, modified by the real estate commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of November, one thousand nine hundred ninety-one, relating to the real estate commission (requirements in licensing real estate brokers and salesmen and the conduct of brokerage businesses), are authorized.


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

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

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

(d) The legislative rules filed in the state register on
the thirteenth day of August, one thousand nine
hundred ninety, relating to the secretary of state
(guidelines for the use of nicknames and other desig-
nations on the ballot), are authorized.

(e) The legislative rules filed in the state register on
the fourteenth day of November, one thousand nine
hundred ninety, relating to the secretary of state
(absentee voting by military voters who are members
of reserve units called to active duty), are authorized.

§64-9-29. Board of accountancy.

The legislative rules filed in the state register on the
fifth day of December, one thousand nine hundred
ninety, modified by the board of accountancy to meet
the objections of the legislative rule-making review
committee and refiled in the state register on the
fourth day of June, one thousand nine hundred
ninety-one, relating to the board of accountancy
(professional conduct), are authorized.

§64-9-30. Board of architects.

The legislative rules filed in the state register on the
twenty-fourth day of January, one thousand nine
hundred ninety-one, modified by the board of archi-
tects to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the twenty-fourth day of July, one thou-
sand nine hundred ninety-one, relating to the board of
architects (rules of the West Virginia board of archi-
tects), are authorized.

§64-9-31. Real estate appraiser licensing and certification
board.

(a) The legislative rules filed in the state register on
the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (rules and regulations of the real estate appraiser licensing and certification board), are authorized.

(b) The legislative rules filed in the state register on the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (requirements of licensure and certification), are authorized.

(c) The legislative rules filed in the state register on the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (renewal of licensure or certification), are authorized.

§64-9-32. Board of veterinary medicine.

(a) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred ninety-one, modified by the board of veterinary medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of January, one thousand nine hundred ninety-two, relating to the board of veterinary medicine (organization and operation of the board), are authorized.
(b) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred ninety-one, modified by the board of veterinary medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of January, one thousand nine hundred ninety-two, relating to the board of veterinary medicine (schedule of fees), are authorized.

(c) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred ninety-one, modified by the board of veterinary medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of January, one thousand nine hundred ninety-two, relating to the board of veterinary medicine (standards of practice), are authorized with the amendments set forth below:

On page eight, section 3.8., by adding a new subdivision, designated subdivision 2, to read as follows:

2) All dental surgery shall be carried out by a licensed veterinarian or a veterinary assistant under the supervision of a licensed veterinarian.

And,

On page eight by renumbering the remaining subdivision.

(d) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred ninety-one, modified by the board of veterinary medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of January, one thousand nine hundred ninety-two, relating to the board of veterinary medicine (registration of veterinary technicians), are authorized.

§64-9-33. Contractor licensing board.

The legislative rules filed in the state register on the fourth day of October, one thousand nine hundred ninety-one, modified by the contractor licensing board
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twenty-first day of January, one thousand nine
hundred ninety-two, relating to the contractor licens-
ing board (West Virginia contractor's licensing act),
are authorized with the amendment set forth below:

On page nine, subsection 5.3, by striking out the
words "of $100.00" and inserting in lieu thereof "as
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 H. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Donald G. Lampp
Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved to the 1st day of April, 1992.

Governor