JUNE

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

MONDAY, JUNE 28, 1993 - 11:00 A.M. - 12:00 NOON

SENATE FINANCE COMMITTEE ROOM - M-451

1. Approval of Minutes - Meetings February 8, 1993

2. Review of Legislative Rules:

   a. Administration, Department of
      Use of Domestic Aluminum, Glass or Steel Produces in Public Works Projects

   b. Administration, Department of
      Collection of Claims Due the State

   c. Agriculture, Commissioner of
      Animal Disease Control

   d. Health, Board of
      Public Water Systems

   e. Real Estate Appraiser Licensing & Certification Board
      Requirements for Licensure and Certification

   f. Embalmers and Funeral Directors, Board of
      Rules of the WV Board of Embalmers and Funeral Directors

3. Other Business:

Monday, June 28, 1993

11:00 a.m. - 12:00 p.m. **Legislative Rule-Making Review Committee (Code §29A-3-10)**

Keith Burdette ex officio nonvoting member	Robert "Chuck" Chambers, ex officio nonvoting member
Senate	**House**
Manchin, Chairman	Gallagher, Chairman
Grubb (absent)	Douglas
Anderson	Compton (absent)
Macnaughtan (absent)	Huntwork
Minard	Burk
Boley	Faircloth

The meeting was called to order by Mr. Gallagher, Co-Chairman.

The minutes of the February 8, 1993, meetings were approved.

Marjorie Martorella, Counsel to the House Committee on Government Organization, reviewed the rule proposed by the Department of Administration, Use of Domestic Aluminum, Glass or Steel Produces in Public Works Projects, and stated that the Department and counsel would be able to agree to several technical modifications. Diana Stout, General Counsel, of the Department of Administration, responded to questions from the Committee.

Mr. Manchin moved that the proposed rule be approved, as modified. The motion was adopted.

Ms. Martorella reviewed the rule proposed by the Department of Administration, Collection of Claims Due the State, and stated that in her opinion that the proposed rule exceeds the Department's scope of authority, but that should the Committee approve the proposed rule, it needs modifications.

Ms. Boley moved that the Committee request that the Department withdraw the proposed rule. The motion was adopted.

Debra Graham, Committee Counsel reviewed her abstract on the rule proposed by the Commissioner of Agriculture, Animal Disease Control, and stated that the Department has agreed to minor technical modifications and that the Department is also requesting several additional modifications to bring the proposed rule into conformity with current federal law.

Mr. Anderson moved that the proposed rule be approved, as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Board of Health, Public Water Systems, and stated that the Board has agreed to several minor technical modifications. Kay Howard, Division of Regulatory Services, responded to questions from the Committee.

Ms. Douglas moved that the proposed rule be approved, as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the Real Estate Appraiser Licensing & Certification Board, Requirements for Licensure and Certification, and stated that the Board has agreed to modifications. Si Galperin, Executive Director of the Board, explained the proposed modifications and answered questions from the Committee.

Ms. Douglas moved that the proposed modifications to the proposed rule be approved with the word "voluntary" deleted from Section 13.1. The motion was adopted.

Mr. Manchin moved that the proposed rule be approved, as modified. The motion was adopted.

Mr. Gallagher reviewed the West Virginia Supreme Court's decision in Kincaid v. Mangum. He asked that George Carenbauer, Counsel for the Defendants, be permitted to address the Committee regarding the decision. Mr. Carenbauer addressed the Committee and distributed a memorandum on the effect of the decision and ideas for change. Ms. Martorella distributed a copy of a memorandum which she sent to the co-chairmen and Mike Mowery, Counsel of the House Judiciary Committee, made several suggestions to the Committee.

Mr. Manchin moved that the Committee request that the Joint Committee on Government and Finance appoint a committee to study the issue and make recommendations to this Committee and the Legislature.

Mr. Gallagher stated that the rule proposed by the Board of Embalmers and Funeral Directors, Rules of the Board of Embalmers and Funeral Directors, will be laid over until the Committee's next meeting.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: June 28, 1993

TIME: 11:00 am - 12:00 Noon

NAME	Present	Absent	Yeas	Nays
Chambers, Robert "Chuck", Speaker				
Brian Gallagher, Co-Chair	✓			
Burk, Robert W., Jr.	✓			
Faircloth, Larry V.	✓			
Douglas, Vickie	✓			
Compton, Mary P.		✓		
Huntwork, John	✓			
Burdette, Keith, President				
Joe Manchin, III Co-Chair	✓			
Anderson, Leonard	✓			
Grubb, David		✓		
Minard, Joseph	✓			
Macnaughtan, Don		✓		
Boley, Donna	✓			
TOTAL				

RE: _____

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REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review Com. DATE: June 28, 1993

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
DIANA STOUT		DEPT. OF ADMINISTRATION	
JOHN DALPORTO		ATT GEN	
LEW THOMAS		DEPT OF AGRICULT	
BILL HEALTH		" " HEALTH	
FRANK LAMBERT		" " "	
Ray Howard	Charleston	Health & Hum Resources	
Bob Whitlow	Charleston	WVHA	
ED CORRIN	CLARKSBURG	HOPE GAS INC	
HE MELTON	Beckley	Board of Engineers & F.D.	
Si Galperin	Charleston	WV. Appraiser Board	X
Stephanie Ball	Charleston	WV Appraisers Board	
George Rider	Charleston	WVSMA	

LS-C-66-1a

Dist June 28 meeting
Bd-Real Estate Appraisers etc.

§190-2-13. APPRENTICE PERMITS

13.1. This section establishes a ~~voluntary~~ real estate appraiser apprentice program for persons who desire to acquire the two thousand (2,000) hours of appraisal experience required by subdivisions 7.2.1. and 8.2.1 of this rule in order to be licensed or certified.

A person does not have to participate in the apprentice program in order to become licensed or certified. Those who do not participate, however, must still submit documentation showing they have obtained the required two thousand (2,000) hours of appraisal experience.

13.2. Application for apprentice permit; requirements and qualifications.

The applicant for an apprentice permit shall submit, with the completed application form, a $100.00 annual permit fee, and the name and address of his or her supervising appraiser. The applicant shall meet the following qualifications:

a. The applicant is at least eighteen (18) years of age;

b. The applicant has a good reputation for honesty and truthfulness as required by Subdivisions 6.1.1 and 6.1.4 of this rule;

c. The applicant has a high school diploma or its equivalent; and

d. The applicant has successfully completed seventy-five (75) classroom hours in subjects related to real estate appraisal in accordance with Subsection 7.1 of this rule.

13.3. Annual Apprentice Permit Renewal

An apprentice may renew his or her annual permit, four (4) times only, upon submission to the Board of a renewal application,the annual permit fee of $100.00, an experience log in the form as provided by the Board, and proof of ten (10) hours of continuing education as defined in the Rule of the Board titled "Renewal of Licensure or Certification", 190 C.S.R. 3.

13.4. Responsibilities of Apprentice

The holder of a real estate appraiser apprentice permit issued by the Board shall have the following duties and responsibilities;

1. The apprentice shall work under the direct supervision of a state licensed or state certified real estate

independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice, this rule and applicable statutory requirements.

2. The supervisor shall, at least once a month, sign the experience log required to be kept by the apprentice and shall indicate his or her license or certification number.

3. The supervisor shall make available to the apprentice, a copy of any appraisal report that the apprentice signed that is requested for review by the Board.

4. After the apprentice successfully completes the licensing examination required by Section 7.3 of this rule and has obtained five hundred (500) hours of experience, the supervisor and the apprentice may jointly apply to the Board for an exemption that would allow the supervisor to sign an appraisal report without viewing the property, provided the apprentice is competent to perform the inspection.

13.6. An apprentice may take the licensing examination required by Section 7.3 of this rule at any time.

13.7. This rule is not intended to prohibit a person who does not have an apprentice permit from assisting or helping a licensed or certified appraiser as long as that person does not sign the report, Provided: The licensed or certified appraiser who uses such an assistant or helper shall conform with the duties and responsibilities as required in Subsection 13.5.1 of this rule.

8.2.3 A licensed or certified residential appraiser may accumulate experience hours by assisting in the appraisal of non-residential property valued over $100,000. He or she must:

1. work under the direct supervision of a state certified general real estate appraiser; and
2. view the property and participate in the appraisal process in order to sign the report and receive credit for the hours spent.

For purposes of this section, **DIRECT SUPERVISION** means that the state certified general appraiser must:

a. personally view with the residential appraiser the interior and exterior of each piece of property appraised;
b. personally review each appraisal report prepared by the residential appraiser;
c. assign work to the residential appraiser only if he or she is competent to perform the work;
d. accept full responsibility for the report; and
e. approve and sign the report as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice, this rule and applicable statutory requirements.

Dist June 29 meeting File

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WRITER'S DIRECT DIAL NUMBER

353-8130

June 28, 1993

TO: Legislative Rulemaking Review Committee

FROM: George Carenbauer

RE: Effect of Kincaid Case And Ideas for Change

The West Virginia Supreme Court of Appeals on June 10 issued a unanimous opinion in the case of Kincaid v. Mangum, No. 21505, that:

- Bans the use of an "omnibus" bill to authorize legislative rules promulgated by agencies

- Permits the grouping of various rules in a single bill if:

  - there is a "reasonable basis" for doing so; and

  - the grouping will not lead to "logrolling" or other deceiving tactics; "logrolling" means the combining in one bill of items that might not obtain the support of a majority of the Legislature on their own.

- The Court also said that "...each agencies' (sic) proposed set of rules and regulations should have a separate bill number and should include the entire text of the rules and regulations." [Emphasis added.]

Because the Court believes that retroactive interpretation of its ruling "would excessively burden the government's ability to carry out its functions", the Court made its ruling prospective only. (Perhaps not coincidentally, the Court's decision came one day after Governor Caperton signed House Bill No. 100, the omnibus rules bill for 1993.)

BACKGROUND

In 1981, the West Virginia Supreme Court issued an opinion finding unconstitutional the previous mechanism for legislative review of agency rules and regulations, by which the Legislative Rulemaking Review Committee could veto the rules on its own without involvement of the whole Legislature. In response, the Legislature rewrote the law, and required so-called "legislative" rules to be approved in legislation enacted by the full Legislature. The statute requires a separate bill to be prepared to be *introduced* for each rule, and this is done. But since the first year under the new system -- 1983 -- the Legislature has established the practice of consolidating all the "rules" bills into one "omnibus" bill before final passage, usually towards the end of the regular session. The general text of the rules is not printed in either the individual or omnibus rules bill, and reference is made to the text in the Secretary of State's office by the date on which it was filed. However, the omnibus rules bill did not merely rubber stamp the text of the rules on file with the Secretary of State, but also made amendments to some. The resulting text was dense and convoluted.[1]

In the Kincaid case, inmates at the Raleigh County Jail maintained that their conditions violated the Minimum Jail Standards rule that had been approved by the Legislature in an omnibus rules bill in 1988 and brought suit against the sheriff and county commission. We represented the defendants and contended that the rule was unconstitutional because it had been approved in an omnibus bill, principally on the grounds that it violated the Constitutional requirement that no act of the Legislature may embrace more than one object. The Court agreed with our argument that use of an omnibus rules bill violates the "one object" clause, although it made the ruling prospective only because it could invalidate hundreds of existing rules.

Ironically, the Minimum Jail Standards rule was amended in the 1993 omnibus rules bill, House Bill 100, approved by the Governor the day before the Kincaid ruling, to provide that the standards should serve only as guidelines for facilities such as the Raleigh County jail that were in operation prior to April 5, 1988, the date on which the rule originally went into effect.

POTENTIAL AREAS OF CHANGE

The Supreme Court's ruling in Kincaid means that the Legislature will have to make certain changes in the rulemaking process. It also provides impetus to the Legislature, the

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[1] For example, a rule relating to preneed burial contracts was referred to in the omnibus bill in part as follows: "The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of November, one thousand nine hundred eighty-seven, relating to the attorney general (administration of preneed burial contracts) are authorized with the following amendments set forth below: On page 9, section 8.2 by striking the word "within thirty days after the death of a contract beneficiary,' and inserting in lieu thereof the following: 'On or before the first day of January and the first day of July of each year...'"

Governor, the Secretary of State and others to review the entire process and to consider reforms that would assist the public and the government in the formulation and understanding of rules, before and after promulgation. Such reforms might include:

GROUPING OF RULES IN AUTHORIZATION BILLS

As discussed within, the Kincaid decision permits the grouping of rules in bills when this is reasonable and will not lead to logrolling or other deceiving tactics. Some possible groupings include:

- **By Agency.** The Court in Kincaid appears to suggest this grouping, even though it may not be the best way to link items that are germane to another or to prevent "logrolling" or deceit. The Court said -- but perhaps not as part of its holding -- that each agency's set of rules should have a separate bill number. This is remarkable, because under current law, each rule -- not simply each set of rules -- is introduced with a separate bill number, but the practice has been to consolidate all the bills into one toward the end of the session.

- **By Topic.** Another possible grouping would be all rules affecting a certain topic, such as all health related bills. However, as with all rules initiated by a single agency, these rules may actually have less in common that rules that cross traditional topical lines, such as rules relating to groundwater protection, which involve both agriculture and natural resources.

- **By Underlying Legislation.** This would group rules issued by agencies pursuant to a single piece of legislation enacted earlier. For example, the massive environmental bill, S.B. 18, enacted in late 1991, resulted in rules issued by several different agencies. Approval and amendment of these rules -- promulgated by several different agencies -- could conceivably be approved in a single bill.

PRINTING OF TEXT OF RULES IN BILL AND CODE

Under current law, the text of a rule is not included in the rules bills considered by the Legislature, and reference is made instead to the text of the rule on file in the Secretary of State's office. To ensure that there would be some reference to the rules in the West Virginia Code, the rules bills places these references in Chapter 64 of the West Virginia Code. Following enactment of the rules bill, the agency issues a rule in final form, and the text of the rule is published by the Secretary of State in the Code of State Rules. This is a different document than the West Virginia Code containing statutes, and published by the Michie's Corporation.

The Supreme Court in Kincaid appears to require the text of a rule to appear in the bill considered by the Legislature, but is silent with respect to what must be printed in the West Virginia Code. Although most bills are published in the West Virginia Code, this is not a universal requirement. For example, neither the budget bill nor so-called "local" bills are published in the West Virginia Code. Therefore, it may be sufficient to continue to reference rules only in Chapter 64 of the Code, but will be necessary to print the text in the authorization bill considered by the Legislature. To reduce printing costs, the Legislature may want to examine ways to minimize the number of times that each bill must be printed, and to explore the possibilities of electronic distribution of the text.

COMMITTEES OF JURISDICTION AND REVIEW

Since 1983, the Legislature has made a practice of considering rules by legislative committees as follows:

- By the Legislative Rulemaking Review Committee during the interim

- By relevant standing committees (e.g., Health, Natural Resources, etc.) once an authorization bill is introduced

- By the Judiciary Committee of each House, principally to consolidate the several authorization bills into an omnibus bill

The Court's ruling in Kincaid, banning the use of an omnibus rules bill, appears to eliminate the role of the Judiciary Committees.

To minimize the duplication of effort involved in referring rules to the Legislative Rulemaking Review Committee during the interim and then to a standing committee during the session, the Legislature may want to consider restructuring the Committee. One possibility would be to appoint key members of the several standing committees to the Rulemaking Review Committee, and then to divide the Committee into topical subcommittees along the lines of the standing committees. If this were done, the standing committees could easily dispose of the authorization bills during the session, because members would already be familiar with the proposed rules. Such a reform would also mean that the Legislative Rulemaking Review Committee would be more familiar with how the proposed rule squares with the underlying legislation that went through the relevant standing committee in previous sessions of the Legislature.

CLEARER IDENTIFICATION OF RULES

There are several possible reforms that could help the public identify rules, ranging from very simple changes to those that are more ambitious.

- **Provide Cross Reference to Rules in West Virginia Code**

Currently, there is no reference or annotation to a promulgated rule in an underlying statute as published by Michie's in the West Virginia Code.

For example, West Virginia Code 31-20-9, requiring the Jail Standards Commission to promulgate rules on minimum jail standards, contains no annotation to the rule, 95 CSR 1, that was promulgated in 1988 and amended in 1989. Although agencies are required to identify the underlying statute for the promulgation of rules, the Michie's Corporation, who publishes the West Virginia Code, gives no annotation of the rules that flesh out the statute. One possibility would be for the Legislative Rulemaking Review Committee to ask Michie's to make this annotation, as they already do for cases affecting a Code section.

[A secondary problem is that agencies do not always properly identify the underlying statute. There are times when the agency in promulgating a rule will refer to an underlying statute giving them rulemaking authority, rather than to the substantive underlying statute. For

example, the Human Rights Commission lists its rules as promulgated under WV Code 5-11-8(h), its rulemaking authority, but it would be helpful if the agency also identified -- as the underlying authority -- the particular Code section, such as 5-11-9 for the rule on religious discrimination or 5-11-19 for the rule on the exemption of private clubs. This would then make it easy for Michie's to annotate relevant rules in particular sections of the West Virginia Code.]

- **Make Consistent Numerical Reference in West Virginia Code, Code of State Rules and Chapter 64**

In a perfect world, there would be consistency of numbering among: the underlying statute, the reference in the Code of State Regulations, and the reference in Chapter 64. There is no such consistency today, resulting in a surfeit of numbers.

For example, the Minimum Jail Standards rule:

- Is authorized under West Virginia Code 31-20-9
- Is promulgated as 95-1 of the Code of State Rules
- Is referenced in West Virginia Code 64-6-5

If there were complete consistency in numbering, the Minimum Jail Standards rule would:

- Continue to be authorized under West Virginia **31-20**-9
- Be promulgated as **31-20** of the Code of State Rules
- Be referenced in Chapter 64 as 64-**31-20**-xxx
- **Eliminate Separate and Confusing References in Chapter 64**

Even if it is not possible to establish uniformity among numbering systems as discussed above, it would be useful to make the references in Chapter 64 clearer.

- **Eliminate <u>separated</u> references to the same rule.** When an existing rule is authorized to be amended, the Legislature adds a new reference to the rule in Chapter 64, often several paragraphs away from the original reference, and the new reference may be in a different from than the original. The Minimum Jail Standards rule is an example of how this can lead to confusion.[2]

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[2] The rule is referred to three times in West Virginia Code 64-6-3. It is first referred to in subsection (a) as the rule "filed in the state register on the fifth day of November, one thousand nine hundred eighty-seven..." This reference comes from 1988 legislation. Two paragraphs later, in subsection (d), it is referred to as the rule "filed in the code of state regulations (95 CSR 1) on the fifth day of April, one thousand nine hundred eighty-eight" at which time certain amendments were directed to be made by the Jail and Prison Standards Commission. This reference comes from 1989 legislation. It is referred to again in subsection (e) as the rule "filed in the state register on the twentieth day of September, one thousand nine hundred ninety-one, modified

These references do more than merely confuse the public; they confuse the agencies as well. The 1989 legislation required the Jail Standards Commission to make certain amendments to the rule, but the Commission never did so and never refiled the rule. Adding to the confusion, the Secretary of State's office includes the **1989** amendments in the version of the rule that it provides the public, although the rule contains the original filing date of April 5, **1988**. Thus, only by doing an inordinate amount of research can a person determine the actual status of the law.

This situation would probably not have happened if references in Chapter 64 were clearer. The Legislature should consider amending the references in Chapter 64 much as it does to other legislation. So that, for example, all references to the Minimum Jail Standards rule would have been in the same subsection, and would have clearly set out the history of the amendments to the rule.

•• **Identify rules by their CSR numbers.** Rules are referred to in Chapter 64 by their date of filing in the State Register, and usually do not include their CSR numbers. It would be very useful to identify the rules by CSR number in Chapter 64, whether or not the Legislature makes the changes suggested above.

Alternative Identification -- Amend and Re-enact Code of State Rules

Another possibility that the Legislature may wish to explore is complete identification in a bill of how the bill will amend and re-enact sections of the Code of State Rules, much as regular bills amend and re-enact the West Virginia Code.

This possibility would have at least two advantages:

- It would clearly set forth what parts of the CSR were affected
- Only portions of a rule that were being amended would have to be printed in the bill

ELECTRONIC ACCESS AND WORD PROCESSING

The Code of State Rules is available on the state's EDGAR computer system, but the information is not kept current, and thus is of very limited value. Theoretically, the EDGAR system could be completely up to date -- even including proposed and emergency rules -- if the information could be put on line expeditiously.

There are a few stumbling blocks to this, however.

- **Require consistent word processing program by agencies.** The first problem is that agencies do not use consistent word processing, although most use WordPerfect. If agencies were required to use one program such as WordPerfect, at least the rules could be kept current in that format, and practitioners could obtain the information by modem or disk in that format.

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by the jail and correctional facility standards commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of July, one thousand nine hundred ninety-two..." This reference is from 1993 legislation.

• **Find a way to ease input into EDGAR format.** A second, and greater problem, is that rules have to be transposed into the EDGAR format, whatever their original format. This requirement keeps even finally promulgated rules from being accessible on the EDGAR system for years. Ways to overcome this problem should be studied. Even if this delay is inevitable, however, the EDGAR system should contain a notice that a current rule or regulation has been superseded by an emergency rule or is in the process of being amended, by simply tagging an alert at the beginning of the rule as contained in EDGAR.

• **Require agencies to draft rules in EDGAR.** Perhaps the best solution would be simply to require agencies to draft their proposed rules in EDGAR in the first place. Many agencies do not subscribe to EDGAR, but the Legislature does, and there are terminals free during the interim, which could be made available to these agencies for the sole purpose of drafting rules. If this requirement were met, a proposed rule could readily be transformed into an authorization bill, and once authorized by the Legislature, could be placed in the Code of State Rules.

REDUCE OR ELIMINATE CONFUSION AMONG VARIOUS VERSIONS OF THE SAME RULE

Each rule is filed in several different stages with the Secretary of State, and it is often difficult to tell from a copy at which stage in the process it is. The possible stages include:

- Rule as originally proposed by the agency.
- Rule as proposed following public comment
- Rule as proposed as modified by the Legislative Rulemaking Review Committee
- Rule as finally promulgated following authorization by the Legislature
- Emergency rule

To reduce confusion about these stages, a rule could be made to look different depending on the stage in the process. It would be particularly important to distinguish an emergency rule from others. One possibility: print rules on different color paper depending on its stage in the process. Thus, for example, the initial draft of a proposed rule could be in blue, and an emergency rule in bright yellow.

SUMMARY

The Kincaid ruling may present the Legislature with problems as to the grouping of rules and the printing of the full text of rules in authorizations bills, but it also presents the opportunity for a fresh look at the process. To further study the need for changes, the Legislative Rulemaking Review Committee might consider instigating the formation of a study committee composed of representatives of the Legislature, the Administration, the Secretary of State and the public.

Dist. June 28 meeting File

TO: Brian Gallagher and Joe Manchin, Cochairs
Legislative Rule-Making Review Committee

FROM: Marjorie Martorella, Counsel

DATE: June 23, 1993

RE: Kincaid v. Mangum

I have reviewed the Supreme Court's decision requiring that, prospectively, each agency's rules must be contained in a separate bill and that the full text of each rule must be contained in the bill.

Obviously, by requiring that each rule in its entirety be contained in a bill, there is very little meaning in agencies promulgating rules. The printing expense both for bills and for Acts of the Legislature will be enormous.

I would point out that there is nothing in the opinion, or in any other applicable law **other** than West Virginia Code 29A-3-11 which requires that any agency rule be approved or acted upon by the Legislature at all before becoming effective; the opinion only deals with how the Legislature must act when it chooses to exercise its power with respect to rules.

The following is not a recommendation but merely an option for your consideration. The committee could recommend to the Legislature changing current rule making procedures by:

(1) Amending 29A-3-11 by providing that, in addition to recommending to the Legislature that an agency rule be authorized in whole or in part, authorized with amendment or withdrawn, that the Committee (perhaps by two-thirds or fourth-fifths vote of members present or other than a simple majority) may elect not to recommend Legislative action for an agency rule or an agency rule modified to meet the objections of the Committee; and

(2) Amending 29A-3-13 by specifying the date upon which a rule for which no Legislative action is recommended becomes effective (perhaps the last day for introduction of bills during the subsequent regular Legislative session).

In this manner the Committee might elect not to send a non-controversial rule before the full Legislature, allowing it to become effective, after review by the Committee, without legislative action, thereby saving printing expense, staff expense and Legislative time with respect to that rule. Any rule for which an amendment was proposed would still require Legislative action.