

COMMITTEE SUBSTITUTE

FOR

**H. B. 4088**

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(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)  
[BY REQUEST OF THE EXECUTIVE]

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(Originating in the Committee on Finance)  
[February 14, 2012]

A BILL to repeal §11-13B-1, §11-13B-2, §11-13B-3, §11-13B-4, §11-13B-5, §11-13B-6, §11-13B-7, §11-13B-8, §11-13B-9, §11-13B-10, §11-13B-10a, §11-13B-11, §11-13B-12, §11-13B-13, §11-13B-14, §11-13B-15, §11-13B-16, §11-13B-17, §11-13B-18 and §11-13B-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-10-5aa, all relating to repealing article creating the West Virginia Telecommunications Tax Act; and preserving provisions governing the confidentiality of and exemptions from disclosure of certain information received

by tax commissioner during study of the business of telecommunications service and related businesses.

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

That §11-13B-1, §11-13B-2, §11-13B-3, §11-13B-4, §11-13B-5, §11-13B-6, §11-13B-7, §11-13B-8, §11-13B-9, §11-13B-10, §11-13B-10a, §11-13B-11, §11-13B-12, §11-13B-13, §11-13B-14, §11-13B-15, §11-13B-16, §11-13B-17, §11-13B-18 and §11-13B-19, of the Code of West Virginia, 1931, as amended, are hereby repealed, and that said code be amended by adding thereto a new section, designated §11-10-5aa, all to read as follows:

**ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

**§11-10-5aa. Confidentiality of information obtained during telecommunications tax study.**

1        (a) Section nineteen, article thirteen-b of this chapter was  
2        enacted in 2010, and required the Tax Commissioner to the  
3        study of the business of telecommunications service and  
4        related businesses. The Tax Commissioner completed the  
5        study and reported to the Legislature July 1, 2011.  
6        Notwithstanding the repeal of section nineteen, article

7 thirteen-b of this chapter in 2012, the provisions of that  
8 section under which information obtained by the Tax  
9 Commissioner during the study of the business of  
10 telecommunications service and related businesses conducted  
11 pursuant that statute is confidential and exempt from  
12 disclosure shall remain in full force and effect, as if fully set  
13 forth herein and as more fully set forth herein:

14 (1) Financial information and other data disclosed to the  
15 Tax Commissioner under the provisions of that section shall  
16 be considered confidential and exempt from article one,  
17 chapter twenty-nine-b of this code.

18 (2) Any information disclosed to the Tax Commissioner  
19 pursuant to the requirements of that section shall have all of  
20 the confidentiality protections given to a “return” under  
21 section five-d of article ten of this chapter and any disclosure  
22 not authorized by that section, or this section, shall be subject  
23 to all of the penalties provided for unlawful disclosure of a  
24 “return”. It is unlawful for the Tax Commissioner or any  
25 person conducting the study, including any consultant under

26 contract with the Tax Commissioner to assist in conducting  
27 the study, to disclose to any person not conducting the study  
28 any financial information or other data disclosed under that  
29 section. Such disclosure shall be a violation of the tax  
30 information confidentiality provisions of section five-d,  
31 article ten of this chapter.

32 (3) Nothing in this section may be construed as  
33 prohibiting the publication or release of statistics so classified  
34 as to prevent the identification of a particular person or  
35 entity.

36 (b) Any rules promulgated by the Tax Commissioner to  
37 implement the provisions of that section relating to  
38 confidentiality or exemptions under that section shall remain  
39 in full force and effect until amended or repealed pursuant to  
40 article three, chapter twenty-nine-a of this code.