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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 186

(By Senator Manchin, et al)



PASSED March 12, 1994

In Effect from Passage

E N R O L L E D

Senate Bill No. 186

(BY SENATORS MANCHIN, ANDERSON, GURBB AND MINARD)

[Passed March 12, 1994; in effect from passage.]

AN ACT to amend and reenact sections two, four, five and six, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures 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 legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the insurance commissioner to promulgate legislative rules relating to insurance company reporting forms, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to substandard motor vehicle insurance notice requirements, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to filing fees for

purchasing groups and for risk retention groups not chartered in this state, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to continuation of coverage under automobile liability policies, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to West Virginia life and health insurance guaranty association act notice requirements, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to group accident and sickness insurance minimum policy coverage standards, as modified and amended; authorizing the lottery commissioner to promulgate legislative rules relating to the state lottery, as modified; authorizing the racing commissioner to promulgate legislative rules relating to greyhound racing; authorizing the racing commissioner to promulgate legislative rules relating to thoroughbred racing; authorizing the division of tax to promulgate legislative rules relating to bingo; authorizing the division of tax to promulgate legislative rules relating to charitable raffle boards and games, as modified; authorizing the division of tax to promulgate legislative rules relating to business investment and jobs expansion tax credit, small business tax credit, corporate headquarters relocation tax credit; authorizing the division of tax to promulgate legislative rules relating to preneed cemetery companies, as modified and amended; and authorizing the division of tax to promulgate legislative rules relating to pollution control facilities.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five and six, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

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

§64-7-2. Insurance commissioner.

- 1 (a) The legislative rules filed in the state register on
- 2 the eighteenth day of October, one thousand nine
- 3 hundred eighty-three, relating to the insurance com-

4 commissioner (excess line brokers), are authorized.

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

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

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

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

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

44 gram revisions), are authorized.

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

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

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

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

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

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

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

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

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

121 (p) The legislative rules filed in the state register on
122 the eighteenth day of September, one thousand nine

123 hundred ninety-two, relating to the insurance commis-
124 sioner (regulation of credit life insurance and credit
125 accident and sickness insurance), are authorized.

126 (q) The legislative rules filed in the state register on
127 the eighteenth day of September, one thousand nine
128 hundred ninety-two, modified by the insurance com-
129 missioner to meet the objections of the legislative rule-
130 making review committee and refiled in the state
131 register on the tenth day of December, one thousand
132 nine hundred ninety-two, relating to the insurance
133 commissioner (filing fees for purchasing groups and
134 for risk retention groups not chartered in this state),
135 are authorized.

136 (r) The legislative rules filed in the state register on
137 the fourteenth day of October, one thousand nine
138 hundred ninety-two, relating to the insurance commis-
139 sioner (group coordination of benefits), are authorized
140 with the amendments set forth below:

141 "On page six, subsection 2.1.9., after the words 'If a
142 person is covered by more than one employer group
143 minimum benefits plan, the order of benefits determi-
144 nation rules of this regulation decide the order in
145 which their benefits are determined in relation to
146 each other' by inserting a colon and the words Provid-
147 ed, That under the provisions of West Virginia Code
148 §5-16-12(a), coverage issued pursuant to the Public
149 Employees Insurance Act is secondary to an employer
150 group minimum benefits plan and any other applica-
151 ble health insurance coverage.'"

152 (s) The legislative rules filed in the state register on
153 the eighteenth day of September, one thousand nine
154 hundred ninety-two, modified by the insurance com-
155 missioner to meet the objections of the legislative rule-
156 making review committee and refiled in the state
157 register on the fifteenth day of January, one thousand
158 nine hundred ninety-three, relating to the insurance
159 commissioner (permanent regulations on medicare
160 supplement insurance), are authorized.

161 (t) The legislative rules filed in the state register on
162 the eighteenth day of September, one thousand nine

163 hundred ninety-two, modified by the insurance com-
164 missioner to meet the objections of the legislative rule-
165 making review committee and refiled in the state
166 register on the fifteenth day of January, one thousand
167 nine hundred ninety-three, relating to the insurance
168 commissioner (individual and employer group mini-
169 mum benefits, accident and sickness insurance poli-
170 cies), are authorized with the amendment set forth
171 below:

172 "On page two, subsection 3.2 by striking out the
173 period and inserting the following: 'other than cover-
174 age issued pursuant to the Public Employees Insur-
175 ance Act, as provided in West Virginia Code §5-16-
176 12(a).'"

177 (u) The legislative rules filed in the state register on
178 the eighteenth day of September, one thousand nine
179 hundred ninety-two, modified by the insurance com-
180 missioner to meet the objections of the legislative rule-
181 making review committee and refiled in the state
182 register on the fifteenth day of January, one thousand
183 nine hundred ninety-three, relating to the insurance
184 commissioner (long-term care insurance), are
185 authorized.

186 (v) The legislative rules filed in the state register on
187 the eighteenth day of September, one thousand nine
188 hundred ninety-two, modified by the insurance com-
189 missioner to meet the objections of the legislative rule-
190 making review committee and refiled in the state
191 register on the fifteenth day of January, one thousand
192 nine hundred ninety-three, relating to the insurance
193 commissioner (standards for uniform health care
194 administration), are authorized.

195 (w) The legislative rules filed in the state register on
196 the sixteenth day of August, one thousand nine
197 hundred ninety-three, modified by the insurance
198 commissioner to meet the objections of the legislative
199 rule-making review committee and refiled in the state
200 register on the twenty-ninth day of November, one
201 thousand nine hundred ninety-three, relating to the
202 insurance commissioner (insurance holding company

203 systems reporting forms), are authorized.

204 (x) The legislative rules filed in the state register on
205 the sixteenth day of August, one thousand nine
206 hundred ninety-three, modified by the insurance
207 commissioner to meet the objections of the legislative
208 rule-making review committee and refiled in the state
209 register on the twenty-ninth day of November, one
210 thousand nine hundred ninety-three, relating to the
211 insurance commissioner (substandard motor vehicle
212 insurance notice requirements), are authorized.

213 (y) The legislative rules filed in the state register on
214 the sixteenth day of August, one thousand nine
215 hundred ninety-three, modified by the insurance
216 commissioner to meet the objections of the legislative
217 rule-making review committee and refiled in the state
218 register on the twenty-ninth day of November, one
219 thousand nine hundred ninety-three, relating to the
220 insurance commissioner (filing fees for purchasing
221 groups and for risk retention groups not chartered in
222 this state), are authorized.

223 (z) The legislative rules filed in the state register on
224 the sixteenth day of August, one thousand nine
225 hundred ninety-three, modified by the insurance
226 commissioner to meet the objections of the legislative
227 rule-making review committee and refiled in the state
228 register on the twenty-ninth day of November, one
229 thousand nine hundred ninety-three, relating to the
230 insurance commissioner (continuation of coverage
231 under automobile liability policies), are authorized.

232 (aa) The legislative rules filed in the state register on
233 the sixteenth day of August, one thousand nine
234 hundred ninety-three, modified by the insurance
235 commissioner to meet the objections of the legislative
236 rule-making review committee and refiled in the state
237 register on the twenty-ninth day of November, one
238 thousand nine hundred ninety-three, relating to the
239 insurance commissioner (West Virginia life and health
240 insurance guaranty association act notice require-
241 ments), are authorized.

242 (bb) The legislative rules filed in the state register

243 on the sixteenth day of August, one thousand nine
244 hundred ninety-three, modified by the insurance
245 commissioner to meet the objections of the legislative
246 rule-making review committee and refiled in the state
247 register on the twenty-ninth day of November, one
248 thousand nine hundred ninety-three, relating to the
249 insurance commissioner (group accident and sickness
250 insurance minimum policy coverage standards), are
251 authorized with the amendments set forth below:

252 On page two, section one, by inserting five new
253 subsections to read as follows:

254 "1.2.j. Coverage under a managed care program.

255 1.2.k. Bona Fide Associations.

256 1.2.l. Basic Hospital and Medical-Surgical Expense
257 Coverage

258 1.2.m. Coverage under policies issued to groups of 61
259 or more under which the coverage is negotiated by the
260 policy holder.;

261 1.2.n. Individual limited benefits policies subject to
262 the requirements of West Virginia Code §§ 33-16E-1, et
263 seq."

264 And,

265 On page two, section two, by inserting two new
266 subsections, designated subsections 2.2 and 2.3, to read
267 as follows, and renumbering the remaining subsections:

268 "2.2 "Basic Hospital and Medical Surgical Expense
269 Coverage" means policies designed to provide cover-
270 age for hospital and medical surgical expenses only
271 incurred as a result of a covered accident or sickness.
272 Coverage is provided for daily hospital room and
273 board, miscellaneous hospital services, hospital out-
274 patient services, surgical services, anesthesia services,
275 and in-hospital medical services, subject to any limita-
276 tions, deductibles and copayment requirements set
277 forth in the policy. Coverage is not provided for
278 unlimited hospital or medical surgical expenses.

279 2.3 "Bona Fide Association" means plans with a

280 minimum of one hundred members which shall have
281 been organized in good faith for purposes other than
282 that of obtaining or providing insurance: *Provided,*
283 *however,* That the association shall also have been in
284 active existence for at least two years and shall have
285 a constitution and bylaws which provide that: (1) the
286 Association holds annual meetings to further purposes
287 of its members; (2) except in the case of credit unions,
288 the association collects dues or solicits contributions
289 from members; (3) the members have voting privi-
290 leges and representation on the governing board and
291 committees that exist under the authority of the
292 association.”;

293 And,

294 On page four, subsection 3.1 by deleting references
295 to “or certificate” and “or certificate holder” and by
296 adding to the end of the subsection the following:

297 “Certificates issued under a policy subject to this
298 rule and the terms used therein shall be consistent
299 with this section.”;

300 And,

301 On page nine, subsection 5.1 by deleting the follow-
302 ing “on certificates” and by adding the following at
303 the end thereof:

304 “The benefits described in a certificate issued under
305 a policy subject to this rule shall be consistent with the
306 benefits contained in the policy and shall be no less
307 than those required under this section.”;

308 And,

309 On page nine subsection 5.1.b by striking out subsec-
310 tion 5.1.b in its entirety and inserting in lieu thereof
311 the following:

312 “5.1.b If an insurer terminates coverage under a
313 policy providing pregnancy coverage, such policy shall
314 provide for an extension of benefits as to pregnancy
315 commencing while the policy is in force and for which
316 benefits would have been payable had the policy
317 remained in force, provided that this subsection shall

318 not apply when termination of coverage is due to
319 fraud, nonpayment of premium or any breach of the
320 terms of the policy for which termination is autho-
321 rized under chapter thirty-three of the code.”;

322 And,

323 On page ten, subsection 5.1.3 by adding at end of
324 such subsection the following:

325 “provided such benefits may be limited to those
326 expenses directly relating to the organ donation.”;

327 And,

328 On page ten, subsection 5.1.i by striking said subsec-
329 tion in its entirety and inserting in lieu thereof the
330 following:

331 “5.1.i. Termination of coverage under a policy shall
332 be without prejudice to any continuous loss which
333 commenced while the policy was in force, but the
334 extension of benefits beyond the period the policy was
335 in force may be predicated upon the continuous
336 disability of the insured or limited to the duration of
337 the policy benefit period if any: *Provided*, That this
338 subsection shall not apply when termination of cover-
339 age is due to fraud, nonpayment of premium or any
340 breach of the terms of the policy for which termina-
341 tion is authorized under chapter thirty-three of the
342 code.”;

343 And,

344 On page nineteen, subsection 6.1 by deleting the
345 references to “or certificate” and “or certificate
346 holder”;

347 And,

348 On page twenty, subsection 6.9 by adding at the end
349 of the section the following:

350 “The notice shall also state that in the event the
351 policy holder exercises this right, the insurer shall not
352 be obligated to pay any benefits under the policy for
353 claims submitted to the insurer during such ten (10)
354 day period.”

§64-7-4. Lottery commission.

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

9 (b) The legislative rules filed in the state register on
10 the twenty-seventh day of June, one thousand nine
11 hundred ninety, modified by the state lottery commis-
12 sion to meet the objections of the legislative rule-
13 making review committee and refiled in the state
14 register on the fifth day of September, one thousand
15 nine hundred ninety, relating to the state lottery
16 commission (state lottery), are authorized.

17 (c) The legislative rules filed in the state register on
18 the sixteenth day of August, one thousand nine
19 hundred ninety-three, modified by the lottery com-
20 mission to meet the objections of the legislative rule-
21 making review committee and refiled in the state
22 register on the nineteenth day of January, one thou-
23 sand nine hundred ninety-four, relating to the lottery
24 commission (state lottery), are authorized.

§64-7-5. Racing commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 authorized.

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

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

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

114 "All moneys held by any licensee for the payment of
115 outstanding and unredeemed pari-mutuel tickets, if
116 not claimed within ninety (90) days after the close of
117 the horse race meeting in connection with which the
118 tickets were issued, shall be turned over by the
119 licensee to the Racing Commission within fifteen (15)
120 days after the expiration of such ninety (90) day period
121 and the licensee shall give such information as the
122 Racing Commission may require concerning such
123 outstanding and unredeemed tickets; viz. The outs
124 ledger enumerating all outstanding tickets at the close
125 of each meeting, to contain a record of all tickets
126 redeemed in the ninety (90) day period following,
127 together with all redeemed tickets which shall bear
128 the stamp of the cashier(s) making redemption: A
129 stamp indicating "Outs Ticket". In addition, a state-

130 ment to accompany said ledger and tickets, setting
131 forth the quantity and amount of each denomination
132 redeemed in the ninety (90) day period, with a grand
133 total indicating the sum paid in "Outs". This sum
134 subtracted from the outs on the closing day to equal
135 the remittance of the Association in settlement of the
136 "Out" account for the meeting."

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

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

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

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

164 (y) The legislative rules filed in the state register on
165 the tenth day of August, one thousand nine hundred
166 ninety, modified by the West Virginia racing commis-
167 sion to meet the objections of the legislative rule-
168 making review committee and refiled in the state
169 register on the fourteenth day of January, one thou-

170 sand nine hundred ninety-one, relating to the West
171 Virginia racing commission (thoroughbred racing), are
172 authorized.

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

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

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

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

198 (cc) The legislative rules filed in the state register on
199 the eighteenth day of September, one thousand nine
200 hundred ninety-two, relating to the racing commission
201 (pari-mutuel wagering), are authorized.

202 (dd) The legislative rules filed in the state register
203 on the eighteenth day of September, one thousand
204 nine hundred ninety-two, modified by the racing
205 commission to meet the objections of the legislative
206 rule-making review committee and refiled in the state
207 register on the twenty-sixth day of January, one
208 thousand nine hundred ninety-three, relating to the

209 racing commission (thoroughbred racing), are
210 authorized.

211 (ee) The legislative rules filed in the state register on
212 the eighteenth day of September, one thousand nine
213 hundred ninety-two, modified by the racing commis-
214 sion to meet the objections of the legislative rule-
215 making review committee and refiled in the state
216 register on the twenty-sixth day of January, one
217 thousand nine hundred ninety-three, relating to the
218 racing commission (greyhound racing), are authorized.

219 (ff) The legislative rules filed in the state register on
220 the thirteenth day of August, one thousand nine
221 hundred ninety-three, relating to the racing commis-
222 sion (greyhound racing), are authorized.

223 (gg) The legislative rules filed in the state register on
224 the thirteenth day of August, one thousand nine
225 hundred ninety-three, relating to the racing commis-
226 sion (thoroughbred racing), are authorized.

**§64-7-6. Department of tax and revenue; division of tax; and
state tax commissioner.**

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

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

15 On page 9, section 11.04(b)(3), definition of "Active
16 Reserves," at the end of the subsection, following the
17 period, by adding the following: "In the application of
18 the herein provided valuation formula on 'active
19 reserves,' the appropriate formula calculation will be

20 based upon the actual market to which the coal from
21 that tract and seam is currently being sold, whether it
22 is 'metallurgical' or 'steam'."

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

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

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

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

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

44 On page 73, section 11.06(h) by striking the symbol
45 and figures "\$5.00" and inserting in lieu the following:
46 "\$1.00."

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

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

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

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

60 And,

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

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

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

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

76 And,

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

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

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

95 amendments:

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

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

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

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

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

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

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

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

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

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

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

128 Page 10.9, Section 10.04(6), following the last sen-
129 tence; add the sentence "For the purposes of this
130 definition, 'contiguous tracts' are farmlands which are

131 in close proximity, but not necessarily adjacent:
132 *Provided*, That all such contiguous tracts are operated
133 as part of the same farm management plan.”

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

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

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

146 Page 10.11, Section 10.04, insert the following subdi-
147 vision: “(12) Application Form: The application form
148 required to be filed with the assessor on or before
149 September first of each year shall require certification
150 that the farm complies with criteria set forth in
151 Section 10.05(c) of these regulations, and renewal
152 applications from year to year shall be sufficient upon
153 statement certifying that no change has been made in
154 the use of farm property which would disqualify ‘farm
155 use’ classification for assessment purposes.”
156 Renumber the subdivisions of Section 10.04 following
157 the new 10.04(12); formerly 10.04(12) through 10.04(28),
158 to 10.04(13) through 10.04(29), respectively.

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

164 Page 10.16, Section 10.05, subsection (a), following the
165 words “land is used for farm purposes” by striking the
166 period and inserting in lieu thereof a colon and the
167 following: “*Provided*, That the true and actual value of
168 all farm used, occupied and cultivated by their owners
169 or bona fide tenants shall be arrived at according to

170 the fair and reasonable value of the property for the
171 purpose for which it is actually used regardless of
172 what the value of the property would be if used for
173 some other purpose; and that the true and actual value
174 shall be arrived at by giving consideration to the fair
175 and reasonable income which the same might be
176 expected to earn under normal conditions in the
177 locality wherein situated, if rented: *Provided, howev-*
178 *er,* That nothing herein shall alter the method of
179 assessment of lands or minerals owned by domestic or
180 foreign corporations.”

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

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

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

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

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

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

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

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

208 locality wherein situate, if rented.”

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

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

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

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

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

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

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

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

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

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

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

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

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

262 And,

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

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

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

278 (g) The legislative rules filed in the state register on
279 the twenty-sixth day of March, one thousand nine
280 hundred eighty-six, modified by the state tax commis-
281 sioner to meet the objections of the legislative rule-
282 making review committee and refiled in the state

283 register on the twelfth day of February, one thousand
284 nine hundred eighty-seven, relating to the state tax
285 commissioner (review of appraisals by county commis-
286 sions sitting as administrative appraisal review
287 boards), are authorized.

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

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

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

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

321 (j) The legislative rules filed in the state register on
322 the eighteenth day of August, one thousand nine

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

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

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

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

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

362 (o) The legislative rules filed in the state register on

363 the fourteenth day of August, one thousand nine
364 hundred eighty-seven, relating to the state tax com-
365 missioner (business franchise tax), are authorized.

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

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

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

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

402 (t) The legislative rules filed in the state register on

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

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

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

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

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

437 (y) The legislative rules filed in the state register on
438 the fourth day of August, one thousand nine hundred
439 eighty-nine, modified by the state tax department to
440 meet the objections of the legislative rule-making
441 review committee and refiled in the state register on
442 the eleventh day of December, one thousand nine

443 hundred eighty-nine, relating to the state tax depart-
444 ment (solid waste assessment fee), are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

498 And,

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

502 (cc) The legislative rules filed in the state register on
503 the eleventh day of August, one thousand nine hun-
504 dred eighty-nine, modified by the department of tax
505 and revenue to meet the objections of the legislative
506 rule-making review committee and refiled in the state
507 register on the eleventh day of December, one thou-
508 sand nine hundred eighty-nine, relating to the depart-
509 ment of tax and revenue (motor carrier road tax), are
510 authorized.

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

519 fuel excise tax), are authorized.

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

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

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

544 (hh) The legislative rules filed in the state register
545 on the twentieth day of December, one thousand nine
546 hundred ninety, modified by the state tax commission-
547 er to meet the objections of the legislative rule-making
548 review committee and refiled in the state register on
549 the twenty-sixth day of April, one thousand nine
550 hundred ninety-one, relating to the state tax commis-
551 sioner (valuation of timberland and managed timber-
552 land), are authorized.

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

559 thousand nine hundred ninety-one, relating to the
560 state tax commissioner (bingo rules and regulations),
561 are authorized.

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

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

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

582 And,

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

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

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

596 And,

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

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

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

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

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

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

637 franchise tax), are authorized.

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

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

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

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

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

663 On page forty-five, paragraph 8.1.1.1, after the word
664 "electricians", by striking out the words "enrolled
665 agents";

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

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

675 auctioneer licensed under W. Va. Code §19-2C-1 et
676 seq.:";

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

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

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

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

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

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

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

703 And,

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

709 (ss) The legislative rules filed in the state register on
710 the eighteenth day of September, one thousand nine
711 hundred ninety-two, relating to the division of tax

712 (bingo), are authorized.

713 (tt) The Legislature hereby authorizes and directs
714 the division of tax to amend its rule relating to
715 consumers sales and service tax and use tax which
716 were filed in the code of state regulations (110 CSR 15)
717 on the twenty-seventh day of April, one thousand nine
718 hundred ninety-two, with the following amendments:

719 On page fifty-eight, by striking out all of subpara-
720 graph 9.3.4.3.d and by renumbering the remaining
721 subparagraph.;

722 And,

723 On page one hundred eight, section 38.1, after the
724 words "daily charge." by striking out the words "The
725 daily charge subject to the consumers sales and service
726 tax does not include complimentary items such as
727 shampoo, coffee and newspapers given to guests by
728 hotels and motels." and inserting in lieu thereof the
729 following:

730 "Notwithstanding the fact that persons engaged in
731 the rendering of a service are required to pay tax on
732 their purchases for use and/or consumption in render-
733 ing such services, the purchase by hotels, motels,
734 tourist homes and rooming houses of complimentary
735 items such as shampoos, coffee and newspapers given
736 to guests by such hotels, motels, tourist homes and
737 rooming houses are not taxable."

738 (uu) The legislative rules filed in the state register
739 on the thirteenth day of August, one thousand nine
740 hundred ninety-three, relating to the division of tax
741 (bingo), are authorized.

742 (vv) The legislative rules filed in the state register
743 on the thirteenth day of August, one thousand nine
744 hundred ninety-three, modified by the division of tax
745 to meet the objections of the legislative rule-making
746 review committee and refiled in the state register on
747 the twelfth day of January, one thousand nine hun-
748 dred ninety-four, relating to the division of tax
749 (charitable raffle boards and games), are authorized.

750 (ww) The legislative rules filed in the state register
751 on the sixteenth day of August, one thousand nine
752 hundred ninety-three, relating to the division of tax
753 (business investment and jobs expansion tax credit,
754 small business tax credit, corporate headquarters
755 relocation tax credit), are authorized with the amend-
756 ment set forth below:

757 On page thirty-nine, section 5.16.3.1, by striking
758 section 5.16.3.1 and inserting in lieu thereof the
759 following:

760 "This exception shall not be applicable if the taxpayer
761 failed to provide information requested by the Depart-
762 ment of Tax and Revenue, or its predecessor, the West
763 Virginia Tax Department, or if the taxpayer had
764 knowledge or should have had knowledge of informa-
765 tion necessary for the Department of Tax and Reve-
766 nue to make an informed analysis and determination
767 pertaining to the actual application of the credit but
768 failed to disclose such information to the Department."

769 (xx) The legislative rules filed in the state register
770 on the thirteenth day of August, one thousand nine
771 hundred ninety-three, modified by the division of tax
772 to meet the objections of the legislative rule-making
773 review committee and refiled in the state register on
774 the twelfth day of January, one thousand nine hun-
775 dred ninety-four, relating to the division of tax
776 (preneed cemetery companies), are authorized with
777 the amendments set forth below:

778 "On page four, section 3.1, by striking out '\$400.00'
779 and inserting in lieu thereof '\$200.00'."

780 (yy) The legislative rules filed in the state register
781 on the sixteenth day of August, one thousand nine
782 hundred ninety-three, relating to the division of tax
783 (pollution control facilities), are authorized with the
784 amendment set forth below:

785 On page one, section 2.2 after the word "be" by
786 inserting the following: "The definition of facilities
787 eligible for salvage tax treatment shall be strictly
788 construed so as to include only such equipment and
789 devices as are installed primarily and immediately to
790 abate air or water pollution. These items of personal

7901 property which may coincidentally comply with air or
7912 water quality or effluent standards prescribed by or
7923 promulgated under the laws of this state or the United
7934 States, but which are primarily installed for plant
7945 operations or are productive, or add to the economic
7956 value of a business enterprise or have a market value
7967 after installation in excess of salvage value, will not be
7977 deemed eligible for salvage tax treatment."

OK
KC

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten signature]
.....
Chairman Senate Committee

[Handwritten signature]
.....
Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten signature]
.....
Clerk of the Senate

[Handwritten signature]
.....
Clerk of the House of Delegates

[Handwritten signature]
.....
President of the Senate

[Handwritten signature]
.....
Speaker House of Delegates

The within *is approved* this the *30th*
day of *March*, 1994.

[Handwritten signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/94

Time 1:02 PM