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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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## ENROLLED

*Com. Sub. for*  
**HOUSE BILL No. 2834**

(By Mr. *Speaker, Mr. Chambers, and*  
*Delegate Burk*)  
*[By Request of the Executive]*

Passed *March 8,* 1991

In Effect *From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2834**  
(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)

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[Passed March 8, 1991; in effect from passage.]

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AN ACT to amend and reenact sections one, two, four, five, six, nine and ten, article one, chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections forty-two and seventy-one, article twenty-one, chapter eleven; to further amend said article twenty-one by adding thereto three new sections, designated sections twelve-b, sixty-one and sixty-two; to amend and reenact section twelve, article twenty-four of said chapter eleven; to amend and reenact section one, article one-f, chapter fifteen; to amend and reenact section four, article three, chapter seventeen-a; to amend and reenact sections one, two and three, article nineteen, chapter eighteen; to amend and reenact article two-c, chapter twenty-one-a; and to amend and reenact section two, article six, chapter twenty-nine, all relating to military service personnel; updating terms relating to the division of veterans affairs; increasing the salary for the director of division of veterans affairs; exempting combat pay received for Desert Shield Service; providing a military incentive tax credit for personal income tax liability; extending time period for performing certain acts under tax statutes; providing benefits for individuals performing Desert Shield Services; providing rules for income tax

liability for individuals while in active military service; authorizing the tax commissioner to execute an agreement with the secretary of the treasury for mandatory withholding of tax; providing a military incentive tax credit for corporate income tax liability; allowing a twenty-four day leave of absence for active military service for national guard or military reserve personnel; providing limited exemption from motor vehicle certificate of title for military personnel and dependents; continuing an appropriation for educational opportunities for children of deceased military personnel, including children of military personnel killed in any hostile action, defining children; providing the correct designation of the division of veterans affairs; enacting the Military Incentive Program Act of 1991; providing legislative intent and purpose of the Military Incentive Program Act; providing definitions to include national guard members and reserve members; providing guidelines for availability of tax credits; providing restrictions and limitations regarding tax credit; providing for administration of programs; amending definitions for purposes of the civil service system.

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

That sections one, two, four, five, six, nine and ten, article one, chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections forty-two and seventy-one, article twenty-one, chapter eleven be amended and reenacted; that said article twenty-one be further amended by adding thereto three new sections, designated sections twelve-b, sixty-one and sixty-two; that section twelve, article twenty-four of said chapter eleven be amended and reenacted; that section one, article one-f, chapter fifteen be amended and reenacted; that section four, article three, chapter seventeen-a be amended and reenacted; that sections one, two and three, article nineteen, chapter eighteen be amended and reenacted; that article two-c, chapter twenty-one-a be amended and reenacted; and that section two, article six, chapter twenty-nine be amended and reenacted, all to read as follows:

## **CHAPTER 9A. VETERANS' AFFAIRS.**

### **ARTICLE 1. DIVISION OF VETERANS' AFFAIRS.**

#### **§9A-1-1. Creation and general purposes.**

1 A state agency to be known as the “West Virginia  
2 division of veterans’ affairs” is hereby created and  
3 established within the department of military affairs  
4 and public safety for the purpose of aiding, assisting,  
5 counseling and advising, and looking after the rights  
6 and interests of, all persons known as veterans who have  
7 served in the armed forces of the United States in the  
8 army, navy, marine corps, air force or coast guard as  
9 defined by the laws of the United States and whose  
10 separation therefrom has been other than dishonorable  
11 and who are citizens and residents of this state, and the  
12 widows, dependents and orphans, who are or have  
13 become citizens and residents of this state, or all persons  
14 known as veterans who have served in the armed forces  
15 of the United States in the army, navy, marine corps,  
16 air force or coast guard as defined by the laws of the  
17 United States and whose separation therefrom has been  
18 other than dishonorable.

#### **§9A-1-2. Veterans’ council; administration of division.**

1 There shall be a “veterans’ council” which shall consist  
2 of seven members who shall be citizens and residents of  
3 this state, who have served in and been honorably  
4 discharged or separated under honorable conditions  
5 from the armed forces of the United States and whose  
6 service was within a time of war as defined by the laws  
7 of the United States, either Public Law No. 2 — 73rd  
8 Congress or Public Law No. 346 — 78th Congress, and  
9 any and all amendments thereto. At least one member  
10 of the council shall be a veteran of World War II, at least  
11 one member of the council shall be a veteran of the  
12 Korean Conflict and at least two members of the council  
13 shall be veterans of the Vietnam era. The members of  
14 the veterans’ council shall be selected with special  
15 reference to their ability and fitness to effectuate the  
16 purposes of this article.

17 After having conducted a performance and fiscal

18 audit through its joint committee on government  
19 operations, pursuant to section nine, article ten, chapter  
20 four of this code, the Legislature hereby finds and  
21 declares that the veterans' council should be continued  
22 and reestablished. Accordingly, notwithstanding the  
23 provisions of section four, article ten, chapter four of this  
24 code, the veterans' council shall continue to exist until  
25 the first day of July, one thousand nine hundred ninety-  
26 four.

27 The West Virginia division of veterans' affairs shall  
28 be administered by a director, and such veterans' affairs  
29 officers, assistants and employees as may be deemed  
30 advisable.

**§9A-1-4. Duties and functions of veterans' council;  
appointment of director; term of office;  
removal.**

1 It shall be the duty and function of the veterans'  
2 council to determine the general administrative policies  
3 of the division, to select at their first meeting in each  
4 fiscal year commencing on the first day of July a  
5 chairman to serve one year, to promulgate such rules  
6 and regulations as may be necessary, to examine into the  
7 efficiency of the division from time to time, to exercise  
8 general supervision over the operations of the division,  
9 to advise the governor and the Legislature with respect  
10 to legislation affecting the interests of veterans, their  
11 widows, dependents and orphans, to make annual  
12 reports to the governor respecting the service of the  
13 division, and to prescribe the duties of the director. Such  
14 director shall have the same eligibility and qualifica-  
15 tions prescribed for members of the veterans' council.  
16 The governor shall appoint a director for a term of six  
17 years, by and with the advice and consent of the Senate.  
18 Before making such appointment, the governor shall  
19 request the council of the West Virginia division of  
20 veterans' affairs to furnish a full and complete report  
21 concerning the qualifications and suitability of the  
22 proposed appointee. The director shall be subject to  
23 removal by the governor for cause, but shall have upon  
24 his own request an open hearing before the governor on  
25 the complaints or charges lodged against him. The

26 action of the governor shall be final. The director ex  
27 officio shall be the executive secretary of the veterans'  
28 council, keep the minutes of each meeting, and be in  
29 charge of all records of the division.

**§9A-1-5. Compensation of director, veterans' affairs  
officers, assistants and employees; payment  
to veterans' council members; traveling  
expenses; meetings of veterans' council.**

1 The director shall receive a salary of thirty-two  
2 thousand dollars per annum and necessary traveling  
3 expenses incident to the performance of his or her  
4 duties. The salaries of the veterans' affairs officers,  
5 assistants and employees shall be fixed by the veterans'  
6 council. The members of the veterans' council shall  
7 receive no salary, but each member shall receive twenty-  
8 five dollars for each day actually in attendance at a  
9 meeting and actual expenses and traveling expenses  
10 incurred in the performance of duties as a council  
11 member under this article. The requisition for such  
12 expenses and traveling expenses shall be accompanied  
13 by a sworn and itemized statement, which shall be filed  
14 with the auditor and permanently preserved as a public  
15 record. The veterans' council shall hold its initial  
16 meeting on the call of the governor, and thereafter shall  
17 meet on the call of its chairman, except as otherwise  
18 provided. With the exception of the first three meetings  
19 of the veterans' council, none of which shall be of a  
20 duration longer than two weeks each, for organizational  
21 purposes, the veterans' council shall meet not more than  
22 once every two months at such times as may be  
23 determined by and upon the call of the chairman for a  
24 period of not more than two days, unless there should  
25 be an emergency requiring a special meeting or for a  
26 longer period and so declared and called by the governor  
27 or by the chairman with the approval of the governor.  
28 A majority of the members of the veterans' council shall  
29 constitute a quorum for the conduct of official business.

**§9A-1-6. Oaths.**

1 The members of the veterans' council, the director,  
2 and the veterans' affairs officers, shall take and

3 subscribe to the oath prescribed by article four, section  
4 five of the state constitution, before entering on their  
5 duties. Their oaths shall be filed with the secretary of  
6 state.

**§9A-1-9. Duties of division.**

1 The division of veterans' affairs of West Virginia  
2 shall:

3 (1) Assist veterans, their widows, dependents and  
4 orphans within the state, in properly presenting their  
5 claims before the United States veterans' administra-  
6 tion, its administrator, or any federal agency, the state  
7 of West Virginia, or any of the several states of the  
8 United States, when the claims arise out of service with  
9 the armed forces of the United States as defined in  
10 section one of this article;

11 (2) Contact all veterans' organizations in this state  
12 through their duly elected or appointive officers to  
13 effectuate the purposes of this article and aid in the  
14 efficiency of the operations of the division;

15 (3) Render all possible and proper advice, assistance  
16 and counsel to veterans, their families, and their  
17 widows, dependents and orphans, within the state, and  
18 furnish them information on compensation, allowances,  
19 pensions, insurance, rehabilitation, hospitalization,  
20 education, vocational training, or refresher or retraining  
21 courses in education or training, employment, loans or  
22 aid for the purchase, acquisition or construction of  
23 homes, farms, farm equipment and business property,  
24 preference in the purchase of property and preference  
25 in employment, as provided or may be provided by any  
26 federal act, any federal agency, this state or other states;

27 (4) Make careful inquiry into all claims presented for  
28 payment out of the state treasury from any appropria-  
29 tion made for the benefit of veterans, their widows,  
30 dependents and orphans.

**§9A-1-10. Powers and duties of director.**

1 The director shall be the executive and administrative  
2 head of the division, and as such shall have the power

3 and duty, subject to the provisions of section four hereof,  
4 to:

5 (a) Supervise and put into effect the purposes and  
6 provisions of this article and the rules and regulations  
7 for the government of the division;

8 (b) Prescribe methods pertaining to investigations and  
9 reinvestigations of all claims, and to the rights and  
10 interests of all veterans, their widows, dependents and  
11 orphans;

12 (c) Prescribe uniform methods of keeping all records,  
13 and case records of the veterans, their widows, depend-  
14 ents and orphans;

15 (d) Sign and execute, in the name of the state by "West  
16 Virginia division of veterans' affairs," and by and with  
17 the consent of the veterans' council, any contract or  
18 agreement with the federal government or its agencies,  
19 other states, subdivisions of this state, corporations,  
20 associations, partnerships or individuals;

21 (e) Supervise the fiscal affairs and responsibilities of  
22 the division;

23 (f) Organize the division to comply with the require-  
24 ments of this article and with the standards required by  
25 any federal act or any federal agency;

26 (g) Establish such regional or area offices throughout  
27 the state as may be necessary to promote efficiency and  
28 economy in administration;

29 (h) Make such reports as will comply with the  
30 requirements of any federal act or federal agency and  
31 the provisions of this article;

32 (i) Cooperate with the federal and state governments  
33 for the more effective attainment of the purposes of this  
34 article;

35 (j) Keep a complete and accurate record of all  
36 proceedings; record and file all contracts and agree-  
37 ments, and assume responsibility for the custody and  
38 preservation of all papers and documents pertaining to  
39 his or her office and the division;



40 (k) Prepare for the veterans' council the annual  
41 reports to the governor of the condition, operation and  
42 functioning of the division;

43 (l) Exercise any other powers necessary and proper to  
44 standardize the work; to expedite the service and  
45 business; to assure fair consideration of the rights and  
46 interests, and claims of veterans, their widows, depend-  
47 ents and orphans, and to promote the efficiency of the  
48 division;

49 (m) Invoke any legal, equitable or special remedies for  
50 the enforcement of his orders or the provisions of this  
51 article;

52 (n) Appoint the veterans' affairs officers and heads of  
53 divisions of the division, and of regional or area offices,  
54 and employ such assistants and employees as may be  
55 necessary for the efficient operation of the division; and

56 (o) Delegate to all or any of his appointees, assistants  
57 or employees all powers and duties vested in the  
58 director, except the power to sign and execute contracts  
59 and agreements, but the director shall be responsible for  
60 the acts of such appointees, assistants and employees.

## CHAPTER 11. TAXATION.

### ARTICLE 21. PERSONAL INCOME TAX.

#### §11-21-12b. Combat pay exempt.

1 Combat pay received for Desert Shield service, as  
2 defined in section sixty-one of this article, which is  
3 exempt from federal income tax, under Section 112 of  
4 the Internal Revenue code, shall be exempt from the tax  
5 imposed by this article.

#### §11-21-42. Military incentive tax credit.

1 Every employer entitled to receive a tax credit against  
2 his West Virginia personal income tax liability as  
3 provided in article two-c, chapter twenty-one-a of this  
4 code shall receive the credit for the period and in the  
5 amount specified in said article two-c. The state tax  
6 commissioner shall provide by appropriate rule or

7 regulation for the reporting, filing and application of  
8 claims of the tax credit provided for in a manner in  
9 conformity with the legislative purpose as declared in  
10 section two, article two-c, chapter twenty-one-a of this  
11 code.

**§11-21-61. Extension of time for performing certain acts  
due to Desert Shield service.**

1 (a) *General rule.* — For purposes of applying this  
2 article and article ten of this chapter with respect to the  
3 tax liability (including any interest, penalty, additional  
4 amount, or addition to tax) of any individual who  
5 performed Desert Shield services, the period during  
6 which such individual performed such services, and the  
7 next one hundred eighty days thereafter, shall be  
8 disregarded in determining whether any of the acts  
9 referred to in subsection (b) were performed within the  
10 time prescribed therefor.

11 (b) *Time for performing certain acts postponed by*  
12 *reason of Desert Shield service.* — Whenever the general  
13 rule specified in subsection (a) applies, it shall apply to  
14 determine:

15 Whether any of the following acts was performed  
16 within the time prescribed therefor;

17 (A) Filing any return of income under this article  
18 (except income tax withheld at source);

19 (B) Payment of any income tax due under this article  
20 (except income tax withheld at source), or any install-  
21 ment thereof or of any other liability to this state in  
22 respect thereof;

23 (C) Filing a petition for reassessment or refund of any  
24 tax administered under article ten of this chapter  
25 (including any interest, penalty, additional amount or  
26 addition to tax);

27 (D) Allowance of a credit or refund of any tax  
28 administered under article ten of this chapter (including  
29 any interest, penalty, additional amount or addition to  
30 tax);

31 (E) Filing a claim for credit or refund of any tax

32 administered under article ten of this chapter (including  
33 any interest, penalty, additional amount or addition to  
34 tax);

35 (F) Appealing any appealable decision of the tax  
36 commissioner to the courts of this state, or for appealing  
37 to the supreme court of appeals a circuit court decision  
38 affirming, in whole or in part, the decision of the tax  
39 commissioner;

40 (G) Assessment of any tax (including any penalty,  
41 additional amount or addition to tax);

42 (H) Giving or making any notice or demand for the  
43 payment of any tax administered under article ten of  
44 this chapter (including any interest, penalty, additional  
45 amount or addition to tax), or with respect to any  
46 liability to this state in respect of any such tax;

47 (I) Collection by the tax commissioner, by levy or  
48 otherwise, of any liability in respect of any tax admin-  
49 istered under article ten of this chapter;

50 (J) Bringing suit by any officer on behalf of this state,  
51 in respect of any liability in respect of any tax admin-  
52 istered under article ten of this chapter;

53 (K) Any other act required or permitted under article  
54 nine or ten of this chapter or under any article of this  
55 chapter administered under said article ten, or specified  
56 in regulations promulgated under this section by the tax  
57 commissioner, in conformity with the provisions of  
58 article three, chapter twenty-nine-a of this code.

59 (c) *Treatment of individuals performing Desert Shield*  
60 *services.*

61 (1) *In general.* — Any individual who performed  
62 Desert Shield service shall be entitled to the benefits of  
63 this section.

64 (2) *Desert Shield service.* — For purposes of this  
65 section, the term “Desert Shield service” means any  
66 service in a unit of the Armed Forces of the United  
67 States (as defined in Section 7701(a)(15) of the Internal  
68 Revenue Code of 1986) or in support of any such unit  
69 if:

70 (A) Such service is performed in the area designated  
71 by the President of the United States as the "Persian  
72 Gulf Desert Shield Area";

73 (B) Such service is performed during any portion of  
74 the period beginning the second day of August, one  
75 thousand nine hundred ninety, and ending on the date  
76 on which any portion of the area referred to in  
77 subparagraph (A) is designated a combat zone pursuant  
78 to Section 112 of the Internal Revenue Code of 1986; or

79 (C) Such service is performed during any portion of  
80 the period that there is in effect a designation by the  
81 President of the United States, that the "Persian Gulf  
82 Desert Shield Area" is a combat zone, pursuant to  
83 Section 112 of the Internal Revenue code.

84 (3) *Hospitalization.* — An individual shall be treated  
85 as performing Desert Shield services during any period  
86 of continuous qualified hospitalization attributable to an  
87 injury received while performing Desert Shield service.  
88 The term "qualified hospitalization" means:

89 (A) Any hospitalization outside the United States; and

90 (B) Any hospitalization inside the United States,  
91 except that not more than five years of hospitalization  
92 may be taken into account under this subparagraph (B);  
93 and this subparagraph shall not apply for purposes of  
94 applying this section with respect to the spouse of an  
95 individual entitled to the benefits of subsection (a) of this  
96 section.

97 (d) *Special rules.*

98 (1) *Application to spouse.* — The provisions of this  
99 section shall apply to the spouse of any individual  
100 entitled to the benefits of subsection (a). The preceding  
101 sentence shall not cause this section to apply for any  
102 spouse for any taxable year beginning more than two  
103 years after the date designated by the President of the  
104 United States, under Section 112 of the Internal  
105 Revenue Code, as the date of termination of combatant  
106 activities in the Persian Gulf Desert Shield area.

107 (2) *Missing status.* — The period of service referred

108 to in subsection (c) shall include the period during which  
109 an individual entitled to benefits under subsection (a) is  
110 in missing status, within the meaning of Section  
111 6013(f)(3) of the Internal Revenue Code of 1986.

112 (e) *Exceptions.*

113 (1) *Jeopardy assessments or collection.* — Notwith-  
114 standing the provisions of subsection (a), if the tax  
115 commissioner determines that collection of the amount  
116 of any tax would be jeopardized by delay, the provisions  
117 of subsection (a) shall not operate to stay the assessment  
118 of such amount, or the collection of such amount by levy  
119 or otherwise as authorized by law. There shall be  
120 excluded from any amount assessed or collected pursu-  
121 ant to this subsection the amount of interest, penalty,  
122 additional amount and addition to the tax, if any, in  
123 respect of the period disregarded under subsection (a).

124 (2) *Action taken before ascertainment of rights to*  
125 *benefits.* — The assessment or collection of any tax  
126 administered under article ten of this chapter may be  
127 made, begun or prosecuted in accordance with law,  
128 without regard to the provisions of subsection (a), unless  
129 prior to such assessment, collection, action or proceeding  
130 it is ascertained that the person concerned is entitled to  
131 the benefits of subsection (a).

132 (3) Notwithstanding the provisions of paragraphs (1)  
133 and (2), the provision of this subsection shall be applied  
134 in conformity with the Soldiers' and Sailors' Civil Relief  
135 Act.

136 (f) *Effective Date.* — The provisions of this section shall  
137 be retroactive to the second day of August, one thousand  
138 nine hundred ninety.

**§11-21-62. Income taxes of members of armed forces on death.**

1 (a) *General rule.* — In the case of any individual who  
2 dies while in active service as a member of the Armed  
3 Forces of the United States, if such death occurred  
4 while serving in a combat zone (as determined under  
5 Section 112 of the Internal Revenue Code of 1986) or as  
6 a result of wounds, disease or injury incurred while so

7 serving:

8 (1) Any tax imposed by this article shall not apply  
 9 with respect to the taxable year in which falls the date  
 10 of his or her death, or with respect to any prior taxable  
 11 year ending on or after the first day he or she served  
 12 in a combat zone after the first day of August, one  
 13 thousand nine hundred ninety; and

14 (2) Any tax under this article for taxable years  
 15 preceding those specified in paragraph (1) which is  
 16 unpaid at the date of his or her death (including interest,  
 17 additions to tax and additional amounts) shall not be  
 18 assessed and if assessed the assessment shall be abated  
 19 and if the assessment has been collected, the amount  
 20 collected shall be credited or refunded as an  
 21 overpayment.

22 (b) *Individuals in missing status.* — For purposes of  
 23 this section, in the case of an individual who was in a  
 24 missing status within the meaning of Section  
 25 6013(f)(3)(A), of the Internal Revenue Code of 1986, the  
 26 date of such individual's death shall be treated as being  
 27 not earlier than the date on which a determination of  
 28 such individual's death is made under section 556, Title  
 29 37 of the United States Code. Subsection (a)(1) shall not  
 30 apply for any taxable year beginning more than two  
 31 years after the date designated under Section 112 of the  
 32 Internal Revenue code as the date of termination of  
 33 combatant activities in a combat zone.

34 (c) *Certain military or civilian employees of United*  
 35 *States dying as a result of injuries sustained overseas.*

36 (1) *In general.* — In the case of any individual who dies  
 37 while a military or civilian employee of the United  
 38 States, if such death occurs as a result of wounds or  
 39 injury which were incurred while the individual was a  
 40 military or civilian employee of the United States and  
 41 which were incurred outside the United States in a  
 42 terroristic or military action, any tax imposed by this  
 43 article shall not apply:

44 (A) With respect to the taxable year in which falls the  
 45 date of such individual's death; and

46 (B) With respect to any prior taxable year in the  
47 period beginning with the last taxable year ending  
48 before the taxable year in which the wounds or injury  
49 were incurred.

50 (2) *Terroristic or military action.* — For purposes of  
51 paragraph (1), the term “terroristic or military action”  
52 means any action which is terroristic or military action  
53 for purposes of Section 692 of the Internal Revenue Code  
54 of 1986.

55 (d) *Effective date.* — The provisions of this section shall  
56 apply to taxable years beginning after the thirty-first  
57 day of December, one thousand nine hundred ninety.

**§11-21-71. Requirement of withholding tax from wages.**

1 (a) *General.* — Every employer maintaining an office  
2 or transacting business within this state and making  
3 payment of any wage taxable under this article to a  
4 resident or nonresident individual shall deduct and  
5 withhold from such wages for each payroll period a tax  
6 computed in such manner as to result, so far as  
7 practicable, in withholding from the employee’s wages  
8 during each calendar year an amount substantially  
9 equivalent to the tax reasonably estimated to be due  
10 under this article resulting from the inclusion in the  
11 employee’s West Virginia adjusted gross income of his  
12 wages received during such calendar year. The method  
13 of determining the amount to be withheld shall be  
14 prescribed by the tax commissioner, with due regard to  
15 the West Virginia withholding exemption of the em-  
16 ployee. This section shall not apply to payments by the  
17 United States for service in the armed forces of the  
18 United States: *Provided*, That the tax commissioner may  
19 execute an agreement with the secretary of the treasury,  
20 as provided in 5 United States Code, §5517, for the  
21 mandatory withholding of tax under this section on pay  
22 to members of the national guard while participating in  
23 exercises or performing duty under 32 United States  
24 Code, §502, and on pay to members of the ready reserve  
25 while participating in scheduled drills or training  
26 periods or serving on active duty for training under 10  
27 United States Code, §270(a).

28 (b) *Withholding exemptions.* — For purposes of this  
29 section:

30 (1) An employee shall be entitled to the same number  
31 of West Virginia withholding exemptions as the number  
32 of withholding exemptions to which he is entitled for  
33 federal income tax withholding purposes. An employer  
34 may rely upon the number of federal withholding  
35 exemptions claimed by the employee, except where the  
36 employee claims a higher number of West Virginia  
37 withholding exemptions.

38 (2) With respect to any taxable year beginning after  
39 the thirty-first day of December, one thousand nine  
40 hundred eighty-six, the amount of each West Virginia  
41 exemption shall be two thousand dollars whether the  
42 individual is a resident or nonresident.

43 (c) *Exception for certain nonresidents.* — If the income  
44 tax law of another state of the United States or of the  
45 District of Columbia results in its residents being  
46 allowed a credit under section forty sufficient to offset  
47 all taxes required by this article to be withheld from the  
48 wages of an employee, the tax commissioner may by  
49 regulation relieve the employers of such employees from  
50 the withholding requirements of this article with  
51 respect to such employees.

52 (d) *Effective date.* — The provisions of this section, as  
53 amended in the year one thousand nine hundred eighty-  
54 seven, shall apply to all taxable years beginning after  
55 the thirty-first day of December, one thousand nine  
56 hundred eighty-six.

#### PART IV.

#### RETURNS, DECLARATIONS AND PAYMENT OF TAX.

#### ARTICLE 24. CORPORATION NET INCOME TAX.

##### §11-24-12. Military incentive tax credit.

1 Every employer entitled to receive a tax credit against  
2 its West Virginia corporate income tax liability as  
3 provided in article two-c, chapter twenty-one-a of this  
4 code shall receive the credit for the period and in the  
5 amount specified in said article two-c of this chapter.



6 The state tax commissioner shall provide by appropriate  
7 rule or regulation for the reporting, filing and applica-  
8 tion of claims for the tax credit provided for in a manner  
9 in conformity with the legislative purpose as declared  
10 in section two, article two-c, chapter twenty-one-a of this  
11 code.

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 1F. PRIVILEGES AND PROHIBITIONS.**

#### **§15-1F-1. Leave of absence for public officials and employees for drills, parades, etc.**

1 All officers and employees of the state, or subdivisions  
2 or municipalities thereof, who shall be members of the  
3 national guard or any military reserve unit of the  
4 United States armed services, shall be entitled to leave  
5 of absence from their respective offices or employments  
6 without loss of pay, status or efficiency rating, on the  
7 days during which they shall be engaged in drills,  
8 parades or other duty, during business hours ordered by  
9 proper authority, or for field training or active service  
10 of the state for a maximum period of thirty days in any  
11 one calendar year. The term "without loss of pay" means  
12 that the officer or employee shall continue to receive his  
13 normal salary or compensation, notwithstanding the fact  
14 that such officer or employee may have received other  
15 compensation from federal or state sources during the  
16 same period. Benefits of this section shall accrue to  
17 individuals ordered or called to active duty by the  
18 president for twenty-four working days after they report  
19 for active service.

## **CHAPTER 17A.**

### **MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

#### **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.**

##### **§17A-3-4. Application for certificate of title; tax for privilege of certification of title; penalty for false swearing.**

1 (a) Certificates of registration of any vehicle or

2 registration plates therefor, whether original issues or  
3 duplicates, shall not be issued or furnished by the  
4 division of motor vehicles or any other officer charged  
5 with the duty, unless the applicant therefor already has  
6 received, or at the same time makes application for and  
7 is granted, an official certificate of title of the vehicle.  
8 The application shall be upon a blank form to be  
9 furnished by the division of motor vehicles and shall  
10 contain a full description of the vehicle, which descrip-  
11 tion shall contain a manufacturer's serial or identifica-  
12 tion number or other number as determined by the  
13 commissioner and any distinguishing marks, together  
14 with a statement of the applicant's title and of any liens  
15 or encumbrances upon the vehicle, the names and  
16 addresses of the holders of the liens and any other  
17 information as the division of motor vehicles may  
18 require. The application shall be signed and sworn to  
19 by the applicant.

20 (b) A tax is hereby imposed upon the privilege of  
21 effecting the certification of title of each vehicle in the  
22 amount equal to five percent of the value of said motor  
23 vehicle at the time of such certification. If the vehicle  
24 is new, the actual purchase price or consideration to the  
25 purchaser thereof is the value of the vehicle; if the  
26 vehicle is a used or secondhand vehicle, the present  
27 market value at time of transfer or purchase is the value  
28 thereof for the purposes of this section: *Provided*, That  
29 so much of the purchase price or consideration as is  
30 represented by the exchange of other vehicles on which  
31 the tax herein imposed has been paid by the purchaser  
32 shall be deducted from the total actual price or  
33 consideration paid for the vehicle, whether the same be  
34 new or secondhand; if the vehicle is acquired through  
35 gift, or by any manner whatsoever, unless specifically  
36 exempted in this section, the present market value of the  
37 vehicle at the time of the gift or transfer is the value  
38 thereof for the purposes of this section. No certificate of  
39 title for any vehicle shall be issued to any applicant  
40 unless the applicant has paid to the division of motor  
41 vehicles the tax imposed by this section which is five  
42 percent of the true and actual value of said vehicle  
43 whether the vehicle is acquired through purchase, by

44 gift or by any other manner whatsoever except gifts  
45 between husband and wife or between parents and  
46 children: *Provided, however,* That the husband or wife,  
47 or the parents or children previously have paid the tax  
48 on the vehicles so transferred to the state of West  
49 Virginia: *Provided further,* That the division of motor  
50 vehicles may issue a certificate of registration and title  
51 to an applicant if the applicant provides sufficient proof  
52 to the division of motor vehicles that the applicant has  
53 paid the taxes and fees required by this section to a  
54 motor vehicle dealership that has filed bankruptcy  
55 proceedings in the United States bankruptcy court and  
56 the taxes and fees so required to be paid by the  
57 applicant have been impounded due to the bankruptcy  
58 proceedings: *And provided further,* That the applicant  
59 makes an affidavit of the same and assigns all rights to  
60 claims for money the applicant may have against the  
61 motor vehicle dealership to the division of motor  
62 vehicles.

63 The tax imposed by this section does not apply to  
64 vehicles to be registered as Class H vehicles, or Class  
65 S vehicles, as defined in section one, article ten of this  
66 chapter, which are used or to be used in interstate  
67 commerce. Nor does the tax imposed by this section  
68 apply to the titling of Class B, Class K or Class E  
69 vehicles registered at a gross weight of fifty-five  
70 thousand pounds or more, or to the titling of Class C or  
71 Class L semitrailers, full trailers, pole trailers, and  
72 converter gear: *Provided,* That, if an owner of a vehicle  
73 has previously titled the vehicle at a declared gross  
74 weight of fifty-five thousand pounds or more and title  
75 was issued without the payment of the tax imposed by  
76 this section, then before the owner may obtain registra-  
77 tion for the vehicle at a gross weight less than fifty-five  
78 thousand pounds, the owner must surrender to the  
79 commissioner the exempted registration, the exempted  
80 certificate of title, and pay the tax imposed by this  
81 section based upon the current market value of the  
82 vehicle: *Provided, however,* That notwithstanding the  
83 provisions of section nine, article fifteen, chapter eleven  
84 of this code, the exemption from tax under this section  
85 for Class B, Class K or Class E vehicles in excess of fifty-

86 five thousand pounds and Class C or Class L semitrail-  
87 ers, full trailers, pole trailers and converter gear shall  
88 not subject the sale or purchase of said vehicles to the  
89 consumers sales tax. The tax imposed by this section  
90 does not apply to titling of vehicles by a registered  
91 dealer of this state for resale only, nor does the tax  
92 imposed by this section apply to titling of vehicles by  
93 this state or any political subdivision thereof, or by any  
94 volunteer fire department or duly chartered rescue or  
95 ambulance squad organized and incorporated under the  
96 laws of the state of West Virginia as a nonprofit  
97 corporation for protection of life or property. The total  
98 amount of revenue collected by reason of this tax shall  
99 be paid into the state road fund and expended by the  
100 commissioner of highways for matching federal funds  
101 allocated for West Virginia. In addition to the tax, there  
102 shall be a charge of five dollars for each original  
103 certificate of title or duplicate certificate of title so  
104 issued: *Provided further*, That this state or any political  
105 subdivision thereof, or any volunteer fire department, or  
106 duly chartered rescue squad, is exempt from payment  
107 of such charge.

108 Such certificate is good for the life of the vehicle, so  
109 long as the same is owned or held by the original holder  
110 of such certificate, and need not be renewed annually,  
111 or any other time, except as herein provided.

112 If, by will or direct inheritance, a person becomes the  
113 owner of a motor vehicle and the tax herein imposed  
114 previously has been paid, to the division of motor  
115 vehicles, on that vehicle, he or she is not required to pay  
116 such tax.

117 A person who has paid the tax imposed by this section  
118 is not required to pay the tax a second time for the same  
119 motor vehicle, but is required to pay a charge of five  
120 dollars for the certificate of retitling of that motor vehicle,  
121 except that the tax shall be paid by the person when the  
122 title to the vehicle has been transferred either in this  
123 or another state from such person to another person and  
124 transferred back to such person.

125 (c) Notwithstanding any provisions of this code to the

126 contrary, the owners of trailers, semitrailers, recrea-  
127 tional vehicles and other vehicles not subject to the  
128 certificate of title tax prior to the enactment of this  
129 chapter are subject to the privilege tax imposed by this  
130 section: *Provided*, That the certification of title of any  
131 recreational vehicle owned by the applicant on the  
132 thirtieth day of June, one thousand nine hundred eighty-  
133 nine, is not subject to the tax imposed by this section:  
134 *Provided, however*, That mobile homes, house trailers,  
135 modular homes and similar nonmotive propelled vehi-  
136 cles, except recreational vehicles, susceptible of being  
137 moved upon the highways but primarily designed for  
138 habitation and occupancy, rather than for transporting  
139 persons or property, or any vehicle operated on a  
140 nonprofit basis and used exclusively for the transporta-  
141 tion of mentally retarded or physically handicapped  
142 children when the application for certificate of registra-  
143 tion for such vehicle is accompanied by an affidavit  
144 stating that such vehicle will be operated on a nonprofit  
145 basis and used exclusively for the transportation of  
146 mentally retarded and physically handicapped children,  
147 are not subject to the tax imposed by this section, but  
148 are taxable under the provisions of articles fifteen and  
149 fifteen-a, chapter eleven of this code.

150 (d) Any person making any affidavit required under  
151 any provision of this section, who knowingly swears  
152 falsely, or any person who counsels, advises, aids or  
153 abets another in the commission of false swearing, is on  
154 the first offense guilty of a misdemeanor, and, upon  
155 conviction thereof, shall be fined not more than five  
156 hundred dollars or be imprisoned in the county jail for  
157 a period not to exceed six months, or, in the discretion  
158 of the court, both fined and imprisoned. For a second  
159 or any subsequent conviction within five years any such  
160 person is guilty of a felony, and, upon conviction thereof,  
161 shall be fined not more than five thousand dollars or be  
162 imprisoned in the penitentiary for not less than one year  
163 nor more than five years or, in the discretion of the  
164 court, fined and imprisoned.

165 (e) Notwithstanding any other provisions of this  
166 section, military service personnel stationed outside

167 West Virginia, or their dependents who possess a motor  
 168 vehicle with valid registration, shall be exempt from the  
 169 provisions of this article for a period of nine months  
 170 from the date that such military service personnel  
 171 returns to this state or the date such military service  
 172 personnel's dependent returns to this state whichever is  
 173 later.

## CHAPTER 18. EDUCATION.

### ARTICLE 19. EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF DECEASED SOLDIERS, SAILORS, MARINES AND AIRMEN.

#### §18-19-1. Appropriation to provide educational oppor- tunities.

1 For the purpose of providing educational opportuni-  
 2 ties for the children of those who served in the army,  
 3 navy or marine corps of the United States during the  
 4 world war from April sixth, one thousand nine hundred  
 5 seventeen, to July second, one thousand nine hundred  
 6 twenty-one, or served in the armed forces of the United  
 7 States of America at any time between December first,  
 8 one thousand nine hundred forty-one, and the declara-  
 9 tion of peace by the Congress of the United States, or  
 10 served in the armed forces of the United States of  
 11 America at any time between June twenty-seventh, one  
 12 thousand nine hundred fifty, and January thirty-first,  
 13 one thousand nine hundred fifty-five, or served in the  
 14 armed forces of the United States of America at any  
 15 time between August fifth, one thousand nine hundred  
 16 sixty-four, and May seventh, one thousand nine hundred  
 17 seventy-five, all dates inclusive, and who were killed in  
 18 action or have died or may hereafter die from disease  
 19 or disability resulting from such war service, there shall  
 20 be appropriated from the state fund general revenue the  
 21 sum of at least five thousand dollars for each fiscal year  
 22 commencing July first and ending on June thirty of each  
 23 year of the next biennium to be used for the benefit of  
 24 such children while attending state education or  
 25 training institutions. This benefit also shall be given to  
 26 children of a service member killed during hostile  
 27 actions as defined by the agency administering this  
 28 section. The term "children" as used in this article shall

29 include any child of a veteran who has been legitimized  
30 by operation of law prior to the veteran's demise.

**§18-19-2. Eligibility of applicant for benefits; application forms; preference.**

1 To be eligible for the benefits of this article, said  
2 children must be at least sixteen and not more than  
3 twenty-two years of age and have had their domiciles  
4 in this state for at least twelve months preceding their  
5 application for said benefits. Such application shall be  
6 made to, and upon forms provided by, the West Virginia  
7 division of veterans affairs, which division shall  
8 determine the eligibility of those who make such  
9 application and the yearly amount to be allotted each  
10 applicant, which amount in the discretion of the division  
11 may vary from year to year, but shall not exceed the  
12 sum of five hundred dollars in any one year. In selecting  
13 those to receive the benefits of this article, preference  
14 shall be given those who are otherwise financially  
15 unable to secure said educational opportunities and to  
16 those whose parent was domiciled in this state during  
17 the period of such parent's war service.

**§18-19-3. No tuition fees to be charged; how funds to be expended; cessation of allowances.**

1 No tuition fees shall be charged such applicants  
2 attending any state education or training institution,  
3 and the funds herein appropriated shall be expended by  
4 said West Virginia division of veterans affairs only for  
5 matriculation fees, board, room rent, books, supplies and  
6 other necessary living expenses of such children. Said  
7 division is charged with the duty of disbursing the funds  
8 herein provided and shall draw its requisitions upon the  
9 auditor for that purpose. In the discretion of said  
10 division, such requisitions may be made payable to said  
11 education or training institutions or to those furnishing  
12 to said children board, room rent, books, supplies and  
13 other necessary living expenses, the division being first  
14 satisfied as to the correctness and amounts of such  
15 expenditures. Should any child withdraw from any such  
16 institution, all allowances to such child shall cease. No  
17 member or employee of said division shall receive any

18 additional compensation for the services herein re-  
19 quired.

## CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

### ARTICLE 2C. MILITARY INCENTIVE PROGRAM.

#### §21A-2C-1. Short title.

1 This article shall be known and may be cited as the  
2 "Military Incentive Program Act of 1991."

#### §21A-2C-2. Declaration of legislative intent and purpose.

1 The Legislature of West Virginia hereby recognizes  
2 that disabled veterans and economically disadvantaged  
3 veterans of the Vietnam era and of the Korean conflict,  
4 members of the West Virginia national guard and the  
5 reserve forces of the United States have made sacrifices  
6 which merit preferential employment treatment in both  
7 the public and private sectors. Economically disadvan-  
8 tagged and disabled veterans traditionally suffer a  
9 disproportionately higher unemployment rate than that  
10 of nonveterans of similar age and skills. Members of the  
11 West Virginia national guard and reserve forces of the  
12 United States who are called upon to leave their jobs to  
13 perform military obligations are frequently placed in  
14 conflict with their employers and as such are frequently  
15 discriminated against by prospective employers. It is the  
16 intent and purpose of the Legislature to encourage the  
17 employment of these veterans and members of the guard  
18 and reserve forces in the private sector by providing tax  
19 credits for private sector employers who employ  
20 economically disadvantaged Vietnam era and Korean  
21 conflict veterans, disabled veterans, unemployed  
22 members of the West Virginia national guard and  
23 unemployed members of the reserve forces of the United  
24 States generally.

#### §21A-2C-3. Definitions.

1 For the purposes of this article:

2 (a) "Active duty" means full-time duty in the armed  
3 forces, other than duty for training in the reserves or  
4 national guard. Any period of duty for training in the



5 reserves or national guard, including authorized travel,  
6 during which an individual was disabled from a disease  
7 or injury incurred or aggravated in line of duty, is  
8 considered "active duty."

9 (b) "Economically disadvantaged" means a person  
10 who:

11 (1) Receives, or is a member of a family which  
12 receives, cash welfare payments under a federal, state  
13 or local welfare program;

14 (2) Has, or is a member of a family which has,  
15 received a total family income for the six months prior  
16 to application which, in relation to family size, was not  
17 in excess of the higher of:

18 (i) The poverty level determined in accordance with  
19 criteria established by the federal office of management  
20 and budget; or

21 (ii) Seventy percent of the lower living standard  
22 income level;

23 (3) Is receiving food stamps pursuant to the food  
24 stamp act of one thousand nine hundred seventy-seven;

25 (4) Is a foster child on behalf of whom state or local  
26 government payments are made; or

27 (5) Is an adult handicapped individual whose own  
28 income meets the requirements of subdivisions (1) and  
29 (2) of this subsection, but who is a member of a family  
30 whose income does not meet such requirements.

31 (c) "Korean conflict veteran" means a person who  
32 served in the armed services of the United States at  
33 least one day during the period of time beginning the  
34 twenty-seventh day of June, one thousand nine hundred  
35 fifty, and extending through the thirty-first day of  
36 January, one thousand nine hundred fifty-five.

37 (d) "National guard member" means a member of any  
38 component of the West Virginia national guard.

39 (e) "Reserve member" means a member of any  
40 component of the reserve forces of the United States.

41 (f) "Veteran" means a member of the United States  
42 armed forces who:

43 (1) Served on active duty for a period of more than  
44 one hundred eighty days and was discharged or released  
45 therefrom with other than a dishonorable discharge; or

46 (2) Was discharged or released from active duty  
47 because of a service-connected disability.

48 (g) "Vietnam era veteran" means a person who served  
49 in the armed services of the United States at least one  
50 day during the period of time beginning the fifth day  
51 of August, one thousand nine hundred sixty-four, and  
52 extending through the seventh day of May, one thousand  
53 nine hundred seventy-five.

**§21A-2C-4. Tax credit; eligibility; amount.**

1 (a) Each person, partnership or corporation which  
2 employs an economically disadvantaged Vietnam era or  
3 Korean conflict veteran or any disabled veteran, or an  
4 unemployed member of the West Virginia national  
5 guard or a member of the reserve forces of the United  
6 States for a continuous period of one year, except as  
7 otherwise provided in this article, shall be entitled to an  
8 appropriate tax credit for each such individual so  
9 employed. In the case of a person or partnership so  
10 employing such individuals, the tax credit provided for  
11 in this section shall be applied against the employer's  
12 personal income tax liability. In the case of a corpora-  
13 tion so employing such individuals, the tax credit  
14 provided for in this section shall be applied against the  
15 corporation's corporate net income tax liability. This tax  
16 credit shall be nonassignable and may not exceed an  
17 employer's total tax liability with respect to the specific  
18 tax against which the tax credit is required to be  
19 applied.

20 (b) The amount of the tax credit allowed under  
21 subsection (a) of this section shall be an amount equal  
22 to the following:

23 (1) For each economically disadvantaged Vietnam era  
24 or Korean conflict veteran employed as described in  
25 subsection (a), the amount of the tax credit allowed shall

26 be thirty percent of the employee's wage base. For the  
27 purposes of this section, the employee's wage base is the  
28 first five thousand dollars in wages or compensation  
29 actually paid to the employee by the employer;

30 (2) For each disabled veteran employed as described  
31 in subsection (a), the amount of the tax credit allowed  
32 shall be a percentage equal to the percentage of  
33 disability suffered by the veteran multiplied by the  
34 employee's wage base. The employee's wage base is the  
35 same as provided in subdivision (1) of this subsection.  
36 The percentage of disability referred to in this subdivi-  
37 sion means the percentage of compensation for service  
38 connected disability as determined by the United States  
39 department of veterans affairs; and

40 (3) For each member of the West Virginia national  
41 guard or member of the reserve forces of the United  
42 States employed as described in subsection (a), the  
43 amount of the tax credit allowed shall be twenty-five  
44 percent of the employee's wage base. For the purpose  
45 of this section, the employee's wage base is the first five  
46 thousand dollars in wages or compensation actually paid  
47 to the employee by the employer.

**§21A-2C-5. Restrictions and limitations regarding tax credit.**

1 (a) An employer may not claim a tax credit provided  
2 for in this article for any individual employed for less  
3 than a continuous period of one year, unless:

4 (1) The individual voluntarily leaves employment with  
5 the employer;

6 (2) The individual becomes totally disabled and unable  
7 to continue his employment; or

8 (3) The individual is terminated for good cause shown.

9 In the event that the individual is employed for less  
10 than a one continuous year period due to circumstances  
11 enumerated in subdivision (1), (2) or (3) above, the  
12 employer shall be entitled to a partial tax credit in a  
13 proportional amount corresponding to the ratio of the  
14 time period during which the veteran was actually

15 employed to the one-year period required for a full tax  
16 credit multiplied by the amount of the full tax which  
17 would have accrued to the employer had the individual's  
18 employment continued for a full year.

19 (b) An employer may not claim tax credit provided for  
20 in this article for any individual who is employed and  
21 displaces a person already employed. In addition, no tax  
22 credit may be claimed for the employment of any  
23 individual for whom the employer is receiving job  
24 training payments from either the federal or state  
25 government. Nothing in this section prohibits an  
26 employer from receiving tax credits from both the  
27 federal and state governments under similar targeted  
28 jobs programs if the employer is otherwise qualified to  
29 receive both.

**§21A-2C-6. Program administration.**

1 The program established by this article shall be  
2 conducted primarily under the direction of the  
3 employment services section of the bureau of employ-  
4 ment programs or its successor agency and the West  
5 Virginia national guard. Reserve forces units may also  
6 verify through approved vouchers, eligibility of reserve  
7 members to participate in this program. Each individ-  
8 ual who qualifies under this article for participation in  
9 this program shall be given, upon request, a voucher  
10 certifying that the individual is eligible for participation  
11 in the program described in this article. The voucher  
12 shall be in a form prescribed by the commissioner of  
13 employment programs and the adjutant general, and  
14 they may conduct such investigations and collect such  
15 data as they deem necessary to ensure that each  
16 individual applying for the voucher is actually qualified  
17 for participation in the program.

18 When an employer employs an eligible individual who  
19 presents the voucher herein provided for, the employer  
20 shall submit the voucher along with basic information  
21 to the issuing agency as may be required for participa-  
22 tion in this program. Each year, the issuing agency shall  
23 certify to the state tax commissioner a list of employers  
24 who may be qualified to receive a tax credit under this

25 program. In order to receive the appropriate tax credit,  
26 an employer must file for the tax credit provided for  
27 under this article as required by section forty-two,  
28 article twenty-one, chapter eleven of this code or by  
29 section twelve, article twenty-four, chapter eleven of this  
30 code.

#### ARTICLE 6. CIVIL SERVICE SYSTEM.

##### §29-6-2. Definition of terms.

1 As used in this article, unless the context indicates  
2 otherwise, the term:

3 (a) "Administrator" means any person who fills a  
4 statutorily created position within or related to an  
5 agency or board (other than a board member) and who  
6 is designated by statute as commissioner, deputy  
7 commissioner, assistant commissioner, director, chancel-  
8 lor, chief, executive director, executive secretary,  
9 superintendent, deputy superintendent or other admi-  
10 nistrative title, however designated;

11 (b) "Agency" means any administrative unit of state  
12 government, including any authority, board, bureau,  
13 commission, committee, council, division, section or  
14 office;

15 (c) "Appointing authority" means a person or group  
16 of persons authorized by an agency to make appoint-  
17 ments to positions in the classified or classified-exempt  
18 service;

19 (d) "Board" means the state personnel board created  
20 by section six of this article;

21 (e) "Class" or "class of positions" means a group of  
22 positions sufficiently similar in duties, training, expe-  
23 rience and responsibilities, as determined by specifica-  
24 tions, that the same qualifications, the same title and the  
25 same schedule of compensation and benefits may be  
26 equitably applied to each position in the group;

27 (f) "Classification plan" means the plan by which  
28 positions in the classified service and classified-exempt  
29 service have been allocated by class;

30 (g) "Classified-exempt service" means an employee  
 31 whose position satisfies the definitions for "class" and  
 32 "classify" but who is not covered under the civil service  
 33 system or employed by the higher education governing  
 34 boards;

35 (h) "Classified service" means an employee whose job  
 36 satisfies the definitions for "class" and "classify" and  
 37 who is covered under the civil service system;

38 (i) "Classify" means to group all positions in classes  
 39 and to allocate every position to the appropriate class in  
 40 the classification plan;

41 (j) "Director" means the head of the division of  
 42 personnel as appointed by section seven of this article;

43 (k) "Council" means the state personnel advisory  
 44 council created in section nine-a of this article;

45 (l) "Division" means the division of personnel herein  
 46 created;

47 (m) "Policymaking position" means a position in which  
 48 the person occupying it (1) acts as an advisor to, or  
 49 formulates plans for the implementation of broad goals  
 50 for an administrator or the governor, (2) is in charge of  
 51 a major administrative component of the agency and (3)  
 52 reports directly and is directly accountable to an  
 53 administrator or the governor;

54 (n) "Position" means a particular job which has been  
 55 classified based on specifications;

56 (o) "Secretary" means the secretary of the department  
 57 of administration created in section two, article one,  
 58 chapter five-f of this code;

59 (p) "Specification" means a description of a class of  
 60 position which defines the class, provides examples of  
 61 work performed and the minimum qualifications  
 62 required for employment;

63 (q) "Veteran" means any person who has served in the  
 64 armed forces of the United States of America during  
 65 World War I (April 6, 1917-November 11, 1918), World  
 66 War II (December 7, 1941-December 31, 1946), the

67 Korean Conflict (June 27, 1950-January 31, 1955), the  
68 Vietnam Conflict (August 5, 1964-May 7, 1975), or in a  
69 campaign, expedition or conflict for which a campaign  
70 badge has been authorized and received by such person,  
71 and who has received a discharge under honorable  
72 conditions from such service.

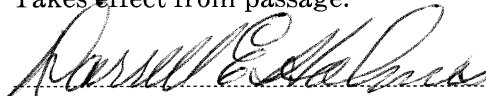
The Joint Committee on Enrolled Bills hereby certifies that  
the foregoing bill is correctly enrolled.

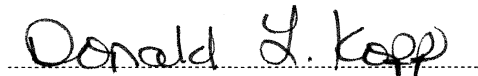
  
Chairman Senate Committee


  
Chairman House Committee

Originating in the House.

Takes effect from passage.

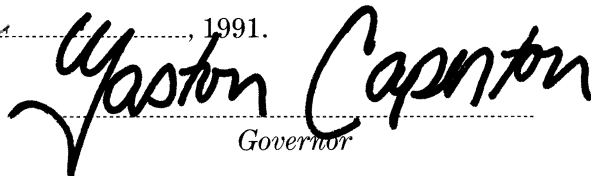
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 2nd  
day of March, 1991.

  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/20/91

Time 4:30 PM