WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

SENATE BILL NO. 186

(By Senator Manchin, et al.)

PASSED March 12, 1994
In Effect from Passage
ENROLLED

Senate Bill No. 186

(By Senators Manchin, Anderson, Guru 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
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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 the eighteenth day of October, one thousand nine hundred eighty-three, relating to the insurance com-
missioner (excess line brokers), are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine
The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the insurance commissioner (regulation of credit life insurance and credit accident and sickness insurance), are authorized.

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

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

"On page six, subsection 2.1.9., after the words 'If a person is covered by more than one employer group minimum benefits plan, the order of benefits determination rules of this regulation decide the order in which their benefits are determined in relation to each other' by inserting a colon and the words Provided, That under the provisions of West Virginia Code §5-16-12(a), coverage issued pursuant to the Public Employees Insurance Act is secondary to an employer group minimum benefits plan and any other applicable health insurance coverage."

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

(t) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the insurance commissioner (filing fees for purchasing groups and for risk retention groups not chartered in this state), are authorized.
hundred ninety-two, modified by the insurance com-
missioner to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the fifteenth day of January, one thousand
nine hundred ninety-three, relating to the insurance
commissioner (individual and employer group mini-
imum benefits, accident and sickness insurance poli-
cies), are authorized with the amendment set forth
below:

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

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

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

(w) The legislative rules filed in the state register on
the sixteenth day of August, one thousand nine
hundred ninety-three, modified by the insurance
commissioner to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-ninth day of November, one
thousand nine hundred ninety-three, relating to the
insurance commissioner (insurance holding company
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systems reporting forms), are authorized.

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

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

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

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

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

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

"1.2.j. Coverage under a managed care program.
1.2.k. Bona Fide Associations.
1.2.l. Basic Hospital and Medical-Surgical Expense
Coverage
1.2.m. Coverage under policies issued to groups of 61
or more under which the coverage is negotiated by the
policy holder.;
1.2.n. Individual limited benefits policies subject to
the requirements of West Virginia Code §§ 33-16E-1, et
seq."

And,

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

"2.2 "Basic Hospital and Medical Surgical Expense
Coverage" means policies designed to provide cover-
age for hospital and medical surgical expenses only
incurred as a result of a covered accident or sickness.
Coverage is provided for daily hospital room and
board, miscellaneous hospital services, hospital out-
patient services, surgical services, anesthesia services,
and in-hospital medical services, subject to any limita-
tions, deductibles and copayment requirements set
forth in the policy. Coverage is not provided for
unlimited hospital or medical surgical expenses.
2.3 "Bona Fide Association" means plans with a
minimum of one hundred members which shall have
been organized in good faith for purposes other than
that of obtaining or providing insurance: Provided,
however, That the association shall also have been in
active existence for at least two years and shall have
a constitution and bylaws which provide that: (1) the
Association holds annual meetings to further purposes
of its members; (2) except in the case of credit unions,
the association collects dues or solicits contributions
from members, (3) the members have voting privi-
leges and representation on the governing board and
committees that exist under the authority of the
association.";

And,

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

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

And,

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

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

And,

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

“5.1.b If an insurer terminates coverage under a
policy providing pregnancy coverage, such policy shall
provide for an extension of benefits as to pregnancy
commencing while the policy is in force and for which
benefits would have been payable had the policy
remained in force, provided that this subsection shall
not apply when termination of coverage is due to fraud, nonpayment of premium or any breach of the terms of the policy for which termination is authorized under chapter thirty-three of the code.”;

And,

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

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

And,

On page ten, subsection 5.1.i by striking said subsection in its entirety and inserting in lieu thereof the following:

“5.1.i. Termination of coverage under a policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous disability of the insured or limited to the duration of the policy benefit period if any: Provided, That this subsection shall not apply when termination of coverage is due to fraud, nonpayment of premium or any breach of the terms of the policy for which termination is authorized under chapter thirty-three of the code.”;

And,

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

And,

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

“The notice shall also state that in the event the policy holder exercises this right, the insurer shall not be obligated to pay any benefits under the policy for claims submitted to the insurer during such ten (10) day period.”
§64-7-4. Lottery commission.

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

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

(c) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, modified by the lottery commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety-four, relating to the lottery commission (state lottery), are authorized.

§64-7-5. Racing commission.

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

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

(c) The legislative rules filed in the state register on the twenty-third day of April, one thousand nine hundred eighty-two, relating to the West Virginia racing commission (Rule 107), are authorized.
(d) The legislative rules filed with the legislative rule-making review committee on the tenth day of January, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 471), are authorized.

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

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

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

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

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

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

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

(j) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 455) greyhound racing, are authorized.
(k) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 609A) greyhound racing, are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The legislative rules filed in the state register on the fifth day of January, one thousand nine hundred eighty-four, relating to the state tax commissioner (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized with the amendments set forth below:

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

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

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

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

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

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

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

On page 73, section 11.06(h) by striking the symbol and figures "$3.00" and inserting in lieu the following: "$1.00."

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

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

On page 110, section 11.08(c)(4) by striking the symbol and figures "$5.00" and inserting in lieu thereof the following: "$1.00."
On page 111, section 11.08(c)(5)(B) by striking the symbol and figures "$5.00" and inserting in lieu thereof the following: "$1.00."

And,

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

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

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

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

And,

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

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

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

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

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

Page i, TABLE OF CONTENTS, Section 10; following the words "Valuation of Farmland" add the words "and of Structures Situated Thereon."

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

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

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

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

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

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

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

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

Page 10.9, Section 10.04(6), following the last sentence; add the sentence "For the purposes of this definition, 'contiguous tracts' are farmlands which are
in close proximity, but not necessarily adjacent:

Provided, That all such contiguous tracts are operated
as part of the same farm management plan."

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

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

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

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

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

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

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

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

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

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

Page 10.17, Section 10.05(b)(11), first sentence; following the word “sales” insert the words “for nonfarm uses.”

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

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

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

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

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

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

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

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

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

Page 10.28, Section 10.05(f)(3)(B)(1); following the words "or more of the" insert the word "usual."
Page 10.28, Section 10.05(f)(3)(B)(2); following the words "(50%) of the" insert the word "usual."

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) The legislative rules filed in the state register on
the twelfth day of August, one thousand nine hundred eighty-eight, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of September, one thousand nine hundred eighty-eight, relating to the state tax commissioner (electronic data processing system network for property tax administration), are authorized.

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

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

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

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

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

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

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

(bb) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety, relating to the department of tax and revenue (consumers sales and service tax and use tax), are authorized with the amendments set forth below:

On page eight, Section 2.28, after the word “as” by inserting the words “art, science,”.

On pages eight and nine, Section 2.28.1, after the word “intellectual” by deleting the word “or” and inserting in lieu thereof the words “physical and”.

On page nine, Section 2.28.2, by deleting the words “or instruction.”

On page nine, Section 2.28.2, after the word “training” by adding the word “or”.

On page nine, Section 2.28.2, by deleting the words "or any portion of a school curriculum classified as physical education."

On page nine, by deleting all of Section 2.28.2.1.

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

On page nine, Section 2.28.2.2, by deleting the words "or instruction."

On page nine, Section 2.28.2.2, after the word "training" by adding the word "or".

On page nine, Section 2.28.2.2, after the word "conditioning" by inserting a period and striking the remainder of the sentence.

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

And,

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

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

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

On page six, by deleting all of subdivisions 2.25.2 and 2.25.4;
On page six, subsection 2.25 by renumbering the remaining subdivisions;
On page forty-five, paragraph 8.1.1.1, after the words “licensed social workers”, by inserting “enrolled agents, professional foresters,”;
On page forty-five, paragraph 8.1.1.1, after the word “electricians”, by striking out the words “enrolled agents”;  
On page forty-five, paragraph 8.1.1.1, after the word “musicians” by striking out the word “auctioneers,”;
On page fifty-six, subdivision 9.2.19, after the word “laws” by striking out the colon and inserting the following “, such as, for example, sales by credit unions under W. Va. Code §31-10-33 the sale of services by owners, trainers or jockeys which are essential to the effective conduct of a horse or dog racing meeting under W. Va. Code §19-23-12, or the commission of an
auctioneer licensed under W. Va. Code §19-2C-1 et seq.;

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

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

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

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

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

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

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

And,

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

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

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

And,

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

“Notwithstanding the fact that persons engaged in the rendering of a service are required to pay tax on their purchases for use and/or consumption in rendering such services, the purchase by hotels, motels, tourist homes and rooming houses of complimentary items such as shampoos, coffee and newspapers given to guests by such hotels, motels, tourist homes and rooming houses are not taxable.”

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

(vv) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of January, one thousand nine hundred ninety-four, relating to the division of tax (charitable raffle boards and games), are authorized.
On page thirty-nine, section 5.16.3.1, by striking section 5.16.3.1 and inserting in lieu thereof the following:

“This exception shall not be applicable if the taxpayer failed to provide information requested by the Department of Tax and Revenue, or its predecessor, the West Virginia Tax Department, or if the taxpayer had knowledge or should have had knowledge of information necessary for the Department of Tax and Revenue to make an informed analysis and determination pertaining to the actual application of the credit but failed to disclose such information to the Department.”

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

“On page four, section 3.1, by striking out ‘$400.00’ and inserting in lieu thereof ‘$200.00’.”

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

On page one, section 2.2 after the word “be” by inserting the following: “The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. These items of personal
property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily installed for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment."
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman Senate Committee

[Signatures]
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signatures]
Clerk of the Senate

[Signatures]
Clerk of the House of Delegates

[Signatures]
President of the Senate

[Signatures]
Speaker House of Delegates

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

[Signatures]
Governor
PRESENTED TO THE
GOVERNOR

Date 3/26/74
Time 1:02 PM