WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED
Com. Sub. for
HOUSE BILL No. 2491

(By Delegate Mr. Speaker, Mr. Chambers,
Delegate Ashley
[By Request Of the Executive]

Passed ....................... March 11, 1995
In Effect .................. 90 Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2491

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

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections six, article twenty-four of said chapter; to amend and reenact sections one-a, two, four and five, article fifteen, chapter thirty-three of said code; to further amend said article by adding thereto two new sections, designated sections one-b and twenty; and to amend article sixteen of said chapter by adding thereto a new section, designated section fifteen, all relating to accident and sickness insurance, excluding individual, employee and employer deposits, to medical savings accounts from adjusted gross income for purposes of personal income tax and from taxable income for purposes of corporation net income tax, requiring the guaranty of renewability for individual accident and sickness policies, establishing rate criteria for individual major medical policies, deleting an optional relation of earnings to insurance proviso, permitting establishment of individual medical savings accounts to serve as self-insurance for the payment of medical expenses, authorizing combined plans to defray medical expenses included within deductible provisions of an individual or group insurance plan and therefor not payable
under that plan, definitions, ownership of accounts, contributions, trustees, restricting withdrawals from medical savings accounts for purposes other than payment of medical expenses, requiring insurance commissioner to issue regulations for plan standards, and authorizing tax commissioner to provide penalties for early withdrawal by legislative rule.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-12. West Virginia adjusted gross income of resident individual.

(a) General. — The West Virginia adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year with the modifications specified in this section.

(b) Modifications increasing federal adjusted gross income. — There shall be added to federal adjusted gross income unless already included therein the following items:

(1) Interest income on obligations of any state other than this state or of a political subdivision of any other state unless created by compact or agreement to which this state is a party;

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States
exempt from federal income tax but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax: Provided, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

(4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this article, to the extent deductible in determining federal adjusted gross income;

(5) Interest on a depository institution tax-exempt savings certificate which is allowed as an exclusion from federal gross income under Section 128 of the Internal Revenue Code, for the federal taxable year;

(6) The amount allowed as a deduction from federal gross income under Section 221 of the Internal Revenue Code by married couples who file a joint federal return for the federal taxable year: Provided, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

(7) The deferral value of certain income that is not recognized for federal tax purposes, which value shall be an amount equal to a percentage of the amount allowed as a deduction in determining federal adjusted gross income pursuant to the accelerated cost recovery system under Section 168 of the Internal Revenue Code for the federal taxable year, with the percentage of the federal deduction to be added as follows with respect to the following recovery property: Three-year property — no modification; five-year property — ten percent; ten-year property — fifteen percent; fifteen-year public utility property — twenty-five percent; and fifteen-year real property — thirty-five percent: Provided, That this modification shall not apply to any person whose federal deduction is deter-
mined by the use of the straight line method: *Provided, however,* That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six; and

(8) The amount of a lump sum distribution for which the taxpayer has elected under Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for federal income tax purposes.

(c) *Modifications reducing federal adjusted gross income.* — There shall be subtracted from federal adjusted gross income to the extent included therein:

(1) Interest income on obligations of the United States and its possessions to the extent includible in gross income for federal income tax purposes;

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States or of the state of West Virginia to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States or of the state of West Virginia, including federal interest or dividends paid to shareholders of a regulated investment company, under Section 852 of the Internal Revenue Code for taxable years ending after the thirtieth day of June, one thousand nine hundred eighty-seven;

(3) Any gain from the sale or other disposition of property having a higher fair market value on the first day of January, one thousand nine hundred sixty-one, than the adjusted basis at said date for federal income tax purposes: *Provided,* That the amount of this adjustment is limited to that portion of any gain which does not exceed the difference between the fair market value and the adjusted basis: *Provided, however,* That if the gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to forty percent of the portion of the gain: *Provided further,* That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;
(4) The amount of any refund or credit for overpayment of income taxes imposed by this state, or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes;

(5) Annuities, retirement allowances, returns of contributions and any other benefit received under the West Virginia public employees retirement system, the West Virginia state teachers retirement system and all forms of military retirement, including regular armed forces, reserves and national guard, including any survivorship annuities derived therefrom, to the extent includible in gross income for federal income tax purposes: Provided, That notwithstanding any provisions in this code to the contrary this modification shall be limited to the first two thousand dollars of benefits received under the West Virginia public employees retirement system, the West Virginia state teachers retirement system and all forms of military retirement including regular armed forces, reserves and national guard, including any survivorship annuities derived therefrom, to the extent includible in gross income for federal income tax purposes for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six; and the first two thousand dollars of benefits received under any federal retirement system to which Title 4 U.S.C. §111 applies: Provided, however, That the total modification under this paragraph shall not exceed two thousand dollars per person receiving retirement benefits and this limitation shall apply to all returns or amended returns filed after the last day of December, one thousand nine hundred eighty-eight;

(6) Retirement income received in the form of pensions and annuities after the thirty-first day of December, one thousand nine hundred seventy-nine, under any West Virginia police, West Virginia firemen's retirement system or the West Virginia department of public safety death, disability and retirement fund, including any survivorship annuities derived therefrom, to the extent includible in gross income for federal income tax purposes;

(7) Federal adjusted gross income in the amount of eight thousand dollars received from any source after the
thirty-first day of December, one thousand nine hundred eighty-six, by any person who has attained the age of sixty-five on or before the last day of the taxable year, or by any person certified by proper authority as permanently and totally disabled, regardless of age, on or before the last day of the taxable year, to the extent includible in federal adjusted gross income for federal tax purposes:

Provided, That if a person has a medical certification from a prior year and he is still permanently and totally disabled, a copy of the original certificate is acceptable as proof of disability. A copy of the form filed for the federal disability income tax exclusion is acceptable:

Provided, however, That:

(i) Where the total modification under subdivisions (1), (2), (5) and (6) of this subsection is eight thousand dollars per person or more, no deduction shall be allowed under this subdivision; and

(ii) Where the total modification under subdivisions (1), (2), (5) and (6) of this subsection is less than eight thousand dollars per person, the total modification allowed under this subdivision for all gross income received by that person shall be limited to the difference between eight thousand dollars and the sum of modifications under subdivisions;

(8) Federal adjusted gross income in the amount of eight thousand dollars received from any source after the thirty-first day of December, one thousand nine hundred eighty-six, by the surviving spouse of any person who had attained the age of sixty-five or who had been certified as permanently and totally disabled, to the extent includible in federal adjusted gross income for federal tax purposes:

Provided, That:

(i) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this subsection is eight thousand dollars or more, no deduction shall be allowed under this subdivision; and

(ii) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this subsection is less than eight thousand dollars per person, the total modification allowed
under this subdivision for all gross income received by
that person shall be limited to the difference between eight
thousand dollars and the sum of the subdivisions;

(9) Any pay or allowances received, after the
thirty-first day of December, one thousand nine hundred
seventy-nine, by West Virginia residents who have not
attained the age of sixty-five, as compensation for active
service in the armed forces of the United States: Provided,
That the deduction shall be limited to an amount not to
exceed four thousand dollars: Provided, however, That
this modification shall not be made for taxable years be-
beginning after the thirty-first day of December, one thou-
sand nine hundred eighty-six;

(10) Gross income to the extent included in federal
adjusted gross income under Section 86 of the Internal
Revenue Code for federal income tax purposes: Provided,
That this modification shall not be made for taxable years
beginning after the thirty-first day of December, one thou-
sand nine hundred eighty-six;

(11) The amount of any lottery prize awarded by the
West Virginia state lottery commission, to the extent prop-
erly included in gross income for federal income tax pur-
poses: Provided, That for taxable years beginning after
the thirty-first day of December, one thousand nine hun-
dred ninety-two, this modification shall not be made for
lottery prizes awarded by the West Virginia state lottery
commission;

(12) Individual, employee and employer contributions
and interest accruing to medical savings accounts off set
by withdrawals for purposes other than payment of medi-
cal expenses or retirement on or after age fifty-five estab-
lished pursuant to section twenty, article fifteen or section
fifteen, article sixteen, chapter thirty-three of this code, to
the extent includible in federal adjusted gross income for
federal tax purposes: Provided, That the amount subtract-
ed pursuant to this subsection for any one taxable year
may not exceed two thousand dollars; and

(13) Any other income which this state is prohibited
from taxing under the laws of the United States.
(d) Modification for West Virginia fiduciary adjustment. — There shall be added to or subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under section nineteen of this article.

(e) Partners and S corporation shareholders. — The amounts of modifications required to be made under this section by a partner or an S corporation shareholder, which relate to items of income, gain, loss or deduction of a partnership or an S corporation, shall be determined under section seventeen of this article.

(f) Husband and wife. — If husband and wife determine their federal income tax on a joint return but determine their West Virginia income taxes separately, they shall determine their West Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been determined separately.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-6. Adjustments in determining West Virginia taxable income.

(a) General. — In determining West Virginia taxable income of a corporation, its taxable income as defined for federal income tax purposes shall be adjusted and determined before the apportionment provided by section seven of this article, by the items specified in this section.

(b) Adjustments increasing federal taxable income. — There shall be added to federal taxable income, unless already included in the computation of federal taxable income, the following items:

(1) Interest or dividends on obligations or securities of any state or of a political subdivision or authority thereof;

(2) Interest or dividends (less related expenses to the extent not deducted in determining federal taxable income) on obligations or securities of any authority, commission or instrumentality of the United States which the laws of the United States exempt from federal income tax
but not from state income taxes;

(3) Income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by this state or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

(4) The amount of unrelated business taxable income as defined by Section 512 of the Internal Revenue Code of 1986, as amended, of a corporation which by reason of its purposes is generally exempt from federal income taxes; and

(5) The amount of any net operating loss deduction taken for federal income tax purposes under Section 172 of the Internal Revenue Code of 1986, as amended.

(c) Adjustments decreasing federal taxable income. — There shall be subtracted from federal taxable income to the extent included therein:

(1) Any gain from the sale or other disposition of property having a higher fair market value on the first day of July, one thousand nine hundred sixty-seven, than the adjusted basis at said date for federal income tax purposes: Provided, That the amount of this adjustment is limited to that portion of any gain which does not exceed the difference between the fair market value and the adjusted basis;

(2) The amount of any refund or credit for overpayment of income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by this state or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes;

(3) The amount added to federal taxable income due to the elimination of the reserve method for computation of the bad debt deduction;

(4) The full amount of interest expense actually disallowed in determining federal taxable income which was incurred or continued to purchase or carry obligations or
54 securities of any state or of any political subdivision there-
55 of;
56 (5) The amount required to be added to federal tax-
57 able income as a dividend received from a foreign
58 (non-United States) corporation under Section 78 of the
59 Internal Revenue Code of 1986, as amended, by a corpo-
60 ration electing to take the foreign tax credit for federal
61 income tax purposes;
62 (6) The amount of salary expenses disallowed as a
63 deduction for federal income tax purposes due to claim-
64 ing the federal jobs credit under Section 51 of the Internal
65 Revenue Code of 1986, as amended;
66 (7) The amount included in federal adjusted gross
67 income by the operation of Section 951 of the Internal
68 Revenue Code of 1986, as amended;
69 (8) Employer contributions to medical savings ac-
70 counts established pursuant to section fifteen, article six-
71 teen, chapter thirty-three of this code to the extent includ-
72 ed in federal adjusted gross income for federal income tax
73 purposes less any portion of employer contributions with-
74 drawn for purposes other than payment of medical ex-
75 penses: Provided, That the amount subtracted pursuant to
76 this subsection for any one taxable year may not exceed
77 the maximum amount that would have been deductible
78 from the corporation's federal adjusted gross income for
79 federal income tax purposes if the aggregate amount of
80 the corporation's contributions to individual medical sav-
81 ings accounts established under section fifteen, article
82 sixteen, chapter thirty-three of this code had been contrib-
83 uted to a qualified plan as defined under the Employee
84 Retirement Income Security Act of 1974, as amended; and
85 (9) Any amount included in federal adjusted gross
86 income which is foreign source income. Foreign source
87 income includes:
88 (A) Interest and dividends, other than those derived
89 from sources within the United States;
90 (B) Rents, royalties, license and technical fees from
91 property located or services performed without the United
States or from any interest in the property, including rents, royalties or fees for the use of or the privilege of using without the United States any patents, copyrights, secret process and formulas, good will, trademarks, trade brands, franchises and other like properties; and

(C) Gains, profits or other income from the sale of intangible or real property located without the United States.

In determining the source of "foreign source income", the provisions of Sections 861, 862 and 863 of the Internal Revenue Code of 1986, as amended, shall be applied.

(d) *Net operating loss deduction.* — Except as otherwise provided in this subsection, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate of: (1) The West Virginia net operating loss carryovers to that year; plus (2) the net operating loss carrybacks to that year: *Provided,* That no more than three hundred thousand dollars of net operating loss from any taxable year beginning after the thirty-first day of December, one thousand nine hundred ninety-two, may be carried back to any previous taxable year. For purposes of this subsection, the term "West Virginia net operating loss deduction" means the deduction allowed by this subsection, determined in accordance with Section 172 of the Internal Revenue Code of 1986, as amended.

(1) *Special rules.* —

(A) When the corporation further adjusts its adjusted federal taxable income under section seven of this article, the West Virginia net operating loss deduction allowed by this subsection shall be deducted after the section seven adjustments are made;

(B) The tax commissioner shall prescribe the transition regulations as he deems necessary for fair and equitable administration of this subsection as amended by this act.

(2) *Effective date.* — The provisions of this subsection, as amended by chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred eighty-eight,
shall apply to all taxable years ending after the thirtieth
day of June, one thousand nine hundred eighty-eight; and
to all loss carryovers from taxable years ending on or
before said thirtieth day of June.

(e) Special adjustments for expenditures for water and
air pollution control facilities. —

(1) If the taxpayer so elects under subdivision (2) of
this subsection, there shall be:

(A) Subtracted from federal taxable income the total
of the amounts paid or incurred during the taxable year
for the acquisition, construction or development within
this state of water pollution control facilities or air pollu-
tion control facilities as defined in Section 169 of the
Internal Revenue Code; and

(B) Added to federal taxable income the total of the
amounts of any allowances for depreciation and amortiza-
tion of the water pollution control facilities or air pollution
control facilities, as so defined, to the extent deductible in
determining federal taxable income.

(2) The election referred to in subdivision (1) of this
subsection shall be made in the return filed within the time
prescribed by law (including extensions thereof) for the
taxable year in which the amounts were paid or incurred.
The election shall be made in that manner, and the scope
of application of that election shall be defined, as the tax
commissioner may by regulations prescribe, and shall be
irrevocable when made as to all amounts paid or incurred
for any particular water pollution control facility or air
pollution control facility.

(3) Notwithstanding any other provisions of this sub-
section or of section seven to the contrary, if the taxpayer's
federal taxable income is subject to allocation and apportion-
ment under section seven, the adjustments prescribed
in paragraphs (A) and (B), subdivision (1) of this subsec-
tion shall (instead of being made to the taxpayer's federal
taxable income before allocation and apportionment
thereof as provided in section seven) be made to the por-
tion of the taxpayer's net income, computed without re-
gard to the adjustments, allocated and apportioned to this
state in accordance with section seven.

(f) Allowance for certain government obligations and
obligations secured by residential property. — The West
Virginia taxable income of a taxpayer subject to this arti-
cle as adjusted in accordance with subsections (b), (c), (d)
and (e) of this section shall be further adjusted by multi-
plying the taxable income after the adjustment by said
subsections by a fraction equal to one minus a fraction:

(1) The numerator of which is the sum of the average
of the monthly beginning and ending account balances
during the taxable year (account balances to be deter-
mined at cost in the same manner that obligations, invest-
ments and loans are reported on Schedule L of the Federal
Form 1120) of the following:

(A) Obligations or securities of the United States, or
of any agency, authority, commission or instrumentality
of the United States and any other corporation or entity
created under the authority of the United States Congress
for the purpose of implementing or furthering an objec-
tive of national policy;

(B) Obligations or securities of this state and any
political subdivision or authority thereof;

(C) Investments or loans primarily secured by mort-
gages, or deeds of trust, on residential property located in
this state and occupied by nontransients; and

(D) Loans primarily secured by a lien or security
agreement on residential property in the form of a mobile
home, modular home or double-wide, located in this state
and occupied by nontransients.

(2) The denominator of which is the average of the
monthly beginning and ending account balances of the
total assets of the taxpayer which are shown on Schedule L
of Federal Form 1120, which are filed by the taxpayer
with the Internal Revenue Service.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.
§33-15-1a. Premium rate increase requests; loss ratio requirement.

To be eligible to make a premium rate increase request after the first day of July, one thousand nine hundred ninety-five, any insurer offering or which has in force accident and sickness insurance policies which are subject to the provisions of this article shall have a minimum anticipated loss ratio of sixty-five percent as to such policy form. In calculating its minimum anticipated loss ratio, an insurer shall include in its actual incurred claims the amount of premium taxes for the same experience period which are attributable to the policy forms affected by this section and which were paid to the state of West Virginia pursuant to the provisions of article three of this chapter.

§33-15-1b. Rates, individual major medical policies.

(a) No individual major medical coverage policy may be approved by the commissioner for use in this state unless:

(1) The premium rates for the policy, after adjustment for any difference in policy benefits, which include, but are not limited to, deductibles, copayments and levels of care management, do not exceed by more than thirty percent the premium rates charged by the same insurer on any and all other individual major medical policies for those individuals with similar characteristics and factors, which the insurer has had approved by the commissioner within a five-year period preceding the date of the new policy filing by the insurer;

(2) The insurer files with the commissioner the opinion of a qualified actuary or other person acceptable to the commissioner which states:

(A) That the policy premium rate is in compliance with subdivision (1) of this subsection; and

(B) That the anticipated loss ratio for the combined experience of the policy taken together with all other individual major medical coverage policies which the insurer has had approved by the commissioner within a
five-year period preceding the date of the new policy filing is equal to or greater than the loss ratio requirements set forth in section one-a of this article.

(3) For a period of three years after the effective date of this section, an insurer may have one or more policy forms which exceed the one hundred thirty percent requirement of subdivision (2) of this subsection: Provided, That any rate schedule increase for such policy form shall not exceed thirty-three and one-third percent of the rate schedule increase for the lowest rate policy form. During the final twelve months of this three year period, an insurer may request an extension of time for compliance from the commissioner based on extenuating circumstances.

(b) An initial individual major medical policy form may be disapproved by the commissioner if the commissioner determines that the rates proposed by the insurer for the policy form are set at a level substantially less than rates charged by other insurers for comparable insurance coverage.

(c) Nothing contained in this section may be construed to prevent the use of age, sex, area, industry, occupational, and avocational factors in setting premium rates or to prevent the use of different rates after approval by the commissioner for smokers and nonsmokers or for any other habit or habits of an insured person which have a statistically proven effect on the health of the person. Nothing contained in this section shall preclude the establishment of a substandard classification based upon the health condition of the insured: Provided, That the initial classification may not be changed adversely to the insured after the initial issuance of the policy.

(d) The commissioner has the right, upon application by an insurer, and for good cause shown, to grant relief from any requirement of this section.


No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:
(a) The entire money and other considerations there-
for are expressed therein; and

(b) The time at which the insurance takes effect and
terminates is expressed therein; and

(c) It purports to insure only one person, except that a
policy may insure, originally or by subsequent amend-
ment upon the application of an adult member of a family
who shall be deemed the policyholder, any two or more
eligible members of that family, including husband, wife,
dependent children or any children under a specified age
which shall not exceed nineteen years and any other per-
son dependent upon the policyholder; and

(d) The policy is guaranteed to be renewable by the
insured unless there is fraud, nonpayment of premium, or
material misrepresentation by the insured in the applica-
tion for insurance and the misrepresentation has been
acted upon by the insurer within two years from the date
of the issuance of the policy. Notwithstanding the forego-
ing an insurer may request the commissioner to terminate
coverage. If the commissioner does not approve a request
for termination of coverage, then the insurer may termi-
nate the coverage but shall be prohibited from writing new
business on coverage of the type terminated in this state
for a period of five years from the date of notice to the
commissioner. The insurer shall provide notice to all af-
fected policyholders and the commissioner at least one
hundred twenty days prior to renewal. In the event of
nonrenewal, the commissioner and the insurer shall assist
policyholders regardless of geographic area, in finding
appropriate coverage without imposition of preexisting
coverage or benefit restrictions, if already satisfied, of the
form; and

(e) The style, arrangement and over-all appearance of
the policy give no undue prominence to any portion of
the text, and unless every printed portion of the text of the
policy and of any endorsements or attached papers is
plainly printed in light-faced type of a style in general use,
the size of which shall be uniform and not less than
ten-point with a lowercase unspaced alphabet length not
less than one hundred and twenty-point (the "text" shall
include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions), the policy shall clearly indicate on the first page the conditions of renewability; and

(f) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections four and five of this article, are printed, at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions": Provided, That if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(g) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first part thereof; and

(h) It contains no provision purporting to make any portion of the charter, rules, Constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.


Except as provided in section six of this article, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this section in the words in which the same appear in this section: Provided, That the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.
(a) A provision as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

(b) A provision as follows:

"Time Limit on Certain Defenses: (1) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period."

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of subdivisions (a), (b), (c), (d) and (e) of section five of this article in the event of misstatement with respect to age or occupation or other insurance. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (i) until at least age fifty, or (ii) in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "Incontestable":

"After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(2) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the
ground that a disease or physical condition not excluded
from coverage by name or specific description effective
on the date of loss had existed prior to the effective date
of coverage of this policy."

(c) A provision as follows:

"Grace Period: A grace period of ___________
(insert a number not less than '7' for weekly premium
policies, '10' for monthly premium policies and '31' for all
other policies) days will be granted for the payment of
each premium falling due after the first premium, during
which grace period the policy shall continue in force."

(d) A provision as follows:

"Reinstatement: If any renewal premium be not paid
within the time granted the insured for payment, as subse-
quent acceptance of premium by the insurer or by any
agent duly authorized by the insurer to accept such premium,
without requiring in connection therewith an applica-
tion for reinstatement, shall reinstate the policy: Provided,
That if the insurer or such agent requires an application
for reinstatement and issues a conditional receipt for the
premium tendered, the policy will be reinstated upon ap-
proval of such application by the insurer, or lacking such
approval, upon the forty-fifth day following the date of
such conditional receipt unless the insurer has previously
notified the insured in writing of its disapproval of such
application. The reinstated policy shall cover only loss
resulting from such accidental injury as may be sustained
after the date of reinstatement and loss due to such sick-
ness as may begin more than ten days after such date. In
all other respects the insured and insurer shall have the
same rights thereunder as they had under the policy im-
mediately before the due date of the defaulted premium,
subject to any provisions endorsed hereon or attached
hereto in connection with the reinstatement."

(e) A provision as follows:

"Notice of Claim: Written notice of claim must be
given to the insurer within twenty days after the occur-
rence or commencement of any loss covered by the poli-
cy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at __________ (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability, in whole or in part, by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given."

(f) A provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

(g) A provision as follows:

"Proof of Loss: Written proof of loss must be fur-
nished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required."

(h) A provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid __________ (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

(i) A provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

The following provisions, or either of them, may be included with the foregoing provisions at the option of the insurer:
"If any indemnity of this policy shall be payable to the
estate of the insured, or to an insured or beneficiary who is
a minor or otherwise not competent to give a valid release,
the insurer may pay such indemnity, up to an amount not
exceeding $_____ (insert an amount which shall not
exceed one thousand dollars), to any relative by blood or
connection by marriage of the insured or beneficiary who
is deemed by the insurer to be equitably entitled thereto.
Any payment made by the insurer in good faith pursuant
to this provision shall fully discharge the insurer to the
extent of such payment."

"Subject to any written direction of the insured in the
application or otherwise all or a portion of any indemni-
ties provided by this policy on account of hospital nurs-
ing, medical, or surgical services may, at the insurer's op-
tion and unless the insured requests otherwise in writing
not later than the time of filing proofs of such loss, be
paid directly to the hospital or person rendering such
services; but it is not required that the service be rendered
by a particular hospital or person."

(j) A provision as follows:

"Physical Examinations and Autopsy: The insurer at
its own expense shall have the right and opportunity to
examine the person of the insured when and as often as it
may reasonably require during the pendency of a claim
hereunder and to make an autopsy in case of death where
it is not forbidden by law."

(k) A provision as follows:

"Legal Actions: No action at law or in equity shall be
brought to recover on this policy prior to the expiration of
sixty days after written proof of loss has been furnished in
accordance with the requirements of this policy. No such
action shall be brought after the expiration of three years
after the time written proof of loss is required to be fur-
nished."

(l) A provision as follows:

"Change of Beneficiary: Unless the insured makes an
irrevocable designation of beneficiary, the right to change
of beneficiary is reserved to the insured and the consent of
the beneficiary or beneficiaries shall not be requisite to
surrender or assignment of this policy or to any change of
beneficiary or beneficiaries, or to any other changes in
this policy."

The first clause of this provision, relating to the irrevo-
cable designation of beneficiary, may be omitted at the
insurer's option.


Except as provided in section six of this article, no
such policy delivered or issued for delivery to any person
in this state shall contain provisions respecting the matters
set forth below unless such provisions are in the words in
which the same appear in this section: Provided, That the
insurer may, at its option, use in lieu of any such provision
a corresponding provision of different wording approved
by the commissioner which is not less favorable in any
respect to the insured or the beneficiary. Any such provi-
sion contained in the policy shall be preceded individually
by the appropriate caption appearing in this section or, at
the option of the insurer, by such appropriate individual
or group captions or subcaptions as the commissioner
may approve.

(a) A provision as follows:

"Change of Occupation: If the insured be injured or
contract sickness after having changed his occupation to
one classified by the insurer as more hazardous than that
stated in this policy or while doing for compensation any-
thing pertaining to an occupation so classified, the insurer
will pay only such portion of the indemnities provided in
this policy as the premium paid would have purchased at
the rates and within the limits fixed by the insurer for such
more hazardous occupation. If the insured changes his
occupation to one classified by the insurer as less hazard-
ous than that stated in this policy, the insurer, upon receipt
of proof of such change of occupation, will reduce the
premium rate accordingly, and will return the excess pro
rata unearned premium from the date of change of occu-
pation or from the policy anniversary date immediately
preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

(b) A provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

(c) A provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for excess of $ (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Provided that no policy hereafter issued for delivery in this state which provides, with or without other benefits, for the payment of benefits or reimbursement for expenses with respect to hospitalization, nursing care, medical or
surgical examination or treatment, or ambulance transpor-
tation shall contain any provision for a reduction of such
benefits or reimbursement, or any provision for avoidance
of the policy, on account of other insurance of such na-
ture carried by the same insured with the same or another
insurer.

(d) A provision as follows:

"Insurance with Other Insurers: If there be other valid
coverage, not with this insurer, providing benefits for the
same loss on other than an expense incurred basis and of
which this insurer has not been given written notice prior
to the occurrence or commencement of loss, the only
liability for such benefits under this policy shall be for
such proportion of the indemnities otherwise provided
hereunder for such loss as the like indemnities of which
the insurer had notice (including the indemnities under
this policy) bear to the total amount of all like indemnities
for such loss, and for the return of such portion of the
premium paid as shall exceed the pro rata portion for the
indemnities thus determined."

The insurer may, at its option, include in this provision
a definition of "other valid coverage," approved as to form
by the commissioner, which definitions shall be limited in
subject matter to coverage provided by organizations
subject to regulations by insurance law or by insurance
authorities of this or any other state of the United States or
any province of Canada, and to any other coverage the
inclusion of which may be approved by the commissioner.
In the absence of such definition such term shall not in-
clude group insurance, or benefits provided by union
welfare plans or by employer or employee benefit organi-
zations. For the purpose of applying the foregoing policy
provisions with respect to any insured any amount of
benefit provided for such insured pursuant to any com-
pulsory benefit statute (including any workers' compensa-
tion or employer's liability statute) whether provided by a
governmental agency or otherwise shall in all cases be
debted to be "other valid coverage" of which the insurer
has had notice. In applying the foregoing policy provision
no third party liability coverage shall be included as "other
valid coverage."

(e) A provision as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.
(f) A provision as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premiums then due and unpaid or covered by any note or written order may be deducted therefrom."

(g) A provision as follows:

"Return of Premium on Cancellation: If the insured cancels this policy, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

(h) A provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

(i) A provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

(j) A provision as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

§33-15-20. Individual medical savings accounts; definitions; ownership; trustees; regulations.

(a) Any individual resident of this state may establish a medical savings account to serve as self-insurance for the
payment of medical expenses. As used in this section
"individual medical savings account" means a trust for the
payment of medical expenses created or organized for the
exclusive benefit of an individual, his or her children and
dependents, and his or her beneficiaries: Provided, That
an individual establishing a medical savings account may
designate a percentage of the account that may be with-
drawn by the individual if not needed for medical expens-
es of the individual, his or her children or other depen-
dents and his or her beneficiaries: Provided, however,
That any amount remaining in a medical savings account
on the earlier of the date of retirement, at the age of
fifty-nine and one-half years or more, of the individual
who established the account, or the date of death of that
individual, may be withdrawn by the individual or by his
or her personal representative for a purpose other than the
payment of medical expenses: Provided further, That any
withdrawal for a purpose other than to pay medical ex-
penses as provided in this section shall be added to the
federal adjusted gross income of the payee or distributee
for purposes of calculating West Virginia adjusted gross
income: And provided further, That no withdrawal pursuant
to this subsection shall be subject to the additional
twenty percent tax as provided in subsection (d) of this
section. "Medical expenses" means amounts paid for ser-
vice for the diagnosis, cure, mitigation, treatment, or pre-
vention of disease, or for the purpose of affecting any
structure or function of the body, which expenses may be
included in calculating the federal deduction for medical
and dental expenses for federal income tax purposes; for
insurance premiums for combined plans issued pursuant
to this section; but excluding expenses for cosmetic sur-
gery as defined in Section 213 of the Internal Revenue
Code of 1986, as amended. Funds in an individual medi-
cal savings account may not be used for payment of med-
ical expenses which any third-party payor is obligated to
pay, except for expenses of a medicaid-eligible individual
covered under the state's medicaid program. The interest
of an individual in a medical savings account established
for his or her benefit pursuant to this section shall be non-
forfeitable.
(b) The trustee for an individual medical savings account shall be a bank or other entity qualified as a trustee of individual retirement accounts under Section 408 of the Internal Revenue Code of 1986, as amended. An insurer qualified under the Internal Revenue Code, of 1986, as amended, may act as trustee. The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund. A trustee who is an insurer may hold the assets of individuals insured under individual accident and sickness plans in a common fund for the account of all individuals who have an interest in the trust, if there is a separate accounting for the interest of each individual or member.

(c) Any insurer issuing accident and sickness policies in this state in accordance with the provisions of this article may offer a benefit plan including deductibles or copayments combined with individual self-insurance through the establishment of individual medical savings accounts. A benefit plan established pursuant to this subsection shall provide that medical expenses included within deductible or copayment provisions of the accident and sickness policy for the individual or for his or her covered dependents and therefore not payable under that policy be paid by the trustee, either directly or as reimbursement to an individual who has previously paid medical expenses, from the individual medical savings investment account. A benefit plan may limit payment of medical expenses until the group plan annual deductible is met from the medical savings account to expenses which are covered services under the policy.

(d) The insurance commissioner shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code to establish specific standards for individual medical savings accounts and for plans in which a policy of insurance is combined with self-insurance under an individual medical savings account. Such standards shall be in addition to and in accordance with the applicable laws of this state and may cover, but shall not be limited to:

(1) Definitions of terms;
(2) An annual contribution minimum for individual medical savings accounts;

(3) An annual contribution maximum for individual medical savings accounts;

(4) Limitations upon an individual's access to or use of individual medical savings account funds and circumstances under which funds in the account may be disbursed: Provided, That if, during any taxable year, the beneficial owner of an individual medical savings account borrows any money under or by use of that account, the account ceases to be an individual medical savings account as of the first day of that taxable year: Provided, however, That any amount paid or distributed out of a medical savings account for any purpose other than to defray medical expenses as provided in this section shall be added to the federal adjusted gross income of the payee or distributee for purposes of calculating West Virginia adjusted gross income: Provided further, That the payee's or distributee's tax under this article for the taxable year in which the amount is received, except as specifically provided in subsection (a) of this section or except for a distribution of account assets pursuant to order of a federal bankruptcy court, shall be increased by an amount equal to ten percent of the portion of the payment or distribution that is includible in the payee's or distributee's federal adjusted gross income;

(5) Circumstances under which a combined benefit plan offered through an insurer may permit reduced contributions to the individual medical savings account, which circumstances may include the accruing of a specified account balance;

(6) Provisions relating to reporting payments for the benefit of an individual from an individual medical savings account for medical expenses to an insurer offering a combined benefit plan; and

(7) Provisions relating to change or redesignation of a trustee.

e) The tax commissioner is authorized to establish
penalties for early or unauthorized withdrawals from individual medical savings accounts pursuant to rules promulgated pursuant to article three, chapter twenty-nine-a of this code, which penalties may not exceed federal penalties for early or unauthorized withdrawals from individual retirement accounts under the Internal Revenue Code of 1986, as amended.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-15. Individual medical savings accounts; definitions; ownership; contributions; trustees; regulations.

(a) Any insurer issuing group accident and sickness policies in this state, the public employees insurance agency and any employer offering a health benefit plan pursuant to the Employee Retirement Income Security Act of 1974, as amended may offer a benefit plan including deductibles or copayments combined with employee self-insurance through the establishment of individual medical savings accounts. As used in this section "individual medical savings account" means a trust for the payment of medical expenses created or organized for the exclusive benefit of an individual, his or her dependents covered under a group accident and sickness policy, and his or her beneficiaries: Provided, That an employee establishing a medical savings account, or for whom a medical savings account is established by an employer, may designate a percentage of the employee's contributions, if any, to that account that may be withdrawn by the employee if not needed for medical expenses of the employee, his or her children or other dependents and his or her beneficiaries: Provided, however, That any amount remaining in a medical savings account on the earlier of the date of retirement, at the age of fifty-nine and one-half years or more, of the employee or the date of death of the employee, may be withdrawn by the employee or by his or her personal representative for a purpose other than the payment of medical expenses: Provided further, That any withdrawal for a purpose other than to pay medical expenses as provided in this section shall be added to the federal adjusted gross income of the payee or distributee: And provided further, That no withdrawal pursuant to this
subsection shall be subject to the additional twenty percent tax as provided in subsection (d) of this section. "Medical expenses" means amounts paid for services for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, which expenses may be included in calculating the federal deduction for medical and dental expenses for federal income tax purposes; for insurance premiums for combined plans issued pursuant to this section; but excluding expenses for cosmetic surgery as defined in Section 213 of the Internal Revenue Code of 1986, as amended. Funds in an individual medical savings account may not be used for payment of medical expenses which any third-party payor is obligated to pay, except for medical expenses of a medicaid-eligible individual covered under the state's medicaid program. A benefit plan established pursuant to this section shall provide that medical expenses included within deductible or copayment provisions of the group accident and sickness policy and therefore not payable under the group policy for the employee or for his or her covered dependents be paid by the trustee, either directly or as reimbursement to an employee who has previously paid medical expenses, from the individual medical savings account. A benefit plan may limit payment of medical expenses until the group plan annual deductible is met from the medical savings account to expenses which are covered services under the group policy.

(b) The interest of an employee in a medical savings account established for his or her benefit pursuant to this section shall be nonforfeitable.

(c) The trustee for an individual medical savings account shall be a bank or other entity qualified as a trustee of individual retirement accounts under Section 408 of the Internal Revenue Code of 1986, as amended. An insurer so qualified may act as trustee. The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund. The trustee may hold the assets of employees insured under a group accident and sickness plan in a common fund for the account of all individuals who have an interest in the trust,
if there is a separate accounting for the interest of each employee or member. Combined plans are subject to the protections afforded by article twenty-six-a of this chapter.

(d) The insurance commissioner shall promulgate legislative rules pursuant to article three chapter twenty-nine-a of this code to establish specific standards for plans in which a group policy is combined with self-insurance under an individual medical savings account. These standards shall be in addition to and in accordance with the applicable laws of this state and may cover, but shall not be limited to:

(1) Definitions of terms;

(2) An annual contribution minimum for individual medical savings accounts;

(3) An annual contribution maximum for individual medical savings accounts;

(4) Limitations which a plan may impose upon an employee's access to or use of individual medical savings account funds and circumstances under which funds in the account may be disbursed: Provided, That if, during any taxable year, the beneficial owner of an individual medical savings account borrows any money under or by use of that account, the account ceases to be an individual medical savings account as of the first day of that taxable year: Provided, however, That any amount paid or distributed out of a medical savings account for any purpose other than to defray medical expenses as provided in this section shall be added to the federal adjusted gross income of the payee or distributee for purposes of calculating West Virginia adjusted gross income: Provided further, That the payee's or distributee's tax under this article for the taxable year in which the amount is received except as specifically provided in subsection (a) of this section or except for a distribution of account assets pursuant to order of a federal bankruptcy court, shall be increased by an amount equal to ten percent of the portion of the payment or distribution that is includible in the payee's or distributee's federal adjusted gross income;
(5) Circumstances under which a plan may permit reduced contributions to the individual medical savings account, which circumstances may include the accruing of a specified account balance;

(6) Provisions relating to reporting payments for the benefit of an employee from an individual medical savings account for medical expenses to the group policy insurer; and

(7) Provisions relating to change or redesignation of a trustee and provisions related to circumstances requiring or permitting continuation of coverage by the group plan or conversion to an individual medical savings account upon termination of an employee’s employment.

(e) The tax commissioner is authorized to establish penalties for early or unauthorized withdrawals from individual medical savings accounts pursuant to rules promulgated in accordance with article three, chapter twenty-nine-a of this code, which penalties may not exceed federal penalties for early or unauthorized withdrawals from individual retirement accounts under the Internal Revenue Code of 1986, as amended.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ______________ this the ____________

day of ____________________, 1995.

Governor