WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE
AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: ___State Tax Department___ TITLE NUMBER: _110_

AMENDMENT TO AN EXISTING RULE: YES___X___NO_____(Repeal & Replacement)

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____2_____

TITLE OF RULE BEING AMENDED: _Electronic Data Processing System Network For_

Property Tax Administration

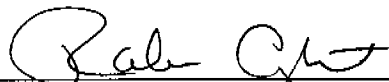IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

_____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) _HB 2570_____

SECTION ___64-7-2(d)_____, PASSED ON _March 10, 1999_____

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: _May 1, 1999_____.

Robin C. Capehart, Cabinet Secretary

$3.60

TITLE 110
LEGISLATIVE RULE
STATE TAX COMMISSION

SERIES 2
ELECTRONIC DATA PROCESSING SYSTEM NETWORK
FOR PROPERTY TAX ADMINISTRATION

§ 110-2-1. General.

1.1 **Scope.** -- This rule relates to the electronic data processing system network developed and utilized in the administration of the ad valorem property tax imposed on real and personal property.

1.2 **Authority.** -- W. Va. Code §§ 11-1C-4 and 11-1A-21(d).

1.3 **Filing date.**

1.4 **Effective date.** -- This rule is effective for the fiscal year beginning July 1, 1999.

1.5 **Repeal of Former Rule.** -- This legislative rule repeals and replaces 110 C.S.R. 2, "Electronic Data Processing System Network For Property Tax Administration," filed May 1, 1989 and effective May 1, 1989.

§ 110-2-2. Definitions. -- As used in this rule, the following terms have the meanings ascribed in this section.

2.1 **"Account"** means for each county one entry on the landbooks or one entry on the personal property books.

2.2 **"Assessment"** and **"assessed value"** means sixty percent (60%) of the value of the property as determined by law as provided in W. Va. Const. Art. X, § 1b and W. Va. Code § 11-1C-1.

2.3 **"Compatibility"** means the ability of computers to run the same computer program without appreciable alterations.

2.4 **"County Server"** means the server located within the assessor's office or county courthouse which provides services for computers and devices connected to the local area network and upon which applications of the assessment administration and valuation system reside.

2.5 **"Data base"** means a collection of information stored and organized in a precise manner so that the information can be used in the performance of various program instructions.

2.6 **"Disk storage"** means magnetic storage in which data are stored by magnetic recording on the flat surfaces of one or more disks.

2.7 **"File"** means a collection of data sets that are organized and stored, either on disk or tape as a unit, and are used to read and write information in an orderly fashion.

2.8 **"Hardware"** means the statewide server itself and peripheral equipment (computers, printers, data storage devices, telecommunications equipment, etc.).

2.9 **"Statewide server"** means the server that provides the primary services for devices connected to the statewide network and is located within the Tax Commission or a site designated by the Tax Commission.

2.10 **"Information Services and Communications Division"** or **"I S & C"** means the "Information Services and Communications Division" (IS & C), Department of Administration, which is an agency within the government of the State of West Virginia.

2.11 **"Network"**, **"electronic data processing system network"** or **"system"** means the statewide electronic data processing system network required by W. Va. Code § 11-1A-21.

2.12 **"Password"** means the unique identification word assigned to each user and which, when entered, allows the user to supply or retrieve information.

2.13 **"Printlines"** means the number of lines printed for each document requested by specific users.

2.14 **"Property books"** means the official land and personal property books maintained by the respective county assessors which contain the appropriate information for each account.

2.15 **"Periodic valuations"** means the annual periodic valuation of all property in this State required by W.Va. Constitution Art. X, § 1b and W. Va. Code § 11-1C-9.

2.16 **"Tape storage"** means the computer storage medium similar to magnetic tape used in an ordinary sound tape recorder and upon which are recorded portions of the data base.

2.17 **"Tax Commissioner"** or **"Commissioner"** means the Tax Commissioner of the State of West Virginia or his or her delegate as authorized in W. Va. Code §§ 11-1-1 and 11-1A-3(d).

§ 110-2-3. Network Development Responsibility.

3.1 The Tax Commissioner shall devise and maintain an electronic data processing system network to facilitate the administration of the ad valorem property tax imposed on real and personal property. The information contained on the network shall be entered on the network by the respective county assessors and the assessors shall cause the information to be maintained in a current mode through the entry of additional information as changes in the data occurs.

3.2 In developing and maintaining the network, the Tax Commissioner shall assure that all operational activities are thoroughly and completely planned. This includes but is not limited to the following operational activities:

3.2.1 The Commissioner shall determine the most appropriate hardware and associated equipment to be utilized in the network, assuring the hardware and associated equipment is fully tested, functions properly and is compatible within the network;

3.2.2 The Commissioner shall assure that the computer software is properly designed to meet operational standards and that it is fully tested prior to acceptance and utilization;

3.2.3 The Commissioner shall assure the development of necessary and appropriate operational manuals, forms and training programs for state and county personnel;

3.2.4 The Commissioner shall coordinate activities and information with appropriate county officials to assure the availability of facilities suitable to accommodate network equipment; and

3.2.5 The Commissioner shall assure that appropriate maintenance agreements are entered into for continued network operations.

§ 110-2-4. County Responsibility.

4.1 **Equipment.** -- Each county shall acquire, at its expense, the data processing equipment which is required by the Commissioner and which is to be located in each county.

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4.1.1 A county may acquire the required or recommended equipment on a lease or lease/purchase basis or it may purchase the required or recommended equipment.

4.1.2 If the county does not utilize the equipment recommended and required by the Commissioner, the county assessor shall demonstrate the complete compatibility of any other equipment he or she acquires in lieu of, or in addition to that which is recommended or required for use.

4.1.3 If a county assessor later chooses to utilize other compatible equipment, the county assessor shall first either locate a buyer for the equipment to be replaced, or agree to use the equipment for other purposes and continue to be liable for the monthly payments: **Provided,** That if a buyer for the equipment is located, the buyer becomes responsible for the payment of any outstanding obligation on the equipment being replaced.

4.2 **County personnel and other equipment.** -- Each county shall provide, at its expense, the necessary staffing and operating personnel and all other communication equipment, to allow interaction with the statewide server, computer, or other device as the Tax Commissioner may designate.

4.3 **County network charges.** -- Each county shall be charged by the Tax Commissioner for its proportionate share of the cost for use of the network, statewide server and other related services.

4.3.1 The Tax Commissioner shall provide an estimate of fiscal year network charges by March 15 preceding the start of each fiscal year, for county budgetary purposes.

4.3.2 The Tax Commissioner shall bill each county based on the formulas in this rule: **Provided,** That no county's bill may exceed the Tax commissioner's budget estimate by more than ten percent (10%) unless the county's usage is more than twelve percent (12%) above the previous fiscal year level and/or unless the county acquires and uses additional computers and/or printer devices after the estimate has been made.

4.3.3 The Tax Commissioner shall cause a statement to be rendered to the respective county commissions. Each county commission shall pay the total amount of the statement to the Tax Commissioner within thirty days (30) after the statement is rendered. The statement shall be composed of the following costs attributable to each county for the period specified on the statement.

4.3.3.a **Communication charges.** -- Communication charges are the charges attributable to each county for the communication line connection between the county and the statewide server. The charge shall be based on the actual cost of

the communication link for that county as billed to IS & C or the Tax Commissioner by the communication contractor (i.e., Bell Atlantic, AT&T, etc.)

4.3.3.b **Storage charges.** -- Storage charges are charges for the amount of space utilized for both disk and tape storage. In effect, the counties rent disk or tape storage space for the respective number of accounts. It is an actual physical measurement. The formula for computing the storage charges for each county is composed of four elements and functions as follows:

$$TSC\ =\ \text{Total Storage Cost}$$
$$TPA\ =\ \text{Total Property Tax Accounts, All Counties}$$
$$CPA\ =\ \text{County Property Tax Accounts}$$
$$CSC\ =\ \text{County Storage Cost}$$
$$(CPA \div TPA) \times TSC\ =\ CSC$$

4.3.3.c **Network charges.** -- Network charges include the actual monthly network cost incurred by the Tax Commission to manage and operate the statewide routed network, the statewide server hardware, and the statewide server operating system. The charge to each county is based on the number of accounts in each county. An account is one entry on the land books or one entry on the personal property books. The number of accounts used for the billing is the number of accounts within each county at the time the estimate was made for the annual fiscal year network charges. The formula for computing the network charges for each county is composed of four (4) elements and function as follows:

$$TNC\ =\ \text{Total Network Charges}$$
$$TPA\ =\ \text{Total Property Tax Accounts, All Counties}$$
$$CPA\ =\ \text{County Property Tax Accounts}$$
$$CNC\ =\ \text{County Network Share Charge}$$
$$(CPA \div TPA) \times TNC\ =\ CNC$$

4.3.3.d **System support charges.** The system support charges are composed of the following:

4.3.3.d.1 **Licensing and support charges.** The charge for licensing and support is the amount invoiced to and paid by the Tax Commissioner for licensing and support. The charge is based on the number of devices in the county utilizing the statewide network. The charge to each county is the actual cost and is determined by multiplying the per device charge by the number of devices that use the network in that county. The Tax Commission pays licensing and support charges for those devices used by the Tax Commissioner.

4.3.3.d.2 **Reports, training, system testing and valuation guides.** -- These costs are for processing reports required of the Tax Commissioner by statute for the determination of market conditions in each county, for system testing, for

the training of county personnel, for the cost of acquiring guides for valuation purposes for property such as vehicles, boats, manufactured housing, etc. The formula for computing this charge functions as follows:

TRTTVC	=	Total Reports, Training, Testing and Valuation Charges
TPA	=	Total Property Tax Accounts
CPA	=	County Property Tax Accounts
CRTTVC	=	County Reports, Training, Testing and Valuation Share Charge

$$(CPA \div TPA) \times TRTTVC = CRTTVC$$

4.3.3.d.3 **Dedicated personnel.** -- Each county shall pay a Base Personnel Charge of 10% of the actual total cost of the dedicated State Tax Commission personnel necessary to keep the system operational, with the Base Personnel Charge being equal to each county's proportionate share of the accounts on the network. In addition to the base charge, each county that chooses to use the statewide server as its primary server and on which its county data and system applications reside and are updated on-line shall be assessed a surcharge above the base charge for additional dedicated personnel costs associated with programming, daily system maintenance and operation. The charge for each county is calculated as follows:

CPA	=	County Individual Property Tax Accounts
TPA	=	Total Tax Accounts, All Counties
TPC	=	Total State Tax Commission Personnel Charges
BPC	=	Base State Tax Commission Personnel Charges
TPW	=	Total Property Tax Accounts, Counties w/o server
CPS	=	County Personnel Share Surcharge
SPC	=	Surcharge Personnel Charges, Counties w/o server
CPC	=	County Base Personnel Charge

$$TPC \times 10\% = BPC$$
$$(CPA \div TPA) \times BPC = CPC$$
$$TPC - BPC = SPC$$
$$(CPA \div TPW) \times SPC = CPS$$
$$CPC + CPS = \text{Total Dedicated Personnel Charges For County}$$

Programming changes resulting from changes in the law shall be provided to those counties whose data and applications reside on their county server. However, each county is responsible for further modification and installation and shall be billed for proportionate share costs of dedicated personnel costs to develop the programming changes. The proportionate share costs is to be used to reimburse the County Tax Fund.

4.3.3.e **Printing charges.** -- The printing charge is the cost of the printing for each county by IS & C. The actual cost, as determined by IS & C, is passed to each county.

4.3.3.f **Miscellaneous charges.** -- The miscellaneous charges are the cost for communication change requests, data processing supplies such as the cost for computer paper used in county assessor's printers, land book and personal property book sheets, cable and installation, training, and shipping charges, etc. The miscellaneous charge is the amount invoiced to and paid by the Tax Commissioner.

4.3.4 The payments referred to in paragraph 4.3.3.f of this section shall, upon receipt by the State, be deposited in the State Treasury into a revolving fund known as the "County Tax Fund."

§ 110-2-5. Network Operations.

5.1 **State responsibility.** -- Responsibilities of the Tax Commissioner in development and operation of the network include:

5.1.1 The assurance that the data accumulated as a result of the periodic evaluations is entered into the system and maintained in a current mode.

5.1.2 The assurance that all appropriate assessment rules, tables, cost lists, modifiers, etc. are entered into the system by the respective county assessors annually.

5.1.3 The State Tax Commission may not change certain county data such as prior assessed values. Data errors detected by the State Tax Commission through edits shall be forwarded to the respective county assessor who in turn shall correct the erroneous information.

5.2 **County responsibility.** -- Responsibilities of each county in the development and operation of the network include:

5.2.1 Each assessor shall enter all changes in the description, status, classification and value of real property and personal property situated in his or her county. All changes shall be entered no later than the calendar month following the month during which the changes occurred. All changes when entered are to be communicated to the statewide server via the statewide network to the Tax Commissioner on a daily basis. If a county assessor chooses to install in his or her respective county a server upon which the real property and personal property appraisal and assessment data resides, all changes entered shall be communicated to the statewide server via the statewide network on no less than a weekly basis on a day and time designated by the Tax Commissioner.

5.2.1.a Only county assessors have authority to change information relating to property and accounts in their respective county.

5.2.1.b No county may change any information considered by the Tax Commissioner to be the domain or property of the State.

5.2.2 Each county shall utilize the procedures and methodologies established by the Property Valuation Training and Procedures Commission. Additionally, each county shall utilize the system for the purpose of valuing all real and personal property in their respective county.

5.2.3 All land books and personal property books shall be produced through the network described in this rule.

§ 110-2-6. Network Security and Safeguards.

6.1 **General.** -- The Tax Commissioner shall assure that the network and the data base are at all times safe and secure, and that safeguards are adequate to prevent unauthorized access.

6.1.1 **Password.** -- A password is required for all users of the network. Each password for each user shall be unique. The password shall be utilized to control the usage of network functions and to assist in the monitoring of each user's activity in the network.

6.1.2 **User name.** -- The user name is the name of the individual associated with the password. Each assessment record updated by a user shall also cause an audit record to be written which includes the user name. The user name shall appear on audit reports to indicate the data changed by that user.

6.1.3 **Assessors.** -- Assessors in one county shall not be able to access information on properties located in another county without the written permission from the assessor of the county in which the property is located. In no event may assessors in one county change information on properties located in another county.

6 9 5 8

H. B. 2569

1 Bill-Tax,

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3 (By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

4 [Introduced February 1, 1999; referred to the
Committee on Finance then the Judiciary.]

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10 A BILL to amend and reenact section two, article seven,

11   chapter sixty-four of the code of West Virginia, one

12   thousand nine hundred thirty-one, as amended, relating

13   to authorizing the state tax commissioner to

14   promulgate a legislative rule relating to the

15   electronic data processing system network for property

16   tax administration.

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

18   That section two, article seven, chapter sixty-four of

19 the code of West Virginia, one thousand nine hundred

20 thirty-one, as amended, be amended and reenacted, to read

21 as follows:

22 **ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE**

23   **TO PROMULGATE LEGISLATIVE RULES.**

1 §64-7-2. Department of tax and revenue; tax division; and

2   state tax commissioner.

3   (a) The legislative rule filed in the state register

4 on the twenty-third day of July, one thousand nine hundred

5 ninety-six, authorized under the authority of section five,

6 article thirteen-j, chapter eleven of this code, modified

7 by the tax division to meet the objections of the

8 legislative rule-making review committee and refiled in the

9 state register on the thirty-first day of October, one

10 thousand nine hundred ninety-six, relating to the tax

11 division (tax credit for qualified agricultural equipment,

12 110 CSR 13J), is authorized.

13   (b) The legislative rule filed in the state register

14 on the sixteenth day of August, one thousand nine hundred

15 ninety-six, authorized under the authority of section

16 fifty-one, article twenty-one, chapter eleven of this code,

17 modified by the tax division to meet the objections of the

18 legislative rule-making review committee and refiled in

19 the state register on the thirty-first day of October, one

20 thousand nine hundred ninety-six, relating to the tax

21 division (personal income tax low income exclusions, 110

22 CSR 21.1), is authorized.

23   (c) The legislative rule filed in the state register

1 on the sixteenth day of August, one thousand nine hundred

2 ninety-six, authorized under the authority of section

3 twenty-one, article twenty-one, chapter forty-seven of this

4 code, modified by the tax division to meet the objections

5 of the legislative rule-making review committee and

6 refiled in the state register on the twenty-seventh day

7 of February, one thousand nine hundred ninety-seven,

8 relating to the tax division (charitable raffles, 110 CSR

9 37), is authorized.

10   (d) The legislative rule filed in the state register

11 on the twenty-ninth day of July, one thousand nine hundred

12 ninety-eight, authorized under the authority of section

13 twenty-one, article one-a, and section four, article one-c,

14 chapter eleven, of this code, modified by the state tax

15 commissioner to meet the objections of the legislative

16 rule-making review committee and refiled in the state

17 register on the seventeenth day of November, one thousand

18 nine hundred ninety-eight, relating to the state tax

19 commissioner (electronic data processing system network for

20 property tax administration, 110 CSR 2), is authorized.

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22   NOTE: The purpose of this bill is to authorize the
23 State Tax Commissioner to promulgate a legislative rule
24 relating to the Electronic Data Processing System Network

1 for Property Tax Administration.
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3   Strike-throughs indicate language that would be
4 stricken from the present law, and underscoring indicates
5 new language that would be added.