

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 17 10 22 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: State Tax Division TITLE NUMBER: 110

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 131

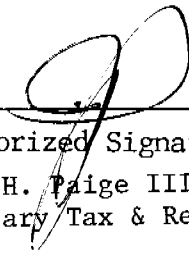
TITLE OF RULE BEING PROPOSED: Tax Credit For Employing Former Employees
of Colin Anderson Center

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

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 171

SECTION 64-7-2(c), PASSED ON March 7, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 1, 1996



Authorized Signature
James H. Paige III
Secretary Tax & Revenue

3.20



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

John Montgomery
Tax
Legal Division
Bldg 1 Rm W-401
Charleston, WV 25305

SB 171 authorizing, Title 110, Series 13I, Tax Credit for Employing Former Employees of Colin Anderson Center passed the Legislature on **March 7, 1996. It is now awaiting the Governor's signature.**

You have sixty (60) days after the Governor signs **SB 171** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 171 Section 64-7-2(c)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

PROMULGATION HISTORY

RULE TITLE: Tax Credit For Employing Former Employees Of Colin Anderson Center

TITLE NUMBER: 110

SERIES: 13I

NOTICE FILED: June 21, 1995

HEARING DATE OR
PUBLIC COMMENT PERIOD: June 21, 1995 - July 24, 1995

EMERGENCY RULE: N/A

E.R.D. NUMBER:

E.R.D. DATE:

FILED AS AGENCY APPROVED: July 28, 1995

FILED AS MODIFIED: September 22, 1995

LEGISLATIVE AUTHORIZATION: S.B. 171

EFFECTIVE DATE: May 1, 1996



FILED

APR 17 10 21 AM '96

GASTON CAPERTON
GOVERNOR

State of West Virginia
Department of Tax and Revenue

TAX DIVISION

P. O. Box 2389
Charleston, WV 25328-2389

JAMES H. PAIGE III
OFFICE SECRETARY VIRGINIA
SECRETARY OF STATE

CONSENT TO FILE RULE

April 17, 1996

To Whom It May Concern:

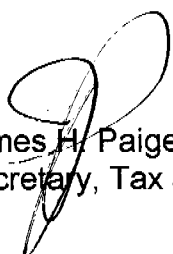
Title of Rule: Tax Credit For Employing Former Employees Of Colin Anderson
Center

Title Number: 110

Series Number: 131

Pursuant to West Virginia Code § 5F-2-2(a), the undersigned hereby consents to the filing of the foregoing rule.

Signed this 17th day of April, 1996.



James H. Paige, III
Secretary, Tax and Revenue

FILED

MODIFIED
WEST VIRGINIA LEGISLATIVE RULE
TAX DEPARTMENT
TITLE 110
SERIES 131
TAX CREDIT FOR EMPLOYING FORMER EMPLOYEES
OF COLIN ANDERSON CENTER

SEP 27 3 52 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 110-13I-1. General.

1.1 **Scope.** - This legislative rule explains and clarifies the Tax Credit for Employing Former Employees of Colin Anderson Center Who Lost Their Jobs Due to the Closure of the Center, which is established by W. Va. Code § 11-13I-1 et seq.

1.2 **Authority.** - W. Va. Code §§ 11-10-5, 11-13I-3(c) and 29A-3-15.

1.3 **Filing Date.** -

1.4 **Effective Date.** -

§ 110-13I-2. Definitions.

When used in this rule, the terms appearing in this Section shall be assigned the meanings provided in this Section unless the context in which a term is used clearly indicates a different meaning.

2.1 "The Credit" means the credit that is established by W. Va. Code § 11-13I-1 et seq. and is explained in this rule.

2.2 "Employment" means the provision of services under a contract of employment, either express or implied.

2.3 "Month" and "months" refer to the twelve calendar months.

2.4 "Person" means any entity, including but not limited to a natural person, a partnership or a corporation, that is liable for one or more of the following taxes: the Business Franchise Tax imposed under W. Va. Code § 11-23-1 et seq.; the Personal Income Tax imposed under W. Va. Code 11-21-1 et seq.; and the Corporation Net Income Tax imposed under W. Va. Code § 11-24-1 et seq.

2.5 "Qualified Employee" means any natural person who, according to records maintained by the West Virginia Department of Administration, Division of Personnel: (i) on December 31, 1995 was employed by the State of West Virginia at the Colin Anderson Center, in a position that was included within the classified service; and (ii) whose employment in that position was terminated by the State of West Virginia due to the closing of the Colin Anderson Center and for no other reason.

2.6 "Taxable year" means a taxpayer's taxable year for federal

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income tax purposes.

2.7 "Work hour" means:

2.7.1 an hour during which an employee provides services to his or her employer that are taken into account in determining the employee's compensation or the fulfillment of his or her contract of employment;

2.7.2 any other hour that for purposes of determining the employee's compensation or the fulfillment of his or her contract of employment is treated as an hour in which the employee provided services to his or her employer;

2.7.3 an hour of paid leave taken by the employee; or

2.7.4 an hour of unpaid leave taken by the employee if: (i) the leave is taken at the request of the employee; (ii) at the conclusion of the leave, the employee is entitled to return to the position he or she held immediately before taking the leave, or to a substantially equivalent position; and (iii) had the employee not taken leave, he or she could have provided services to his or her employer during the hour in question, and the hour or the services provided in that hour would have been taken into account in determining the employee's compensation and/or the fulfillment of his or her contract of employment.

§ 110-13I-3. Availability.

3.1 Eligible Taxpayers. - Any person employing at least one qualified employee is eligible for the Credit.

3.2 Credit Available Only for Taxable Year. - The Credit shall be separately determined for each taxable year and may be applied only against the taxpayer's tax liabilities for that taxable year. No part of the Credit may be applied against tax liability for a prior or succeeding taxable year.

3.3 Expiration of the Credit. - The Credit may not be applied against tax liabilities for taxable years ending after December 31, 1998.

§ 110-13I-4. Amount.

4.1 Maximum amount of credit. - The Credit allowed a taxpayer in a given taxable year shall not exceed the lesser of the following: (i) the sum of the Adjusted Allowances as provided in Section 4.2 of this rule for the qualified employees employed by the taxpayer during

that taxable year; or (ii) ten thousand dollars (\$10,000).

4.2 Adjusted Allowance.

4.2.1 If a qualified employee was employed by the taxpayer for all twelve months of the taxable year, the Adjusted Allowance for that qualified employee is equal to the Base Allowance as provided in Section 4.3 of this rule.

4.2.2 If a qualified employee was employed by the taxpayer for less than twelve months of the taxable year, the Adjusted Allowance for that qualified employee is the Base Allowance reduced, but not below zero, by twenty percent (20%) of the Base Allowance for each month of the taxable year during which the qualified employee was not employed by the taxpayer.

<u>Months Employed</u>	<u>Adjusted Allowance</u>
11	80% of Base Allowance
10	60% of Base Allowance
9	40% of Base Allowance
8	20% of Base Allowance
7 or fewer	Zero

4.2.3 A taxpayer shall be regarded as employing a qualified employee for a given month of the taxable year if: (i) during the month, the employee accumulates at least one hundred and forty (140) work hours in the course of his or her employment with the taxpayer, and (ii) in compensating the employee, the taxpayer complies with all applicable federal and state laws. A taxpayer shall not be regarded as employing a qualified employee for any month in which the employee accumulates less than one hundred and forty (140) work hours in the course of his or her other employment by the taxpayer, regardless of the number of work hours accumulated by the employee in the course of his or her employment by any other employer.

4.2.4 For the purpose of determining the number of months that a qualified employee was employed during the current taxable year, a taxpayer may regard as part of the current taxable year any month(s) in the immediately preceding taxable year that have not been considered in determining the taxpayer's Credit for that taxable year. No months of any taxable year other than the current taxable year or the immediately preceding taxable year may be regarded as part of the current taxable year. A given month may be regarded as part of only one taxable year.

4.2.5 (Example) The Qualified Employee works for the

Taxpayer for the last four months of Taxable Year 1. In the first of these months, the Qualified Employee accumulates 100 work hours in the course of his or her employment with the Taxpayer. In each of the remaining three months, the Qualified Employee accumulates 142 work hours. The Qualified Employee also works for the Taxpayer for the first six months of Taxable Year 2 and accumulates 142 work hours during each of those months. The Taxpayer does not claim a Credit for Taxable Year 1. In determining its Credit for Taxable Year 2, the Taxpayer may regard as part of Taxable Year 2 the last four months of Taxable Year 1, which have not been considered in determining the Taxpayer's Credit for Taxable Year 1. Of these four months, the three months in which the Qualified Employee accumulated more than 142 work hours per month (the second, third and fourth months) are regarded as months for which the Qualified Employee is employed by the Taxpayer. The Qualified Employee did not accumulate at least 140 work hours in the first month; therefore the Taxpayer is not regarded as employing the Qualified Employee for that month. The Taxpayer also is regarded as employing the Qualified Employee for the six months of Taxable Year 2. In each of those months, the Qualified Employee accumulated more than the minimum 140 work hours in the course of his or her employment with the Taxpayer. Of all of the months that are regarded as a part of Taxable Year 2, the Taxpayer employed the Qualified Employee for a total of nine months. The Adjusted Allowance for the Qualified Employee therefore is 40% of the Base Allowance.

4.3 Base Allowance. - The Base Allowance for a qualified employee is equal to fifty percent (50%) of the total amount of unemployment benefits that would be paid to an employee who receives a full sixteen (16) weeks of unemployment benefits based upon wages, during the base period used to compute the unemployment benefits, of twenty-one thousand dollars (\$21,000.00). The Base Allowance resulting from the calculation is \$2,160.00 for each qualified individual; the amount is based upon the unemployment benefits rates in effect July 1, 1995 and is subject to change if those rates change.

§ 110-13I-5. Application.

5.1 Order of Application. - The Credit allowed the taxpayer in a given taxable year shall be applied first to the taxpayer's liability for taxes imposed under W. Va. Code § 11-23-1 et seq. (Business Franchise Tax). The Credit remaining after it is applied to the taxpayer's Business Franchise Tax liability may be applied against the taxpayer's liability for taxes imposed under W. Va. Code § 11-21-1 et seq. (Personal Income Tax) or under W. Va. Code § 11-24-1 et seq. (Corporation Net Income Tax), as the case may be.

5.2 Credit Nonrefundable. - The Credit may not be used to reduce below zero (\$0.00) the taxpayer's liability for any tax.

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Series 13I

5.3 **Credit May Not Be Applied to Penalties or Interest.** - The Credit may be applied only against taxes imposed under W. Va. Code §§ 11-23-1 et seq., 11-21-1 et seq., and 11-24-1 et seq. The Credit may not be applied against penalties or interest imposed under any article of the West Virginia Code, notwithstanding that penalties or interest may be characterized as taxes for certain purposes.

§ 110-13I-6. Documentation.

6.1 **Information Provided by the Taxpayer.** - The following information shall be provided by the taxpayer, either in the spaces provided for information on a return form developed by the Tax Commissioner or in a separate attachment to the tax return for any tax to which the Credit is applied.

6.1.1 The name and social security number of each qualified employee employed by the taxpayer during the taxable year; and

6.1.2 For each qualified employee, the number of work hours, as defined in Section 110-13I-2.7 of this rule, accumulated in the course of his or her employment during the taxable year. Work hours for each qualified employee shall be separately stated for each month of the taxable year.

6.2 Should the information required under this Section be provided in an attachment to a tax return, the information shall nonetheless be regarded for all purposes as information provided on the tax return.

6.3 Should a taxpayer neglect to provide any of the information required under this Section, the Tax Commissioner at his or her discretion may deny the taxpayer the Credit or any part of the credit.

1 SENATE BILL NO. 232

2 (By Senators Ross, Anderson, Boley,
3 Buckalew, Grubb and Macnaughtan)

4 [Introduced January 29, 1996; referred
5 to the Committee on
6 Finance;
7 the Judiciary

110-134

8
9
10 A BILL to amend and reenact section three, 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 tax division to promulgate
14 legislative rules relating to the tax credit for
15 employing former members of the Colin Anderson Center.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article seven, chapter sixty-four
18 of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

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

23 **§64-7-3. Department of tax and revenue; ~~division of tax~~**
24 **division; and state tax commissioner.**

1 (a) The legislative rules filed in the state register
2 on the twelfth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 five, article ten, chapter eleven, of this code, modified
5 by the ~~division of tax~~ division to meet the objections of
6 the legislative rule-making review committee and refiled in
7 the state register on the sixth day of January, one
8 thousand nine hundred ninety-five, relating to the ~~division~~
9 ~~of tax~~ division (business investment and jobs expansion tax
10 credit, corporation headquarters relocation tax credit,
11 small business tax credit, 110 CSR 13C), are authorized.

12 (b) The legislative rules filed in the state register
13 on the twelfth day of August, one thousand nine hundred
14 ninety-four, authorized under the authority of section
15 five-s, article ten, chapter eleven, of this code, modified
16 by the ~~division of tax~~ division to meet the objections of
17 the legislative rule-making review committee and refiled in
18 the state register on the sixth day of January, one
19 thousand nine hundred ninety-five, relating to the ~~division~~
20 ~~of tax~~ division (exchange of information agreement between
21 tax division and division of environmental protection, 110
22 CSR 6B), are authorized.

23 (c) The legislative rules filed in the state register
24 on the twenty-eighth day of July, one thousand nine hundred

1 ninety-five, authorized under the authority of section
2 three, article thirteen-i, chapter eleven, of this code,
3 modified by the tax division to meet the objections of the
4 legislative rule-making review committee and refiled in the
5 state register on the twenty-second day of September, one
6 thousand nine hundred ninety-five, relating to the tax
7 division (tax credit for employing former members of Colin
8 Anderson Center, 110 CSR 13I), are authorized.

9

10 NOTE: The purpose of this bill is to authorize the
11 Tax Division to promulgate legislative rules relating to
12 the tax credit for employing former members of the Colin
13 Anderson Center.

14
15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.



4303

H. B. 4303

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996 ; referred to the
Committee on ~~Finance then the Judiciary~~)

110^13/4

A BILL to amend and reenact section three, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the tax division to promulgate legislative rules relating to the tax credit for employing former members of the Colin Anderson Center.

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4303

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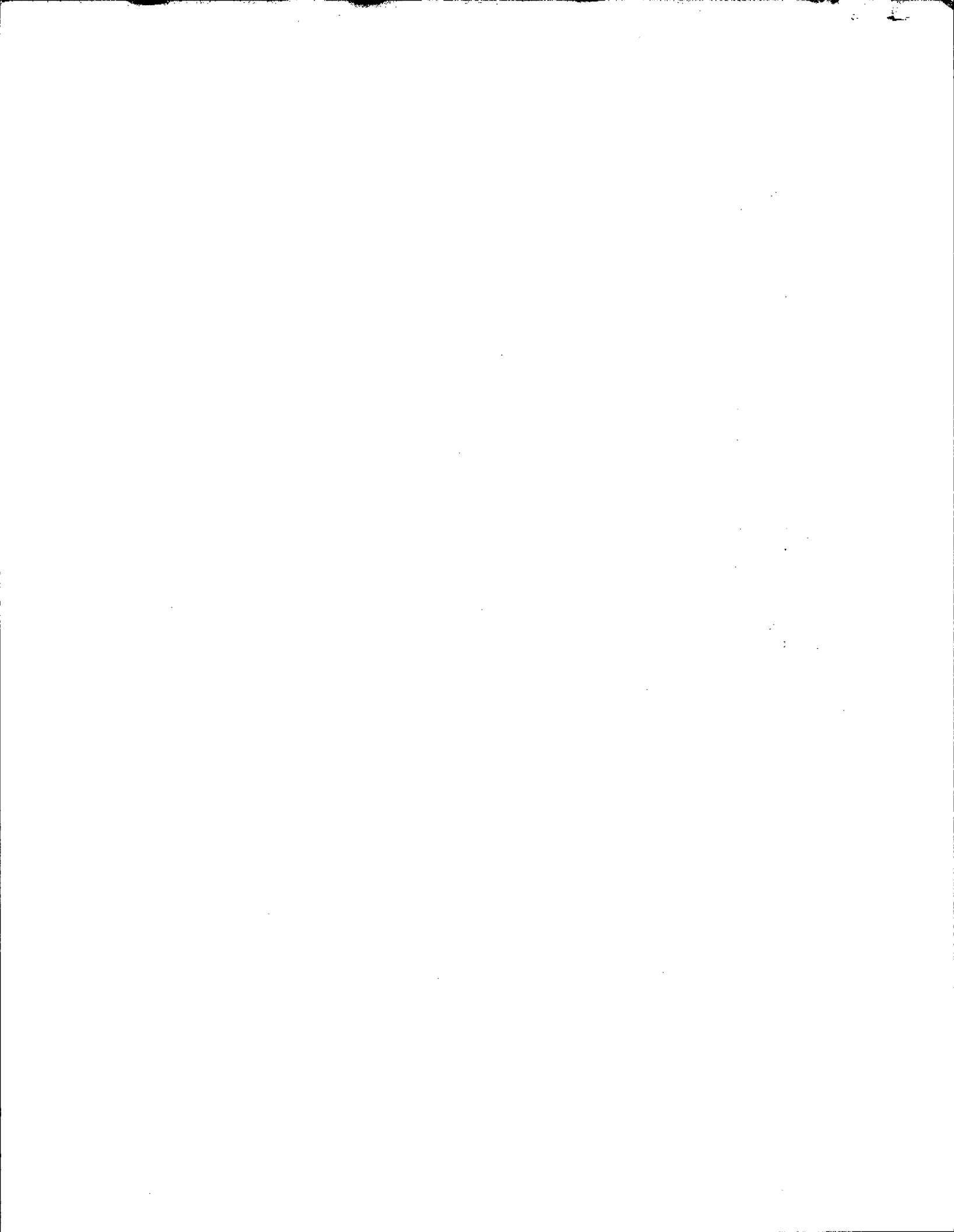
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4 legislative rule-making review committee and refiled in the
5 state register on the twenty-second day of September, one
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7 division (tax credit for employing former members of Colin
8 Anderson Center, 110 CSR 13I), are authorized.

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10 NOTE: The purpose of this bill is to authorize the
11 Tax Division to promulgate legislative rules relating to
12 the tax credit for employing former members of the Colin
13 Anderson Center.

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16 stricken from the present law, and underscoring indicates
17 new language that would be added.





KEN HECHLER
Secretary of State

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FILED WILLIAM H. HARRINGTON
Chief of Staff

Aug 15 12 58 PM '86 JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA OFFICE OF WEST VIRGINIA
SECRETARY OF STATE SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer help we can get)

TO: JOHN MONTGOMERY

AGENCY: TAX

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 10, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 13I TITLE: 110 TAX

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED

SIGNED: John Montgomery

TITLE OF PERSON SIGNING: Attorney

DATE: August 15, 1986

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

