

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF THE 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: 6B

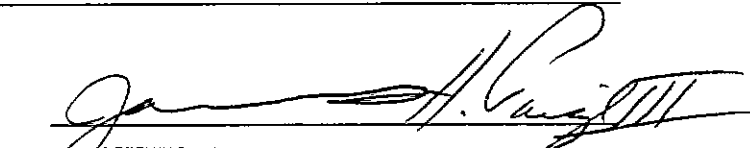
TITLE OF RULE BEING PROPOSED: Exchange of Information Agreement Between
Tax Division and Division of Environmental Protection.

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

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 131

SECTION 64-7-3(b), PASSED ON March 11, 1995

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 1, 1995


AUTHORIZED SIGNATURE
James H. Paige III
State Tax Commissioner



March 27, 1995

John Montgomery
Tax
Bldg. 1, Rm. 405W
Charleston, WV 25305

SB 131 authorizing, Title 110, Series 6B, Exchange of Information Agreement Between Tax Division and Division of Environmental Prot., passed the Legislature on March 11, 1995. It is was signed by the Governor on March 23, 1995.

You have sixty (60) days after the Governor signs SB 131, 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 131** section 64-7-3(b). 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: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, 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 call our office.

Thank You
Administrative Law Division

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MODIFIED
WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF TAX AND REVENUE OFFICE OF WEST VIRGINIA
TITLE 110 SECRETARY OF STATE
SERIES 6B
1994

EXCHANGE OF INFORMATION AGREEMENT BETWEEN
TAX DIVISION AND DIVISION OF ENVIRONMENTAL PROTECTION

110-6B-1. -- General.

1.1 Scope. -- This legislative rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Tax Division and the Division of Environmental Protection.

1.2 Authority. -- This legislative rule is promulgated under authority of W.Va. Code §§ 11-10-5 and 5s.

1.3 Filing Date. --

1.4 Effective Date. --

110-6B-2. -- Purposes.

West Virginia Code § 11-10-5s(b)(4) authorizes the West Virginia State Tax Commissioner to promulgate legislative rules regarding a written exchange of information agreement with another State agency if the purpose of the agreement is to facilitate premium collection, tax collection or licensure requirements directly enforced, administered or collected by the agency or the Tax Commissioner. The purpose of this legislative rule is to comply with W.Va. Code § 11-10-5s(b)(4) in order to permit the Divisions of Tax and of Environmental Protection to more efficiently and effectively perform their respective responsibilities for tax collection and surface coal mining permitting.

110-6B-3. Disclosure of Certain Information Authorized.

3.1 In addition to information provided to the Division of Environmental Protection pursuant to the existing information exchange agreement authorized by Section 9 of the Solid Waste Assessment Fee Regulations, 110 C.S.R. 6A, the Tax Commissioner and

the Director of the Division of Environmental Protection may, in order to accomplish the purposes set forth in section two of this legislative rule, exchange information, pursuant to another written agreement specifying the type and manner of information to be exchanged and containing provisions for safeguarding any information received pursuant to the agreement.

3.2 A copy of any exchange of information agreement entered into pursuant to this rule, including any subsequent revision(s) of the agreement, or amendment(s) to the agreement, shall be filed in the State Register on or before the effective date of the agreement or any revision or amendment of the agreement.

130

SENATE BILL NO. 130

(By Senators Manchin, Anderson, Boley, Grubb and Macnaughtan)

[Introduced January 20, 1995; referred to the Committee on Finance; and then to the Committee on the Judiciary]

110-6B

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A BILL to amend and reenact section six, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of tax to promulgate legislative rules relating to the exchange of information agreement between the tax division and the division of environmental protection.

Be it enacted by the Legislature of West Virginia:

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

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

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

(a) The legislative rules filed in the state register on the

1 fifth day of January, one thousand nine hundred eighty-four, relating
2 to the state tax commissioner (appraisal of property for periodic
3 statewide reappraisals for ad valorem property tax purposes), are
4 authorized with the amendments set forth below:

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

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

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

23 On page 25, section 11.04(c)(2)(C), entitled "Property Tax
24 Component," by striking the subsection and inserting in lieu thereof
25 the following: "(C) Property Tax Component -- This component will be

1 derived by multiplying the assessment rate by the statewide average
2 of tax rates on Class III property."

3 On page 30, section 11.04(c)(4), entitled "Valuation of Mined-
4 Out/Unmineable/Barren Coal Properties," by striking the numbers
5 "\$5.00" and inserting in lieu thereof the following: "\$1.00."

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

9 On page 53, section 11.05(h) by striking the symbol and figures
10 "(\$5.00)" and inserting in lieu thereof the following: "(\$1.00)."

11 On page 73, section 11.06(h) by striking the symbol and figures
12 "\$5.00" and inserting in lieu thereof the following: "\$1.00."

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

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

18 On page 110, section 11.08(c)(4) by striking the symbol and
19 figures "\$5.00" and inserting in lieu thereof the following:
20 "\$1.00."

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

23 And,

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

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

5 55.02(a)(2) (on page 182.2) line 18, after the word "profession"
6 strike the words "on his own account" and the comma (,).

7 55.12(b)(1) (page 182.35) at the end of the section, change the
8 period to a comma, and add the following language: "and in the case
9 of a court appointed agent, a copy of the court order of appointment
10 is sufficient."

11 And,

12 55.12(c) (page 182.36) after the word "for," strike the word
13 "erroneous."

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

22 (d) The legislative rules filed in the state register on the
23 twelfth day of March, one thousand nine hundred eighty-five, relating
24 to the state tax commissioner (identification and appraisal of
25 farmland subsequent to the base year of statewide reappraisal), are

1 authorized and directed to be promulgated with the following
2 amendments:

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

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

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

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

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

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

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

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

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

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

25 Page 10.9, Section 10.04(6), first sentence; following the words

1 "land currently being used" insert the words "as part of a farming
2 operation."

3 Page 10.9, Section 10.04(6), following the last sentence; add
4 the sentence "For the purposes of this definition, 'contiguous
5 tracts' are farmlands which are in close proximity, but not
6 necessarily adjacent: Provided, That all such contiguous tracts are
7 operated as part of the same farm management plan."

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

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

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

18 Page 10.11, Section 10.04, insert the following subdivision:
19 "(12) Application Form: The application form required to be filed
20 with the assessor on or before September first of each year shall
21 require certification that the farm complies with criteria set forth
22 in Section 10.05(c) of these regulations, and renewal applications
23 from year to year shall be sufficient upon statement certifying that
24 no change has been made in the use of farm property which would
25 disqualify 'farm use' classification for assessment purposes."

1 Renumber the subdivisions of Section 10.04 following the new
2 10.04(12); formerly 10.04(12) through 10.04(28), to 10.04(13) through
3 10.04(29), respectively.

4 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
5 the words "woodland products" insert a comma and the words "such as
6 nuts or fruits harvested" and add a comma following the words "human
7 consumption" on Page 10.15.

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

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

25 Page 10.16, Section 10.05(b)(2); delete the period and add the

1 words "such as soil conservation, farmland preservation or federal
2 farm lending agencies."

3 Page 10.17, Section 10.05(b)(7); delete the section and insert
4 in lieu thereof the words "(7) Whether or not the farmer practices
5 'custom farming' on the land in question."

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

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

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

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

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

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

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

1 words "individual event."

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

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

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

11 "(2) Farm buildings. -- Rental value of farm buildings and other
12 improvements on the farmland shall be valued by determining the
13 replacement cost of the building or structure by usual farm
14 construction practices, and farm labor standards and subtracting
15 therefrom depreciation.¹ Both of these determinations shall be made
16 in accordance with the tax department's real property appraisal
17 manual 2 as filed in the state register in accordance with chapter
18 29A of the code of West Virginia, 1931, as amended, and as it relates
19 to agricultural buildings and structures. One (1) acre of land shall
20 be assigned to all buildings as a unit situate on the property,
21 regardless of the actual acreage occupied by such buildings and shall
22 be appraised at its farm-use valuation based on the highest class of
23 farmland present on the farm."

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

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

3 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
4 "(50%) or more of the" insert the word "usual."

5 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
6 "(50%) of the" insert the word "usual."

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

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

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

14 And,

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

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

23 (f) The legislative rules filed in the state register on the
24 twenty-sixth day of March, one thousand nine hundred eighty-six,
25 relating to the state tax commissioner (listing of interests in

1 natural resources for the first statewide reappraisal; provision for
2 penalties), are authorized.

3 (g) The legislative rules filed in the state register on the
4 twenty-sixth day of March, one thousand nine hundred eighty-six,
5 modified by the state tax commissioner to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the twelfth day of February, one thousand nine hundred
8 eighty-seven, relating to the state tax commissioner (review of
9 appraisals by county commissions sitting as administrative appraisal
10 review boards), are authorized.

11 (h) The legislative rules filed in the state register on the
12 twenty-sixth day of March, one thousand nine hundred eighty-six,
13 modified by the state tax commissioner to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the twelfth day of February, one thousand nine hundred
16 eighty-seven, relating to the state tax commissioner (review of
17 appraisals by a circuit court on certiorari), are authorized with the
18 following amendment:

19 On page 3, §18.3.1 is stricken in its entirety and a new §18.3.1
20 is inserted in lieu thereof to read as follows:

21 "§18.3.1 Who May Request Review. -- The property owner, Tax
22 Commissioner, protestor or intervenor may request the county
23 commission to certify the evidence and remove and return the record
24 to the circuit court of the county on a writ of certiorari. Parties
25 to the proceeding wherein review by the circuit court is sought shall

1 pay costs and fees as they are incurred: Provided, That the circuit
2 court upon rendering judgment or making any order may award costs to
3 any party in accordance with the provisions of W. Va. Code §53-3-5."

4 (i) The legislative rules filed in the state register on the
5 twenty-sixth day of March, one thousand nine hundred eighty-six,
6 modified by the state tax commissioner to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the twelfth day of February, one thousand nine hundred
9 eighty-seven, relating to the state tax commissioner (administrative
10 review of appraisals by the state tax commissioner), are authorized.

11 (j) The legislative rules filed in the state register on the
12 eighteenth day of August, one thousand nine hundred eighty-six,
13 modified by the state tax commissioner to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the twelfth day of February, one thousand nine hundred
16 eighty-seven, relating to the state tax commissioner (additional
17 review and implementation of property appraisals), are authorized.

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

22 (l) The legislative rules filed in the state register on the
23 eighteenth day of August, one thousand nine hundred eighty-six,
24 modified by the state tax commissioner to meet the objections of the
25 legislative rule-making review committee and refiled in the state

1 register on the tenth day of December, one thousand nine hundred
2 eighty-six, relating to the state tax commissioner (registration of
3 transient vendors), are authorized.

4 (m) The legislative rules filed in the state register on the
5 fourth day of February, one thousand nine hundred eighty-six,
6 modified by the state tax commissioner to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the fourteenth day of January, one thousand nine hundred
9 eighty-seven, relating to the state tax commissioner (business and
10 occupation tax), are authorized.

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

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

22 (p) The legislative rules filed in the state register on the
23 seventeenth day of August, one thousand nine hundred eighty-seven,
24 modified by the state tax commissioner to meet the objections of the
25 legislative rule-making review committee and refiled in the state

1 register on the twenty-second day of January, one thousand nine
2 hundred eighty-eight, relating to the state tax commissioner
3 (consumers sales and service tax and use tax), are authorized.

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

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

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

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

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

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

24 (w) The legislative rules filed in the state register on the
25 twenty-third day of June, one thousand nine hundred eighty-nine,

1 relating to the state tax department (personal income tax), are
2 authorized.

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

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

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

20 (aa) The legislative rules filed in the state register on the
21 eleventh day of August, one thousand nine hundred eighty-nine,
22 modified by the department of tax and revenue to meet the objections
23 of the legislative rule-making review committee and refiled in the
24 state register on the eleventh day of December, one thousand nine
25 hundred eighty-nine, relating to the department of tax and revenue

1 (business and occupation tax), are authorized.

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

10 On page eight, Section 2.28, after the word "as" by inserting
11 the words "art, science,".

12 On pages eight and nine, Section 2.28.1, after the word
13 "intellectual" by deleting the word "or" and inserting in lieu
14 thereof the words "physical and".

15 On page nine, Section 2.28.2, by deleting the words "or
16 instruction."

17 On page nine, Section 2.28.2, after the word "training" by
18 adding the word "or".

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

21 On page nine, by deleting all of Section 2.28.2.1.

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

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

25 On page nine, Section 2.28.2.2, after the word "training" by

1 adding the word "or".

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

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

7 And,

8 On page one hundred twenty-eight, Section 91.2, after the words
9 "include food" by inserting the following: ", as defined in section
10 2.30 of this rule,".

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

18 (dd) The legislative rules filed in the state register on the
19 eleventh day of August, one thousand nine hundred eighty-nine,
20 modified by the department of tax and revenue to meet the objections
21 of the legislative rule-making review committee and refiled in the
22 state register on the eleventh day of December, one thousand nine
23 hundred eighty-nine, relating to the department of tax and revenue
24 (gasoline and special fuel excise tax), are authorized.

25 (ee) The legislative rules filed in the state register on the

1 eleventh day of August, one thousand nine hundred eighty-nine,
2 modified by the department of tax and revenue to meet the objections
3 of the legislative rule-making review committee and refiled in the
4 state register on the eleventh day of December, one thousand nine
5 hundred eighty-nine, relating to the department of tax and revenue
6 (corporation net income tax), are authorized.

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

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

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

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

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

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

22 On page forty-six, section 2g, by striking out all of subsection
23 2g.3;

24 And,

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

1 subsections.

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

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

12 And,

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

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

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

24 (nn) The legislative rules filed in the state register on the
25 eighteenth day of June, one thousand nine hundred ninety-one,

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

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

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

21 (qq) The legislative rules filed in the state register on the
22 eighth day of August, one thousand nine hundred ninety-one, modified
23 by the division of tax to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on the
25 tenth day of January, one thousand nine hundred ninety-two, relating

1 to the division of tax (exceptions to confidentiality of taxpayer
2 information and disclosure of certain taxpayer information), are
3 authorized.

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

11 On page six, by deleting all of subdivisions 2.25.2 and 2.25.4;

12 On page six, subsection 2.25 by renumbering the remaining
13 subdivisions;

14 On page forty-five, paragraph 8.1.1.1, after the words "licensed
15 social workers", by inserting "enrolled agents, professional
16 foresters,";

17 On page forty-five, paragraph 8.1.1.1, after the word
18 "electricians", by striking out the words "enrolled agents";

19 On page forty-five, paragraph 8.1.1.1, after the word
20 "musicians" by striking out the word "auctioneers,";

21 On page fifty-six, subdivision 9.2.19, after the word "laws" by
22 striking out the colon and inserting the following ", such as, for
23 example, sales by credit unions under W. Va. Code §31-10-33 the sale
24 of services by owners, trainers or jockeys which are essential to the
25 effective conduct of a horse or dog racing meeting under W. Va. Code

1 §19-23-12, or the commission of an auctioneer licensed under W. Va.
2 Code §19-2C-1 et seq.:";

3 On page one hundred five, subsection 33.5, by striking out the
4 words "child care";

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

10 On page one hundred forty-three, subsection 86.1, after the word
11 "auctioneer" by inserting the following "licensed under W. Va. Code
12 §19-2C-1 et seq.";

13 On page one hundred forty-three, subsection 86.1, after the word
14 "is" by inserting the word "not";

15 On page one hundred forty-three, subsection 86.2 after the word
16 "tax" by inserting the following "on the full sales price of the
17 sales";

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

22 On page one hundred forty-three, subsection 86.3, in the last
23 sentence after the word "sold" by striking out the period and adding
24 the following ": Provided, That an auctioneer licensed in accordance
25 with W. Va. Code §19-2C-1 et seq. is not required to collect sales

1 tax on such fees or commissioners.";

2 And,

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

7 (ss) The legislative rules filed in the state register on the
8 eighteenth day of September, one thousand nine hundred ninety-two,
9 relating to the division of tax (bingo), are authorized.

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

15 On page fifty-eight, by striking out all of subparagraph
16 9.3.4.3.d and by renumbering the remaining subparagraph;

17 And,

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

23 "Notwithstanding the fact that persons engaged in the rendering
24 of a service are required to pay tax on their purchases for use
25 and/or consumption in rendering such services, the purchase by

1 hotels, motels, tourist homes and rooming houses of complimentary
2 items such as shampoos, coffee and newspapers given to guests by such
3 hotels, motels, tourist homes and rooming houses are not taxable."

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

7 (vv) The legislative rules filed in the state register on the
8 thirteenth day of August, one thousand nine hundred ninety-three,
9 modified by the division of tax to meet the objections of the
10 legislative rule-making review committee and refiled in the state
11 register on the twelfth day of January, one thousand nine hundred
12 ninety-four, relating to the division of tax (charitable raffle
13 boards and games), are authorized.

14 (ww) The legislative rules filed in the state register on the
15 sixteenth day of August, one thousand nine hundred ninety-three,
16 relating to the division of tax (business investment and jobs
17 expansion tax credit, small business tax credit, corporate
18 headquarters relocation tax credit), are authorized with the
19 amendment set forth below:

20 On page thirty-nine, section 5.16.3.1, by striking section
21 5.16.3.1 and inserting in lieu thereof the following:

22 "This exception shall not be applicable if the taxpayer failed
23 to provide information requested by the Department of Tax and
24 Revenue, or its predecessor, the West Virginia Tax Department, or if
25 the taxpayer had knowledge or should have had knowledge of

1 information necessary for the Department of Tax and Revenue to make
2 an informed analysis and determination pertaining to the actual
3 application of the credit but failed to disclose such information to
4 the Department."

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

12 "On page four, section 3.1, by striking out '\$400.00' and
13 inserting in lieu thereof '\$200.00'."

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

18 On page one, section 2.2 after the word "be" by inserting the
19 following: "The definition of facilities eligible for salvage tax
20 treatment shall be strictly construed so as to include only such
21 equipment and devices as are installed primarily and immediately to
22 abate air or water pollution. These items of personal property which
23 may coincidentally comply with air or water quality or effluent
24 standards prescribed by or promulgated under the laws of this state
25 or the United States, but which are primarily installed for plant

1 operations or are productive, or add to the economic value of a
2 business enterprise or have a market value after installation in
3 excess of salvage value, will not be deemed eligible for salvage tax
4 treatment."

5 (zz) The legislative rules filed in the state register on the
6 twelfth day of August, one thousand nine hundred ninety-four,
7 modified by the division of tax to meet the objections of the
8 legislative rule-making review committee and refiled in the state
9 register on the sixth day of January, one thousand nine hundred
10 ninety-five, relating to the division of tax (exchange of information
11 agreement between tax division and division of environmental
12 protection), are authorized.

13

14 NOTE: The purpose of this bill is to authorize the Division of
15 Tax to promulgate legislative rules relating to the exchange of
16 information agreement between the Tax Division and the Division of
17 Environmental Protection.

18

19 Strike-throughs indicate language that would be stricken from
20 the present law, and underscoring indicates new language that would
21 be added.

22

Bill-Tax, Exchange

2201

110-6B

H. B. 2201

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

(Introduced January 23, 1995 ; referred to the
Committee on Finance then the Judiciary)

A BILL to amend and reenact section six, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of tax to promulgate legislative rules relating to the exchange of information agreement between the tax division and the division of environmental protection.

Be it enacted by the Legislature of West Virginia:

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

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

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

(a) The legislative rules filed in the state register on the

1 fifth day of January, one thousand nine hundred eighty-four, relating
2 to the state tax commissioner (appraisal of property for periodic
3 statewide reappraisals for ad valorem property tax purposes), are
4 authorized with the amendments set forth below:

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

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

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

23 On page 25, section 11.04(c)(2)(C), entitled "Property Tax
24 Component," by striking the subsection and inserting in lieu thereof
25 the following: "(C) Property Tax Component -- This component will be

1 derived by multiplying the assessment rate by the statewide average
2 of tax rates on Class III property."

3 On page 30, section 11.04(c)(4), entitled "Valuation of Mined-
4 Out/Unmineable/Barren Coal Properties," by striking the numbers
5 "\$5.00" and inserting in lieu thereof the following: "\$1.00."

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

9 On page 53, section 11.05(h) by striking the symbol and figures
10 "(\$5.00)" and inserting in lieu thereof the following: "(\$1.00)."

11 On page 73, section 11.06(h) by striking the symbol and figures
12 "\$5.00" and inserting in lieu thereof the following: "\$1.00."

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

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

18 On page 110, section 11.08(c)(4) by striking the symbol and
19 figures "\$5.00" and inserting in lieu thereof the following:
20 "\$1.00."

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

23 And,

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

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

5 55.02(a)(2) (on page 182.2) line 18, after the word "profession"
6 strike the words "on his own account" and the comma (,).

7 55.12(b)(1) (page 182.35) at the end of the section, change the
8 period to a comma, and add the following language: "and in the case
9 of a court appointed agent, a copy of the court order of appointment
10 is sufficient."

11 And,

12 55.12(c) (page 182.36) after the word "for," strike the word
13 "erroneous."

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

22 (d) The legislative rules filed in the state register on the
23 twelfth day of March, one thousand nine hundred eighty-five, relating
24 to the state tax commissioner (identification and appraisal of
25 farmland subsequent to the base year of statewide reappraisal), are

1 authorized and directed to be promulgated with the following
2 amendments:

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

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

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

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

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

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

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

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

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

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

25 Page 10.9, Section 10.04(6), first sentence; following the words

1 "land currently being used" insert the words "as part of a farming
2 operation."

3 Page 10.9, Section 10.04(6), following the last sentence; add
4 the sentence "For the purposes of this definition, 'contiguous
5 tracts' are farmlands which are in close proximity, but not
6 necessarily adjacent: Provided, That all such contiguous tracts are
7 operated as part of the same farm management plan."

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

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

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

18 Page 10.11, Section 10.04, insert the following subdivision:
19 "(12) Application Form: The application form required to be filed
20 with the assessor on or before September first of each year shall
21 require certification that the farm complies with criteria set forth
22 in Section 10.05(c) of these regulations, and renewal applications
23 from year to year shall be sufficient upon statement certifying that
24 no change has been made in the use of farm property which would
25 disqualify 'farm use' classification for assessment purposes."

1 Renumber the subdivisions of Section 10.04 following the new
2 10.04(12); formerly 10.04(12) through 10.04(28), to 10.04(13) through
3 10.04(29), respectively.

4 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
5 the words "woodland products" insert a comma and the words "such as
6 nuts or fruits harvested" and add a comma following the words "human
7 consumption" on Page 10.15.

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

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

25 Page 10.16, Section 10.05(b)(2); delete the period and add the

1 words "such as soil conservation, farmland preservation or federal
2 farm lending agencies."

3 Page 10.17, Section 10.05(b)(7); delete the section and insert
4 in lieu thereof the words "(7) Whether or not the farmer practices
5 'custom farming' on the land in question."

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

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

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

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

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

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

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

1 words "individual event."

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

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

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

11 "(2) Farm buildings. -- Rental value of farm buildings and other
12 improvements on the farmland shall be valued by determining the
13 replacement cost of the building or structure by usual farm
14 construction practices, and farm labor standards and subtracting
15 therefrom depreciation.¹ Both of these determinations shall be made
16 in accordance with the tax department's real property appraisal
17 manual 2 as filed in the state register in accordance with chapter
18 29A of the code of West Virginia, 1931, as amended, and as it relates
19 to agricultural buildings and structures. One (1) acre of land shall
20 be assigned to all buildings as a unit situate on the property,
21 regardless of the actual acreage occupied by such buildings and shall
22 be appraised at its farm-use valuation based on the highest class of
23 farmland present on the farm."

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

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

3 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
4 "(50%) or more of the" insert the word "usual."

5 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
6 "(50%) of the" insert the word "usual."

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

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

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

14 And,

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

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

23 (f) The legislative rules filed in the state register on the
24 twenty-sixth day of March, one thousand nine hundred eighty-six,
25 relating to the state tax commissioner (listing of interests in

1 natural resources for the first statewide reappraisal; provision for
2 penalties), are authorized.

3 (g) The legislative rules filed in the state register on the
4 twenty-sixth day of March, one thousand nine hundred eighty-six,
5 modified by the state tax commissioner to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the twelfth day of February, one thousand nine hundred
8 eighty-seven, relating to the state tax commissioner (review of
9 appraisals by county commissions sitting as administrative appraisal
10 review boards), are authorized.

11 (h) The legislative rules filed in the state register on the
12 twenty-sixth day of March, one thousand nine hundred eighty-six,
13 modified by the state tax commissioner to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the twelfth day of February, one thousand nine hundred
16 eighty-seven, relating to the state tax commissioner (review of
17 appraisals by a circuit court on certiorari), are authorized with the
18 following amendment:

19 On page 3, §18.3.1 is stricken in its entirety and a new §18.3.1
20 is inserted in lieu thereof to read as follows:

21 "§18.3.1 Who May Request Review. -- The property owner, Tax
22 Commissioner, protestor or intervenor may request the county
23 commission to certify the evidence and remove and return the record
24 to the circuit court of the county on a writ of certiorari. Parties
25 to the proceeding wherein review by the circuit court is sought shall

1 pay costs and fees as they are incurred: Provided, That the circuit
2 court upon rendering judgment or making any order may award costs to
3 any party in accordance with the provisions of W. Va. Code §53-3-5."

4 (i) The legislative rules filed in the state register on the
5 twenty-sixth day of March, one thousand nine hundred eighty-six,
6 modified by the state tax commissioner to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the twelfth day of February, one thousand nine hundred
9 eighty-seven, relating to the state tax commissioner (administrative
10 review of appraisals by the state tax commissioner), are authorized.

11 (j) The legislative rules filed in the state register on the
12 eighteenth day of August, one thousand nine hundred eighty-six,
13 modified by the state tax commissioner to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the twelfth day of February, one thousand nine hundred
16 eighty-seven, relating to the state tax commissioner (additional
17 review and implementation of property appraisals), are authorized.

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

22 (l) The legislative rules filed in the state register on the
23 eighteenth day of August, one thousand nine hundred eighty-six,
24 modified by the state tax commissioner to meet the objections of the
25 legislative rule-making review committee and refiled in the state

1 register on the tenth day of December, one thousand nine hundred
2 eighty-six, relating to the state tax commissioner (registration of
3 transient vendors), are authorized.

4 (m) The legislative rules filed in the state register on the
5 fourth day of February, one thousand nine hundred eighty-six,
6 modified by the state tax commissioner to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the fourteenth day of January, one thousand nine hundred
9 eighty-seven, relating to the state tax commissioner (business and
10 occupation tax), are authorized.

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

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

22 (p) The legislative rules filed in the state register on the
23 seventeenth day of August, one thousand nine hundred eighty-seven,
24 modified by the state tax commissioner to meet the objections of the
25 legislative rule-making review committee and refiled in the state

1 register on the twenty-second day of January, one thousand nine
2 hundred eighty-eight, relating to the state tax commissioner
3 (consumers sales and service tax and use tax), are authorized.

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

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

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

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

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

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

24 (w) The legislative rules filed in the state register on the
25 twenty-third day of June, one thousand nine hundred eighty-nine,

1 relating to the state tax department (personal income tax), are
2 authorized.

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

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

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

20 (aa) The legislative rules filed in the state register on the
21 eleventh day of August, one thousand nine hundred eighty-nine,
22 modified by the department of tax and revenue to meet the objections
23 of the legislative rule-making review committee and refiled in the
24 state register on the eleventh day of December, one thousand nine
25 hundred eighty-nine, relating to the department of tax and revenue

1 (business and occupation tax), are authorized.

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

10 On page eight, Section 2.28, after the word "as" by inserting
11 the words "art, science,".

12 On pages eight and nine, Section 2.28.1, after the word
13 "intellectual" by deleting the word "or" and inserting in lieu
14 thereof the words "physical and".

15 On page nine, Section 2.28.2, by deleting the words "or
16 instruction."

17 On page nine, Section 2.28.2, after the word "training" by
18 adding the word "or".

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

21 On page nine, by deleting all of Section 2.28.2.1.

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

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

25 On page nine, Section 2.28.2.2, after the word "training" by

1 adding the word "or".

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

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

7 And,

8 On page one hundred twenty-eight, Section 91.2, after the words
9 "include food" by inserting the following: ", as defined in section
10 2.30 of this rule,".

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

18 (dd) The legislative rules filed in the state register on the
19 eleventh day of August, one thousand nine hundred eighty-nine,
20 modified by the department of tax and revenue to meet the objections
21 of the legislative rule-making review committee and refiled in the
22 state register on the eleventh day of December, one thousand nine
23 hundred eighty-nine, relating to the department of tax and revenue
24 (gasoline and special fuel excise tax), are authorized.

25 (ee) The legislative rules filed in the state register on the

1 eleventh day of August, one thousand nine hundred eighty-nine,
2 modified by the department of tax and revenue to meet the objections
3 of the legislative rule-making review committee and refiled in the
4 state register on the eleventh day of December, one thousand nine
5 hundred eighty-nine, relating to the department of tax and revenue
6 (corporation net income tax), are authorized.

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

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

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

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

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

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

22 On page forty-six, section 2g, by striking out all of subsection
23 2g.3;

24 And,

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

1 subsections.

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

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

12 And,

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

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

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

24 (nn) The legislative rules filed in the state register on the
25 eighteenth day of June, one thousand nine hundred ninety-one,

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

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

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

21 (qq) The legislative rules filed in the state register on the
22 eighth day of August, one thousand nine hundred ninety-one, modified
23 by the division of tax to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on the
25 tenth day of January, one thousand nine hundred ninety-two, relating

1 to the division of tax (exceptions to confidentiality of taxpayer
2 information and disclosure of certain taxpayer information), are
3 authorized.

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

11 On page six, by deleting all of subdivisions 2.25.2 and 2.25.4;

12 On page six, subsection 2.25 by renumbering the remaining
13 subdivisions;

14 On page forty-five, paragraph 8.1.1.1, after the words "licensed
15 social workers", by inserting "enrolled agents, professional
16 foresters,";

17 On page forty-five, paragraph 8.1.1.1, after the word
18 "electricians", by striking out the words "enrolled agents";

19 On page forty-five, paragraph 8.1.1.1, after the word
20 "musicians" by striking out the word "auctioneers,";

21 On page fifty-six, subdivision 9.2.19, after the word "laws" by
22 striking out the colon and inserting the following ", such as, for
23 example, sales by credit unions under W. Va. Code §31-10-33 the sale
24 of services by owners, trainers or jockeys which are essential to the
25 effective conduct of a horse or dog racing meeting under W. Va. Code

1 §19-23-12, or the commission of an auctioneer licensed under W. Va.
2 Code §19-2C-1 et seq.:";

3 On page one hundred five, subsection 33.5, by striking out the
4 words "child care";

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

10 On page one hundred forty-three, subsection 86.1, after the word
11 "auctioneer" by inserting the following "licensed under W. Va. Code
12 §19-2C-1 et seq.";

13 On page one hundred forty-three, subsection 86.1, after the word
14 "is" by inserting the word "not";

15 On page one hundred forty-three, subsection 86.2 after the word
16 "tax" by inserting the following "on the full sales price of the
17 sales";

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

22 On page one hundred forty-three, subsection 86.3, in the last
23 sentence after the word "sold" by striking out the period and adding
24 the following "": Provided, That an auctioneer licensed in accordance
25 with W. Va. Code §19-2C-1 et seq. is not required to collect sales

1 tax on such fees or commissioners.";

2 And,

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

7 (ss) The legislative rules filed in the state register on the
8 eighteenth day of September, one thousand nine hundred ninety-two,
9 relating to the division of tax (bingo), are authorized.

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

15 On page fifty-eight, by striking out all of subparagraph
16 9.3.4.3.d and by renumbering the remaining subparagraph;

17 And,

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

23 "Notwithstanding the fact that persons engaged in the rendering
24 of a service are required to pay tax on their purchases for use
25 and/or consumption in rendering such services, the purchase by

1 hotels, motels, tourist homes and rooming houses of complimentary
2 items such as shampoos, coffee and newspapers given to guests by such
3 hotels, motels, tourist homes and rooming houses are not taxable."

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

7 (vv) The legislative rules filed in the state register on the
8 thirteenth day of August, one thousand nine hundred ninety-three,
9 modified by the division of tax to meet the objections of the
10 legislative rule-making review committee and refiled in the state
11 register on the twelfth day of January, one thousand nine hundred
12 ninety-four, relating to the division of tax (charitable raffle
13 boards and games), are authorized.

14 (ww) The legislative rules filed in the state register on the
15 sixteenth day of August, one thousand nine hundred ninety-three,
16 relating to the division of tax (business investment and jobs
17 expansion tax credit, small business tax credit, corporate
18 headquarters relocation tax credit), are authorized with the
19 amendment set forth below:

20 On page thirty-nine, section 5.16.3.1, by striking section
21 5.16.3.1 and inserting in lieu thereof the following:

22 "This exception shall not be applicable if the taxpayer failed
23 to provide information requested by the Department of Tax and
24 Revenue, or its predecessor, the West Virginia Tax Department, or if
25 the taxpayer had knowledge or should have had knowledge of

1 information necessary for the Department of Tax and Revenue to make
2 an informed analysis and determination pertaining to the actual
3 application of the credit but failed to disclose such information to
4 the Department."

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

12 "On page four, section 3.1, by striking out '\$400.00' and
13 inserting in lieu thereof '\$200.00'."

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

18 On page one, section 2.2 after the word "be" by inserting the
19 following: "The definition of facilities eligible for salvage tax
20 treatment shall be strictly construed so as to include only such
21 equipment and devices as are installed primarily and immediately to
22 abate air or water pollution. These items of personal property which
23 may coincidentally comply with air or water quality or effluent
24 standards prescribed by or promulgated under the laws of this state
25 for the United States, but which are primarily installed for plant

1 operations or are productive, or add to the economic value of a
2 business enterprise or have a market value after installation in
3 excess of salvage value, will not be deemed eligible for salvage tax
4 treatment."

5 (zz) The legislative rules filed in the state register on the
6 twelfth day of August, one thousand nine hundred ninety-four,
7 modified by the division of tax to meet the objections of the
8 legislative rule-making review committee and refiled in the state
9 register on the sixth day of January, one thousand nine hundred
10 ninety-five, relating to the division of tax (exchange of information
11 agreement between tax division and division of environmental
12 protection), are authorized.

13
14 NOTE: The purpose of this bill is to authorize the Division of
15 Tax to promulgate legislative rules relating to the exchange of
16 information agreement between the Tax Division and the Division of
17 Environmental Protection.

18
19 Strike-throughs indicate language that would be stricken from
20 the present law, and underscoring indicates new language that would
21 be added.
22