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WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 545

(SENATOR HELMICK, *original sponsor*)

[Passed March 8, 2008; in effect ninety days from passage.]

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OFFICE OF THE
SECRETARY OF STATE

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(SENATOR HELMICK, *original sponsor*)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §11-10-5z and §11-10-7d; to amend and reenact §11-12-5 of said code; to amend said code by adding thereto a new section, designated §11-15-9j; to amend and reenact §11-15-16 of said code; and to amend and reenact §11-21-74 of said code, all relating to tax administration efficiency and technical advancements; requiring electronic filing of tax returns when the taxpayer meets a

certain threshold amount of taxes due; authorizing combined tax assessments; authorizing promulgation of rules to determine the application of partial payments of taxes; authorizing the limitation on assessments to apply separately to each tax in a combined assessment; authorizing the recordation of one lien for all taxes in a combined assessment; allowing assertion of the consumers sales and use tax exemptions authorized under section nine-i, article fifteen, chapter eleven of the Code of West Virginia to be asserted by use of a direct pay permit; prohibiting filing incomplete business registration certificate; specifying the time period for which the business registration certificate is granted; specifying authority of the Tax Commissioner to suspend or cancel certificate; eliminating the periodic biennial business registration certificate renewal requirement; specifying a penalty applied upon issuance, renewal or reinstatement of the business registration certificate pursuant to involuntary cancellation, revocation or suspension of the business registration certificate; prohibiting filing incomplete returns for consumers sales and service tax and use tax; requiring the Tax Commissioner to design a combined reporting form; requiring taxpayers to use the form specified by the Tax Commissioner; authorizing the Tax Commissioner to promulgate necessary rules; and prohibiting filing incomplete filing of withholding tax returns.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §11-10-5z and §11-10-7d; that §11-12-5 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §11-15-9j; that §11-15-16 of

said code be amended and reenacted; and that §11-21-74 of said code be amended and reenacted, all to read as follows:

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-5z. Electronic filing for certain persons.

1 (a) For tax years beginning on or after the first day of
2 January, two thousand nine, any person required to file
3 a return for a tax administered under the provisions of
4 this article and who had total annual remittance for any
5 single tax equal to or greater than one hundred
6 thousand dollars during the immediately preceding
7 taxable year shall file electronically all returns for all
8 taxes administered under this article.

9 (b) The Tax Commissioner shall implement the
10 provisions of this section using any combination of
11 notices, forms, instructions and rules that he or she
12 determines necessary. All rules shall be promulgated
13 pursuant to article three, chapter twenty-nine-a of this
14 code.

§11-10-7d. Combining assessments.

1 (a) The Tax Commissioner may, subsequent to any
2 investigation authorized by subsection (a), section seven
3 of this article that results in an assessment in each of
4 two or more taxes administered pursuant to this article,
5 combine those assessments into a combined single
6 assessment. In order to complete any investigation, the
7 Tax Commissioner may review and combine returns for
8 the taxes that are the subject of the investigation.

9 (b) If the Tax Commissioner has combined two or

10 more returns as authorized by subsection (a) of this
11 section, the tax remitted shall be applied against taxes
12 in the order provided in a rule promulgated by the Tax
13 Commissioner under the authority of article three,
14 chapter twenty-nine-a of this code.

15 (c) If the Tax Commissioner issues a combined single
16 assessment as authorized in subsection (a) of this
17 section, the limitations on assessment provided in
18 section fifteen of this article shall apply separately to
19 each tax liability included in the single assessment.

20 (d) If the Tax Commissioner issues a single assessment
21 as authorized in subsection (a) of this section and the
22 assessment becomes final pursuant to the provisions of
23 section eight of this article, the Tax Commissioner is
24 authorized to pursue collection of the tax resulting from
25 the combined assessment as authorized by this article,
26 including, but not limited to, sections eleven and
27 thirteen of this article, and to record one lien, pursuant
28 to section twelve of this article, that includes all unpaid
29 amounts of all finalized tax liabilities included in that
30 combined assessment.

ARTICLE 12. BUSINESS REGISTRATION TAX.

**§11-12-5. Time for which registration certificate granted;
power of Tax Commissioner to suspend or
cancel certificate; certificate to be permanent
until cessation of business for which certificates
are granted or revocation, suspension or
cancellation by the Tax Commissioner; penalty
for involuntary loss of license due to failure to
pay required fees and taxes relating to business.**

1 (a) *Registration period.* — All business registration

2 certificates issued under the provisions of section four
3 of this article are for the period of one year beginning
4 the first day of July and ending the thirtieth day of the
5 following June: *Provided*, That beginning on or after
6 the first day of July, one thousand nine hundred
7 ninety-nine, all business registration certificates issued
8 under the provisions of section four of this article shall
9 be issued for two fiscal years of this state, subject to the
10 following transition rule. If the first year for which a
11 business was issued a business registration certificate
12 under this article began on the first day of July of an
13 even-numbered calendar year, then the Tax
14 Commissioner may issue a renewal certificate to that
15 business for the period beginning the first day of July,
16 one thousand nine hundred ninety-nine, and ending the
17 thirtieth day of June, two thousand, upon receipt of
18 fifteen dollars for each such one-year certificate.
19 Notwithstanding any other provisions of this code to
20 the contrary, any certificate of registration granted on
21 or after the first day of July, two thousand ten, shall not
22 be subject to the foregoing requirement that it be
23 renewed, but shall be permanent until cessation of the
24 business for which the certificate of registration was
25 granted or until it is suspended, revoked or cancelled by
26 the Tax Commissioner. Notwithstanding any provision
27 of this code to the contrary, on or after the first day of
28 July, two thousand ten, reference to renewal of the
29 business registration certificate shall refer to the
30 issuance of a new business registration certificate
31 pursuant to expiration, cancellation or revocation of a
32 prior business registration certificate or to
33 reinstatement of a business registration certificate or to
34 reinstatement of a business certificate previously
35 suspended by the Tax Commissioner. On or after the
36 first day of July, two thousand ten, the business

37 registration certificate shall be issued upon payment of
38 a tax of thirty dollars to the Tax Commissioner for new
39 issuances of the business registration certificate or for
40 issuances of the business registration certificate
41 pursuant to expiration, cancellation or revocation of a
42 prior business registration certificate or for
43 reinstatement of a business registration certificate
44 previously suspended by the Tax Commissioner, along
45 with any applicable delinquent fees, interest, penalties
46 and additions to tax.

47 (b) *Revocation or suspension of certificate.* —

48 (1) The Tax Commissioner may cancel or suspend a
49 business registration certificate at any time during a
50 registration period if:

51 (A) The registrant filed an application for a business
52 registration certificate, or an application for renewal
53 thereof, that was false or fraudulent.

54 (B) The registrant willfully refused or neglected to file
55 a tax return or to report information required by the
56 Tax Commissioner for any tax imposed by or pursuant
57 to this chapter.

58 (C) The registrant willfully refused or neglected to
59 pay any tax, additions to tax, penalties or interest, or
60 any part thereof, when they became due and payable
61 under this chapter, determined with regard to any
62 authorized extension of time for payment.

63 (D) The registrant neglected to pay over to the Tax
64 Commissioner on or before its due date, determined
65 with regard to any authorized extension of time for

66 payment, any tax imposed by this chapter which the
67 registrant collects from any person and holds in trust
68 for this state.

69 (E) The registrant abused the privilege afforded to it
70 by article fifteen or fifteen-a of this chapter to be
71 exempt from payment of the taxes imposed by such
72 articles on some or all of the registrant's purchases for
73 use in business upon issuing to the vendor a properly
74 executed exemption certificate, by failing to timely pay
75 use tax on taxable purchase for use in business or by
76 failing to either pay the tax or give a properly executed
77 exemption certificate to the vendor.

78 (F) The registrant has failed to pay in full delinquent
79 personal property taxes owing for the calendar year.

80 (2) On or after the first day of July, two thousand ten,
81 a prospective registrant or a former registrant for which
82 a business registration certificate has been suspended,
83 cancelled or revoked pursuant to the provisions of this
84 article may apply for a new business registration
85 certificate or for reinstatement of a suspended business
86 registration certificate upon payment of all outstanding
87 delinquent fees, taxes, interest, additions to tax and
88 penalties, in addition to payment to the Tax
89 Commissioner of a penalty in the amount of one
90 hundred dollars. The Tax Commissioner may issue a
91 new business registration certificate or reinstate a
92 suspended business registration certificate if the
93 prospective or former registrant has provided security
94 acceptable to and authorized by the Tax Commissioner,
95 payable to the Tax Commissioner, sufficient to secure
96 all delinquent fees, taxes, interest, additions to tax and
97 penalties owed by the prospective registrant. The Tax

98 Commissioner may issue a new business registration
99 certificate or reinstate a suspended business
100 registration certificate if the prospective or former
101 registrant has entered into a payment plan approved by
102 the Tax Commissioner by which liability for all
103 delinquent fees, taxes, interest, additions to tax and
104 penalties will be paid in due course and without
105 significant delay. Failure of any registrant to comply
106 with a payment plan pursuant to this provision shall be
107 grounds for immediate suspension or revocation of the
108 registrant's business registration certificate.

109 (3) On and after the first day of July, two thousand
110 ten, a prospective registrant or a former registrant for
111 which a business registration certificate has been
112 suspended, cancelled or revoked pursuant to the
113 provisions of any article of this code other than this
114 article may apply for a new business registration
115 certificate or for reinstatement of a suspended business
116 registration certificate, only if the prospective or former
117 registrant has complied with all applicable statutory
118 and regulatory requirements for renewal, issuance or
119 reinstatement of the business registration certificate
120 and upon payment to the Tax Commissioner of a
121 penalty in the amount of one hundred dollars.

122 (4) Except pursuant to exceptions specified in this
123 code, before canceling, revoking or suspending any
124 business registration certificate, the Tax Commissioner
125 shall give written notice of his or her intent to suspend,
126 revoke or cancel the business registration certificate of
127 the taxpayer, the reason for the suspension, revocation
128 or cancellation, the effective date of the cancellation,
129 revocation or suspension and the date, time and place
130 where the taxpayer may appear and show cause why

131 such business registration certificate should not be
132 canceled, revoked or suspended. This written notice
133 shall be served on the taxpayer in the same manner as
134 a notice of assessment is served under article ten of this
135 chapter, not less than twenty days prior to the effective
136 date of the cancellation, revocation or suspension. The
137 taxpayer may appeal cancellation, revocation or
138 suspension of its business registration certificate in the
139 same manner as a notice of assessment is appealed
140 under article ten-a of this chapter. The filing of a
141 petition for appeal does not stay the effective date of
142 the suspension, revocation or cancellation. A stay may
143 be granted only after a hearing is held on a motion to
144 stay filed by the registrant upon finding that state
145 revenues will not be jeopardized by the granting of the
146 stay. The Tax Commissioner may, in his or her
147 discretion and upon such terms as he or she may
148 specify, agree to stay the effective date of the
149 cancellation, revocation or suspension until another
150 date certain.

151 (5) On or before the first day of July, two thousand
152 five, the Tax Commissioner shall propose for
153 promulgation legislative rules establishing ancillary
154 procedures for the Tax Commissioner's suspension of
155 business registration certificates for failure to pay
156 delinquent personal property taxes pursuant to
157 paragraph (F), subdivision (1) of this section. The rules
158 shall at a minimum establish any additional
159 requirements for the provision of notice deemed
160 necessary by the Tax Commissioner to meet
161 requirements of law; establish protocols for the
162 communication and verification of information
163 exchanged between the Tax Commissioner, sheriffs and
164 others; and establish fees to be assessed against

165 delinquent taxpayers that shall be deposited into a
166 special fund which is hereby created and expended for
167 general tax administration by the Tax Division of the
168 Department of Tax and Revenue and for operation of
169 the Tax Division. Upon authorization of the
170 Legislature, the rules shall have the same force and
171 effect as if set forth herein. No provision of this
172 subdivision may be construed to restrict in any manner
173 the authority of the Tax Commissioner to suspend such
174 certificates for failure to pay delinquent personal
175 property taxes under paragraph (C) or (F), subdivision
176 (1) of this section or under any other provision of this
177 code prior to the authorization of the rules.

178 (c) *Refusal to renew.* — The Tax Commissioner may
179 refuse to issue or renew a business registration
180 certificate if the registrant is delinquent in the payment
181 of any tax administered by the Tax Commissioner
182 under article ten of this chapter or the corporate license
183 tax imposed by article twelve-c of this chapter, until
184 the registrant pays in full all the delinquent taxes
185 including interest and applicable additions to tax and
186 penalties. In his or her discretion and upon terms as he
187 or she specifies, the Tax Commissioner may enter into
188 an installment payment agreement with the taxpayer in
189 lieu of the complete payment. Failure of the taxpayer
190 to fully comply with the terms of the installment
191 payment agreement shall render the amount remaining
192 due thereunder immediately due and payable and the
193 Tax Commissioner may suspend or cancel the business
194 registration certificate in the manner provided in this
195 section.

196 (d) *Refusal to renew due to delinquent personal*
197 *property tax.* — The Tax Commissioner shall refuse to

198 issue or renew a business registration certificate when
199 informed in writing, signed by the county sheriff, that
200 personal property owned by the applicant and used in
201 conjunction with the business activity of the applicant
202 is subject to delinquent property taxes. The Tax
203 Commissioner shall forthwith notify the applicant that
204 the commissioner will not act upon the application until
205 information is provided evidencing that the taxes due
206 are either exonerated or paid.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9j. Direct pay permits for health care providers.

1 Any person having a right or claim to any exemption
2 set forth in section nine-i of this article shall first pay to
3 the vendor the tax imposed by this article and then
4 apply to the Tax Commissioner for a refund or credit or,
5 as provided in section nine-d of this article and section
6 three-d of article fifteen-a of this chapter, give to the
7 vendor his or her West Virginia direct pay permit
8 number.

**§11-15-16. Tax return and payment; exception; requiring a
combined return.**

1 (a) *Payment of tax.* — Subject to the exceptions set
2 forth in subsection (b) of this section, the taxes levied
3 by this article are due and payable in monthly
4 installments, on or before the twentieth day of the
5 month next succeeding the month in which the tax
6 accrued, except as otherwise provided in this article.

7 (b) *Combined return required.* —

8 (1) The Tax Commissioner shall, no later than the

9 fifteenth day of June, two thousand eight, design a
10 return that combines filing of the taxes levied by this
11 article and article fifteen-a of this chapter.

12 (2) Beginning the first day of July, two thousand
13 eight, each person required to file a return required by
14 this article or article fifteen-a of this chapter, or both
15 this article and article fifteen-a of this chapter, shall
16 complete and file the return required by the Tax
17 Commissioner.

18 (3) The Tax Commissioner may promulgate rules
19 pursuant to article three, chapter twenty-nine-a of this
20 code and otherwise use any combination of notices,
21 forms and instructions he or she determines necessary
22 to implement the use of the form required by subsection
23 (c) of this section.

24 (c) *Tax return.* — The taxpayer shall, on or before the
25 twentieth day of each month, make out and mail to the
26 Tax Commissioner a return for the preceding month, in
27 the form prescribed by the Tax Commissioner, showing:

28 (1) The total gross proceeds of the vendor's business
29 for the preceding month;

30 (2) The gross proceeds of the vendor's business upon
31 which the tax is based;

32 (3) The amount of the tax for which the vendor is
33 liable; and

34 (4) Any further information necessary in the
35 computation and collection of the tax which the Tax
36 Commissioner may require, except as otherwise

37 provided in this article or article fifteen-b of this
38 chapter.

39 (d) *Remittance to accompany return.* — Except as
40 otherwise provided in this article or article fifteen-b of
41 this chapter, a remittance for the amount of the tax
42 shall accompany the return.

43 (e) *Deposit of collected tax.* — Tax collected by the
44 Tax Commissioner shall be deposited as provided in
45 section thirty of this article, except that:

46 (1) Tax collected on sales of gasoline and special fuel
47 shall be deposited in the state road fund; and

48 (2) Any sales tax collected by the Alcohol Beverage
49 Control Commissioner from persons or organizations
50 licensed under authority of article seven, chapter sixty
51 of this code shall be paid into a revolving fund account
52 in the State Treasury, designated the Drunk Driving
53 Prevention Fund, to be administered by the commission
54 on drunk driving prevention, subject to appropriations
55 by the Legislature.

56 (f) *Return to be signed.* — A return shall be signed by
57 the taxpayer or the taxpayer's duly authorized agent,
58 when a paper return is prepared and filed. When the
59 return is filed electronically, the return shall include
60 the digital mark or digital signature, as defined in
61 article three, chapter thirty-nine-a of this code, or the
62 personal identification number of the taxpayer, or the
63 taxpayer's duly authorized agent, made in accordance
64 with any procedural rule that may be promulgated by
65 the Tax Commissioner.

66 (g) *Accelerated payment.* —

67 (1) Taxpayers whose average monthly payment of the
68 taxes levied by this article and article fifteen-a of this
69 chapter during the previous calendar year exceeds one
70 hundred thousand dollars, shall remit the tax
71 attributable to the first fifteen days of June each year
72 on or before the twentieth day of June: *Provided*, That
73 on and after the first day of June, two thousand seven,
74 the provisions of this subsection that require the
75 accelerated payment on or before the twentieth day of
76 June of the tax imposed by this article and article
77 fifteen-a of this chapter are no longer effective and any
78 such tax due and owing shall be payable in accordance
79 with subsection (a) of this section.

80 (2) For purposes of complying with subdivision (1) of
81 this subsection, the taxpayer shall remit an amount
82 equal to the amount of tax imposed by this article and
83 article fifteen-a of this chapter on actual taxable sales
84 of tangible personal property and custom software and
85 sales of taxable services during the first fifteen days of
86 June or, at the taxpayer's election, the taxpayer may
87 remit an amount equal to fifty percent of the taxpayer's
88 liability for tax under this article on taxable sales of
89 tangible personal property and custom software and
90 sales of taxable services made during the preceding
91 month of May.

92 (3) For a business which has not been in existence for
93 a full calendar year, the total tax due from the business
94 during the prior calendar year shall be divided by the
95 number of months, including fractions of a month, that
96 it was in business during the prior calendar year; and if
97 that amount exceeds one hundred thousand dollars, the

98 tax attributable to the first fifteen days of June each
99 year shall be remitted on or before the twentieth day of
100 June as provided in subdivision (2) of this subsection.

101 (4) When a taxpayer required to make an advanced
102 payment of tax under subdivision (1) of this subsection
103 makes out its return for the month of June, which is due
104 on the twentieth day of July, the taxpayer may claim as
105 a credit against liability under this article for tax on
106 taxable transactions during the month of June the
107 amount of the advanced payment of tax made under
108 subdivision (1) of this subsection.

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

**§11-21-74. Filing of employer's withholding return and
payment of withheld taxes; annual
reconciliation; e-filing required for certain tax
preparers and employers.**

1 (a) *General.* — Every employer required to deduct and
2 withhold tax under this article shall, for each calendar
3 quarter, on or before the last day of the month
4 following the close of the calendar quarter, file a
5 withholding return as prescribed by the Tax
6 Commissioner and pay over to the Tax Commissioner
7 the taxes required to be deducted and withheld. Where
8 the average quarterly amount deducted and withheld
9 by any employer is less than one hundred fifty dollars
10 and the aggregate for the calendar year can reasonably
11 be expected to be less than six hundred dollars, the Tax
12 Commissioner may by regulation permit an employer to
13 file an annual return and pay over to the Tax
14 Commissioner the taxes deducted and withheld on or

15 before the last day of the month following the close of
16 the calendar year. The Tax Commissioner may, by
17 nonemergency legislative rules promulgated pursuant
18 to article three, chapter twenty-nine-a of this code,
19 change the minimum amounts established by this
20 subsection. The Tax Commissioner may, if he or she
21 determines necessary for the protection of the revenues,
22 require any employer to make the return and pay to
23 him or her the tax deducted and withheld at any time or
24 from time to time. Notwithstanding the provisions of
25 this subsection, on or after the first day of January, two
26 thousand nine, every employer required to deduct and
27 withhold tax under this article shall file a withholding
28 return as prescribed by the Tax Commissioner and pay
29 over to the Tax Commissioner the taxes required to be
30 deducted and withheld, in accordance with the
31 procedures established by the Internal Revenue Service
32 pursuant to section 3402 of the Internal Revenue Code.

33 (b) *Monthly returns and payments of withheld tax on*
34 *and after the first day of January, two thousand one. —*
35 Notwithstanding the provisions of subsection (a) of this
36 section, on and after the first day of January, two
37 thousand one, every employer required to deduct and
38 withhold tax under this article shall, for each of the
39 first eleven months of the calendar year, on or before
40 the twentieth day of the succeeding month and for the
41 last calendar month of the year, on or before the last
42 day of the succeeding month, file a withholding return
43 as prescribed by the Tax Commissioner and pay over to
44 the Tax Commissioner the taxes required to be
45 deducted and withheld, if the withheld taxes aggregate
46 two hundred fifty dollars or more for the month, except
47 any employer with respect to whom the Tax
48 Commissioner may have by regulation provided

49 otherwise in accordance with the provisions of
50 subsection (a) of this section. Notwithstanding the
51 provisions of this subsection, on and after the first day
52 of January, two thousand nine, every employer required
53 to deduct and withhold tax under this article shall file
54 a withholding return as prescribed by the Tax
55 Commissioner and pay over to the Tax Commissioner
56 the taxes required to be deducted and withheld. The
57 due dates for returns and payments shall be established
58 by the Tax Commissioner to match as closely as
59 practicable the due dates in effect for federal income
60 tax purposes, in accordance with the procedures
61 established by the Internal Revenue Service pursuant to
62 Section 3402 of the Internal Revenue Code.

63 (c) *Annual returns and payments of withheld tax of*
64 *certain domestic and household employees.* —
65 Employers of domestic and household employees whose
66 withholdings of federal income tax are annually paid
67 and reported by the employer pursuant to the filing of
68 Schedule H of federal form 1040, 1040A, 1040NR,
69 1040NR-EZ, 1040SS or 1041 may, on or before the
70 thirty-first day of January next succeeding the end of
71 the calendar year for which withholdings are deducted
72 and withheld, file an annual withholding return with
73 the Tax Commissioner and annually remit to the Tax
74 Commissioner West Virginia personal income taxes
75 deducted and withheld for the employees. The Tax
76 Commissioner may promulgate legislative or other rules
77 pursuant to article three, chapter twenty-nine-a of this
78 code for implementation of this subsection.
79 Notwithstanding the provisions of this subsection, on or
80 after the first day of January, two thousand nine, every
81 employer required to deduct and withhold tax under
82 this article shall file a withholding return as prescribed

83 by the Tax Commissioner and pay over to the Tax
84 Commissioner the taxes required to be deducted and
85 withheld. The due dates for annual returns and
86 payments shall be established by the Tax Commissioner
87 to match as closely as practicable the due dates in effect
88 for federal income tax purposes in accordance with the
89 procedures established by the Internal Revenue Service
90 pursuant to Section 3402 of the Internal Revenue Code.

91 (d) *Deposit in trust for Tax Commissioner.* —
92 Whenever any employer fails to collect, truthfully
93 account for or pay over the tax, or to make returns of
94 the tax as required in this section, the Tax
95 Commissioner may serve a notice requiring the
96 employer to collect the taxes which become collectible
97 after service of the notice, to deposit the taxes in a bank
98 approved by the Tax Commissioner, in a separate
99 account, in trust for and payable to the Tax
100 Commissioner and to keep the amount of the tax in the
101 separate account until payment over to the Tax
102 Commissioner. The notice shall remain in effect until
103 a notice of cancellation is served by the Tax
104 Commissioner.

105 (e) *Accelerated payment.* — (1) Notwithstanding the
106 provisions of subsections (a) and (b) of this section, for
107 calendar years beginning after the thirty-first day of
108 December, one thousand nine hundred ninety, every
109 employer required to deduct and withhold tax whose
110 average payment per calendar month for the preceding
111 calendar year under subsection (b) of this section
112 exceeded one hundred thousand dollars shall remit the
113 tax attributable to the first fifteen days of June each
114 year on or before the twenty-third day of June:
115 *Provided,* That on and after the first day of June, two

116 thousand seven, the provisions of this subsection that
117 require the accelerated payment on or before the
118 twenty-third day of June of the tax imposed by this
119 article are no longer effective and any tax due and
120 owing shall be payable in accordance with subsection
121 (a) of this section.

122 (2) For purposes of complying with subdivision (1) of
123 this subsection, the employer shall remit an amount
124 equal to the withholding tax due under this article on
125 employee compensation subject to withholding tax
126 payable or paid to employees for the first fifteen days of
127 June or, at the employer's election, the employer may
128 remit an amount equal to fifty percent of the employer's
129 liability for withholding tax under this article on
130 compensation payable or paid to employees for the
131 preceding month of May.

132 (3) For an employer which has not been in business
133 for a full calendar year, the total amount the employer
134 was required to deduct and withhold under subsection
135 (b) of this section for the prior calendar year shall be
136 divided by the number of months, including fractions of
137 a month, that it was in business during the prior
138 calendar year and if that amount exceeds one hundred
139 thousand dollars, the employer shall remit the tax
140 attributable to the first fifteen days of June each year
141 on or before the twenty-third day of June, as provided
142 in subdivision (2) of this subsection.

143 (4) When an employer required to make an advanced
144 payment of withholding tax under subdivision (1) of
145 this subsection makes out its return for the month of
146 June, which is due on the twentieth day of July, that
147 employer may claim as a credit against its liability

148 under this article for tax on employee compensation
149 paid or payable for employee services rendered during
150 the month of June the amount of the advanced payment
151 of tax made under subdivision (1) of this subsection.

152 (f) The amendments to this section enacted in the year
153 two thousand six are effective for tax years beginning
154 on or after the first day of January, two thousand six.

155 (g) An annual reconciliation of West Virginia personal
156 income tax withheld shall be submitted by the employer
157 on or before the twenty-eighth day of February
158 following the close of the calendar year, together with
159 Tax Division copies of all withholding tax statements
160 for that preceding calendar year. The reconciliation
161 shall be accompanied by a list of the amounts of income
162 withheld for each employee in such form as the Tax
163 Commissioner prescribes and shall be filed separately
164 from the employer's monthly or quarterly return.

165 (h) Any employer required to file a withholding return
166 for two hundred fifty or more employees shall file its
167 return using electronic filing as defined in section
168 fifty-four of this article. An employer that is required
169 to file electronically but does not do so is subject to a
170 penalty in the amount of twenty-five dollars per
171 employee for whom the return was not filed
172 electronically, unless the employer shows that the
173 failure is due to reasonable cause and not due to willful
174 neglect.

21 [Enr. Com. Sub. for S. B. No. 545

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

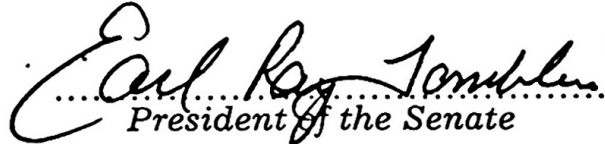

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved..... this
the 18 Day of April....., 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2008

Time 10:05 AM