WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. 450

(By Senators Tamblyn, Mr. President, and Sproul,
By Request of the Executive)

PASSED March 5, 2003

In Effect Ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 450

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed March 5, 2003; in effect ninety days from passage.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-c, relating to creation, development and funding of an automated tax administration system; setting forth legislative findings and purpose; authorizing contracts to finance and acquire automated tax administration system and associated products and services; requiring reports to joint committee on government and finance; expiring authority to enter into certain contracts; specifying methods of payment for system; requiring determination of increase in the amount of taxes, interest and penalties collected which is attributable to successful implementation of the automated tax administration system and reports; creating special revenue fund and providing amounts to be deposited into fund; providing
purposes for which moneys of the fund are to be expended; excluding from deposit moneys derived for local or munici-
pal subdivisions; requiring annual report, and repeal of article.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-c, to read as follows:

ARTICLE 10C. BENEFITS-FUNDED PURCHASING.

§11-10C-1. Legislative finding; short title and purpose.

The Legislature hereby finds that creation, development, acquisition and maintenance of an automated tax admin-
istration system by the tax division of the department of tax and revenue are crucial to efficient operation of state government and in the best interests of the people of West Virginia; that the accuracy, efficiency and cost effective-
ness of an automated tax administration system will benefit the people of West Virginia through cost savings, more efficient tax administration and more uniform and effective application of the tax laws of the state.

This article shall be known as the "Benefits-funded Purchasing Act" and is hereby established by the Legisla-
ture for the purpose of creating, developing and maintain-
ing an automated tax administration system by the tax division of the department of tax and revenue.

§11-10C-2. Authorization of benefits-funded automated tax administration system purchasing program; reports; expiration of authority.

(a) The tax commissioner is hereby authorized to enter into contracts to finance and acquire an automated tax administration system and associated computer hardware and software for use in the registration of taxpayers, processing of remittances and returns and collection of
delinquent taxes and any interest and penalties thereon
and for general tax administration. The tax commissioner
is further authorized to acquire the technical services and
related services necessary to develop, implement and
maintain such system and associated computer hardware
and software.

(b) Prior to entering into any contract authorized by this
article, the tax commissioner shall provide to the joint
committee on government and finance a copy of the
contract and a report setting forth a detailed summary of
the terms of the contract, including the estimated amounts
of vendor payments and other terms of financing antici-
pated under the contract and the date upon which vendor
payments will end under the contract, and a description
and the cost of the technical services and related services
the tax commissioner determines is necessary to develop,
implement and maintain the system and associated
hardware or software to be acquired under the contract.

(c) The authority of the tax commissioner to enter into
contracts to finance and acquire an automated tax admin-
istration system expires the thirtieth day of June, two
thousand five. The expiration of that authority does not
affect the authority of the tax commissioner to enter into
contracts to maintain an automated tax administration
system acquired pursuant to this section, including
contracts for the acquisition of associated hardware,
software or services after meeting the requirements of
subsection (b) of this section.

§11-10C-3. Benefits funding.

Notwithstanding any provision of article three, chapter
five-a of this code or any other provision of this code to the
contrary, payment of costs and compensation for the
automated tax administration system, related hardware,
software and services may be computed and paid: (1) On
the basis of a percentage of the increase in the amount of
taxes, interest and penalties collected which is attributable
to implementation of the automated tax administration
system, as may be described in detail by contract; or (2) on
a fixed-fee contract basis, such fees to be paid from the
increase in the amount of taxes, interest and penalties
collected which is attributable to implementation of the
automated tax administration system, as may be described
in detail by contract.

§11-10C-4. Monthly determination of increased revenue attrib­
utable to automated tax administration system; monthly report; deposit of moneys; creation and
operation of automated tax administration
system development fund; annual report.

(a) Revenue increment, fund created, operation of
fund.—

(1) The tax commissioner shall determine monthly the
total amount of increased revenue attributable to the
successful implementation of the automated tax adminis-
tration system under this article and the amount shall be
paid into the state treasury and deposited to the credit of
a special fund known as the “Automated Tax Administra-
tion System Development Fund” which is hereby created.
The tax commissioner is authorized to use moneys depos-
ited in the automated tax administration system develop-
ment fund to pay vendors of hardware, software or
services pursuant to the terms of contracts created in
accordance with this article. All moneys in excess of that
required to be paid to the vendors, as determined by the
tax commissioner, shall be transferred to the general fund:
Provided, That all moneys in excess of seven hundred fifty
thousand dollars remaining in the fund at the end of each
fiscal year shall be transferred to the general fund.

(2) The total monthly amount of increased revenue
attributable to the successful implementation of the
automated tax administration system as determined by the
tax commissioner and the basis for the determination shall
be reported to the joint committee on government and finance within ten days following the determination.

(b) Treatment of local moneys. —

(1) The amount of the local moneys derived from any tax imposed under this code which is directed or dedicated to local or municipal subdivisions shall not be deposited in the automated tax administration system development fund, but shall be paid undiminished, including any increase resulting from implementation of the automated tax administration system, to the local or municipal subdivision to which it is directed or dedicated by law. Local or municipal moneys shall be deposited, as directed by law, in those funds designated for orderly distribution of revenues to local or municipal subdivisions.

(2) For purposes of this section, the total amount of increased revenue attributable to the successful implementation of an automated tax administration system for purposes of determining the amount to be deposited in the automated tax administration system development fund and the amount of any benefits-funded payments to vendors under this article shall be determined after subtraction of any tax revenues payable to a local or municipal subdivision under this code.

(c) Reports. – Prior to the fifteenth day of January of each year, the tax commissioner shall submit a report to the governor, the president of the Senate and the speaker of the House of Delegates. The report shall include detailed information on the costs and benefits of implementing the automated tax administration system pursuant to this article during the fiscal year immediately preceding the submission of the report. The report shall be made until two complete fiscal years have elapsed following payment in full for the acquisition of the automated tax administration system by the tax commissioner.
(d) Other contracts and purchases not prohibited or hindered. – This article shall not be construed to prohibit or hinder the tax commissioner from acquiring any goods or services for any tax division function or program not specifically included in any contract entered into pursuant to this article.

§11-10C-5. Transfer of funds; repeal of article.

1 At the end of fiscal year two thousand thirteen, all moneys in the automated tax administration system development fund shall be transferred to the general fund and the provisions of this article are repealed.
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................. this the............. Day of.............., 2003.

Governor