WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1996

ENROLLED

SENATE BILL NO. 4

(By Senators Toniblin, Me. President, and Bailey,
By Request of the Executive)

PASSED July 14, 1996
In Effect From Passage
ENROLLED

Senate Bill No. 4

(By Senators Tomblin, Mr. President, and Boley
By Request of the Executive)

[Passed July 14, 1996; in effect from passage.]

AN ACT to repeal section nine-b, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine-d of said article, all relating to repealing the current method for claiming exemptions, refunds of tax and credits against other taxes; providing for direct pay permits; validity of permit; promulgation of rules by the tax commissioner; filing of monthly returns by the permit holder along with remittance of the tax due; permitting quarterly or annual returns in lieu of the monthly returns; extensions of payment with interest; automatic renewal of the permit; notifying the vendor of the direct payment number; maintenance of records by the vendor; and expiration, cancellation or surrender of a direct pay permit.

Be it enacted by the Legislature of West Virginia:
That section nine-b, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section nine-d of said article be amended and reenacted, all to read as follows:

**ARTICLE 15. CONSUMERS SALES TAX.**

§11-15-9d. Direct pay permits.

1. (a) Notwithstanding any other provision of this article, the tax commissioner may, pursuant to rules promulgated by him or her in accordance with article three, chapter twenty-nine-a of this code, authorize a person that is a user, consumer, distributor or lessee to which sales or leases of tangible personal property are made or services provided, to pay any tax levied by this article or article fifteen-a of this chapter directly to the tax commissioner and waive the collection of the tax by that person's vendor. No such authority shall be granted or exercised except upon application to the tax commissioner and after issuance by the tax commissioner of a direct pay permit. Each direct pay permit granted pursuant to this section is valid until surrendered by the holder or canceled for cause by the commissioner. The commissioner shall prescribe by rules promulgated in accordance with article three, chapter twenty-nine-a of this code, those activities which will cause cancellation of a direct pay permit issued pursuant to this section. Upon issuance of a direct pay permit, payment of the tax imposed or assertion of the exemptions allowed by this article or article fifteen-a of this chapter on sales and leases of tangible personal property and sales of taxable services from the vendors of the personal property or services shall be made directly to the tax commissioner by the permit holder.

2. (b) On or before the fifteenth day of each month, every permit holder shall make and file with the tax commissioner a consumers sales and use tax direct pay permit return for the preceding month in the form prescribed by the tax commissioner showing the total value of the tangible personal property used, the amount of taxable
services purchased, the amount of consumers sales and
use taxes due from the permit holder, which shall be
paid to the tax commissioner with the return, and such
other information as the tax commissioner considers
necessary: Provided, That if the amount of consumers
sales and use taxes due averages less than one hundred
dollars per month, the tax commissioner may permit the
filing of quarterly returns in lieu of monthly returns and
the amount of tax shown on the returns to be due shall
be remitted on or before the fifteenth day following the
close of the calendar quarter; and if the amount due
averages less than fifty dollars per calendar quarter, the
tax commissioner may permit the filing of an annual
direct pay permit return and the amount of tax shown on
the return to be due shall be remitted on or before the
last day of January each year. The tax commissioner,
upon written request by the permit holder, may grant a
reasonable extension of time, upon such terms as the tax
commissioner may require, for the making and filing of
direct pay permit returns and paying the tax due.
Interest on the tax shall be chargeable on every extended
payment at the rate specified in section seventeen,
article ten of this chapter.

(c) A permit issued pursuant to this section is valid
until expiration of the taxpayers registration year under
article twelve of this chapter. This permit shall automatic-
ically be renewed when the taxpayers business registra-
tion certificate is issued for the next succeeding fiscal
year, unless the permit is surrendered by the holder or
canceled for cause by the tax commissioner.

(d) Persons who hold a direct payment permit which
has not been canceled are not required to pay the tax to
the vendor as otherwise provided in this article or article
fifteen-a of this chapter. They shall notify each vendor
from whom tangible personal property is purchased or
leased or from whom services are purchased of their
direct payment permit number and that the tax is being
paid directly to the tax commissioner. Upon receipt of
the notice, the vendor is absolved from all duties and
liabilities imposed by this chapter for the collection and remittance of the tax with respect to sales of tangible personal property and sales of services to the permit holder. Vendors who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of each purchaser may be ascertained.

(e) Upon the expiration, cancellation or surrender of a direct payment permit, the provisions of this chapter, without regard to this section, shall thereafter apply to the person who previously held the permit, and that person shall promptly notify in writing vendors from whom tangible personal property or services are purchased or leased of the cancellation or surrender. Upon receipt of the notice, the vendor is subject to the provisions of this chapter, without regard to this section, with respect to all sales, distributions, leases or storage of tangible personal property, thereafter made to or for that person.
That 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 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 day of July, 1996.

Governor