

HB 4028

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4028

BY DELEGATES RILEY, HECKERT, ELLINGTON, STATLER,

TONY, FEHRENBACHER AND HOTT

[Passed March 10, 2026; in effect July 1, 2026]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend and reenact §11-15-8d of the Code of West Virginia, 1931, as amended,
2 relating to sales tax exemption for certain materials used in construction of public school
3 facilities; defining terms; exempting certain materials used in construction of public school
4 facilities from sales and use taxes; and setting an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-8d. Limitations on right to assert exemptions.

1 (a) Persons who perform "contracting" as defined in §11-15-2 of this code or persons
2 acting in an agency capacity may not assert any exemption to which the purchaser of such
3 contracting services or the principal is entitled. Any statutory exemption to which a taxpayer may
4 be entitled is invalid unless the tangible personal property or taxable service is actually purchased
5 by such taxpayer and is directly invoiced to and paid by such taxpayer. This section does not
6 apply to purchases by an employee for his or her employer, purchases by a partner for his or her
7 partnership or purchases by a duly authorized officer of a corporation, or unincorporated
8 organization, for his or her corporation or unincorporated organization so long as the purchase is
9 invoiced to and paid by the employer, partnership, corporation or unincorporated organization.

10 (b) *Transition rule.* — This section does not apply to purchases of tangible personal
11 property or taxable services in fulfillment of a purchasing agent or procurement agent contract
12 executed and legally binding on the parties thereto prior to September 15, 1999. This transition
13 rule does not apply to any purchases of tangible personal property or taxable services made under
14 such a contract after August 31, 1991, and this transition rule does not apply if the primary purpose
15 of the purchasing agent or procurement agent contract was to avoid payment of consumers sales
16 and use taxes. Effective July 1, 2007, this section does not apply to purchases of services,
17 machinery, supplies or materials, except gasoline and special fuel, to be directly used or
18 consumed in the construction, alteration, repair or improvement of a new or existing building or
19 structure by a person performing "contracting", as defined in §11-15-2 of this code, if the

20 purchaser of the contracting services would be entitled to claim the refundable exemption under
21 §11-15-9(b)(2) of this code had it purchased the services, machinery, supplies or materials.
22 Effective July 1, 2009, this section does not apply to purchases of services, computers, servers,
23 building materials and tangible personal property, except purchases of gasoline and special fuel,
24 to be installed into a building or facility or directly used or consumed in the construction, alteration,
25 repair or improvement of a new or existing building or structure by a person performing
26 "contracting", as defined in §11-15-2 of this code, if the purchaser of the contracting services
27 would be entitled to claim the exemption under §11-15-9h(a)(7) of this code. This section shall
28 not apply to qualified purchases of computers and computer software, primary material handling
29 equipment, racking and racking systems, and their components, or to qualified purchases of
30 building materials and certain tangible personal property, as those terms are defined in §11-15-
31 9n of this code, by a person performing "contracting", as defined in §11-15-2 of this code, if the
32 purchaser of the contracting services would be entitled to claim the refundable exemption under
33 §11-15-9n of this code. Purchases of gasoline and special fuel shall not be treated as exempt
34 pursuant to this section.

35 (c) Effective July 1, 2011, notwithstanding any other provision of this code to the contrary,
36 this section shall apply as to purchases of services, machinery, supplies or materials, except
37 gasoline and special fuel, to be directly used or consumed in the construction, alteration, repair
38 or improvement of a new or existing natural gas compressor station or gas transmission line
39 having a diameter of twenty inches or more by a person performing "contracting", as defined in
40 §11-15-2 of this code, even though the purchaser of the contracting services would be entitled to
41 claim the refundable exemption under §11-15-9(b)(2) of this code had it purchased the services,
42 machinery, supplies or materials, unless the person or entity performing contracting under this
43 subsection, as the term "contracting" is defined in §11-15-2 of this code, complies with §11-13S-
44 4(e) of this code.

45 (d) (1) Effective July 1, 2012, this section does not apply to purchases of services, building
46 materials and tangible personal property, except purchases of gasoline and special fuel, to be
47 installed into a building or facility or directly used or consumed in the construction, alteration,
48 repair or improvement of a new or existing building or structure by a person performing
49 contracting, as defined in §11-15-2 of this code, if the purchaser of the contracting services is a
50 nonprofit youth organization that would be entitled to claim the exemption under §11-15-9(a)(6)(E)
51 of this code had it purchased the services, machinery, supplies or materials.

52 (2) For purposes of this subsection, the term "nonprofit youth organization" means any
53 nonprofit organization, including any subsidiary, affiliated or other related entity within its
54 corporate or business structure, that has been chartered by the United States Congress to help
55 train young people to do things for themselves and others, and that has established an area of at
56 least six thousand contiguous acres within West Virginia in which to provide adventure or
57 recreational activities for these young people and others.

58 (3) The exception provided in this subsection shall terminate June 30, 2022.

59 (e) (1) Effective July 1, 2026, this section does not apply to purchases of services, and
60 building materials, except purchases of gasoline and special fuel, to be installed into a public
61 school facility or directly used or consumed in the construction, alteration, repair or improvement
62 of a new or existing public school facility by a person performing contracting, as defined in §11-
63 15-2 of this code, if the purchaser of the contracting services is an entity that would be entitled to
64 claim the exemption under §11-15-9(a)(6)(B) of this code had it purchased the services, building
65 materials or tangible personal property.

66 (2) For purposes of this subsection, the terms:

67 "Building materials" means all tangible personal property, including any device or
68 appliance used by builders, contractors or landowners in making improvements, additions, or
69 alterations to a building or other structure or to real property in such a way that such tangible
70 personal property becomes a part of the building or other structure or the realty, which is installed

71 into or directly used or consumed in the construction, addition, alteration, repair or improvement
72 of a qualified, new or expanded public school facility. "Building materials" does not include tools,
73 construction equipment or any property or device which does not become a permanent part of
74 the realty when construction is completed. A device or appliance becomes a fixture and a part of
75 the building or other structure or the real property to which it is connected when it is built into or
76 is attached to the property in such a way that its removal would substantially damage or deface
77 such property.

78 "School facility" means real property used primarily for instructional, administrative, or
79 extracurricular functions by a public elementary or secondary school, or vocational school.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.


Clerk of the House of Delegates


Clerk of the Senate

Originated in the House of Delegates.

In effect July 1, 2026.


Speaker of the House of Delegates


President of the Senate

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SECRETARY OF STATE

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FILED

The within is approved this the 1st
Day of April, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 11 2026

Time 11:45am