HB 4418

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

FILED

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

ENROLLED

Committee Substitute

for

House Bill 4418

BY DELEGATES MCCORMICK, RILEY, MAYNOR, KYLE, BROWNING, CRISS, FEHRENBACHER, AND FUNKHOUSER

[Passed March 13, 2026; in effect 90 days from passage(June 11, 2026)]

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AN ACT to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating to creating the "The Tax Efficiency Act of 2026" authorizing the design and implementation of an electronic data processing system by the Tax Commissioner to facilitate the filing and collection of municipal business and occupation or privilege taxes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions; electronic data processing system to facilitate the filing and collection of municipal business and occupation or privilege taxes.

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification, and refurbishing services to any aircraft, or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this code, as those rates were in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.* of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any company maintains its office or offices in this state, whether the income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for calendar year 1997 is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter:

Provided, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived from contracts entered into after the effective date of the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) *Exemptions.* —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(2) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this

section, an automobile is a self-propelled vehicle used on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, the governing body may offer tax credits from the tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of the tax, which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on

June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) *Timely payment.* — Payments for taxes due under this section that are postmarked or remitted via the system after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked or remitted via the system on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

(i) Any third-party vendors who contract with a city or municipality to collect business and occupation taxes authorized by this section on behalf of a municipality may not charge for their services more than 20% of the amount of taxes collected.

(j) *Administration of Municipal Business and Occupation or Privilege Tax.* —

(1) *System Design and Authority.* — The Tax Commissioner shall design and implement an electronic data processing system to facilitate the filing and collection of municipal business and occupation or privilege taxes. The Commissioner has broad authority to determine the technical architecture of the system and may enter into such contracts as necessary to develop or modify the system for these purposes. The Tax Commissioner's role under this subsection is limited to providing an optional administrative and processing platform; the participating municipality shall retain all legal authority to administer its local tax, including the authority to conduct audits, make assessments, and pursue the collection of delinquent taxes in accordance with the ordinances of municipality as authorized under §8-13-5 of this code.

(2) *Administrative Fee and Funding.* — To cover the costs of system development, maintenance, and ongoing administration, the Tax Commissioner shall retain an administrative fee of one percent (1%) of the gross collections for each participating municipality. All fees retained under this subdivision shall be deposited into the "Tax Administration Services Fund" provided for under §11-10-27 of this code.

(3) *System Activation Threshold.* — The Tax Commissioner's obligation to implement the system is contingent upon a sufficient number of municipalities committing to participation through local ordinance. The determination of whether the revenue threshold has been met shall be based on the total anticipated business and occupation tax revenue reflected on the most recent fiscal year budgets filed by the participating municipalities with the State Auditor pursuant to articles §11-8-1 *et seq.* and §6-9-1 *et seq.* of this code.

(4) *Effective Date.* — Once the Tax Commissioner determines that the committed municipalities represent an aggregate annual revenue exceeding $30,000,000, as verified by the budgets filed with the State Auditor, the system shall be implemented and become available for use on the July 1 following a period of at least 12 months from the date of such determination.

(5) *Definitions.* — As used in this subsection:

"Electronic data processing" means the use of computer systems for operations including the storing, retrieving, sorting, merging, calculating, and reporting of data for use in tax billing, accounting, and information sharing among municipalities and the Tax Commissioner.

"Municipal business and occupation or privilege tax" means and is limited to only those municipal taxes authorized under this section.

"System" means the electronic data processing system developed by the Tax Commissioner for the administration of municipal business and occupation or privilege taxes.

(6) *Rulemaking.* — The Tax Commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the procedures for certifying the threshold, the timeline for municipal onboarding, and the requirements for the electronic exchange of data.

(k) The amendments to this section enacted during the 2026 regular legislative session, shall be known as the "Tax Efficiency Act of 2026".

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

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Clerk of the House of Delegates

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Clerk of the Senate

FILED
2026 MAR 25 P 3:10
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

....
President of the Senate

The within is approved this the 25th

Day of March, 2026.

....
Governor

PRESENTED TO THE GOVERNOR

Time 10:00am