

**WEST VIRGINIA LEGISLATURE**  
**2019 FIRST EXTRAORDINARY SESSION**

**Introduced**

**House Bill 169**

BY DELEGATES HOUSEHOLDER, FOSTER, GRAVES,  
WORRELL HOWELL, COWLES, PORTERFIELD, COOPER, D.  
JEFFRIES, BIBBY, AND HANSHAW (MR. SPEAKER)

[ Introduced June 17, 2019; Referred  
to the Select Committee on Education Reform B]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated section §11-21-12j, relating to authorizing a modification reducing federal  
3 adjusted gross income for state income tax purposes for certain expenses paid by parent  
4 or legal guardian of student in providing private or home school grade levels  
5 prekindergarten through grade 12 education for the student; providing for a maximum  
6 amount of \$3,000 in a taxable year; requiring that the taxpayer's tax liability cannot be less  
7 than zero; permitting amounts in excess of tax liability be carried forward for the next four  
8 taxable years or until the excess is used in its entirety; providing for definitions;  
9 establishing rule-making authority and emergency rule-making authority with the Tax  
10 Commissioner.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 21. PERSONAL INCOME TAX.**

### **§11-21-12j. Modifications to federal adjusted income – qualified education expenses.**

1 (a) Amount of modification -- For taxable years beginning on and after January 1, 2019, in  
2 addition to amounts authorized to be subtracted from federal adjusted gross income pursuant to  
3 §11-21-12(c) of this code, the amount of qualified education expenses, up to a maximum amount  
4 of \$3,000 per taxable year paid by an eligible taxpayer, is an authorized modification reducing  
5 federal adjusted gross income as provided in this section: *Provided*, That the amount is not  
6 allowable as a credit, deduction, or exemption when arriving at the taxpayer's federal adjusted  
7 gross income for the taxable year in which the payment is made.

8 (b) Carry forward -- The modification authorized under this section may not reduce the  
9 taxpayer's federal adjusted gross income below zero. In the first taxable year, if the modification  
10 authorized to reduce federal adjusted gross income exceeds an amount that reduces the  
11 taxpayer's federal adjusted gross income to zero, the excess may be applied to reduce the  
12 taxpayer's federal adjusted gross income in like manner for not more than the four next  
13 succeeding taxable years until the excess amount is used or the end of the fourth next succeeding

14 taxable year, whichever occurs first. Any excess amount remaining at the end of the fourth next  
15 succeeding taxable year is forfeited. No carryback to a prior taxable year is allowed for any unused  
16 amount in any taxable year.

17 (c) Definitions – As used in this section, the following terms have the meanings ascribed  
18 to them in this subsection:

19 (1) “Amount of qualified education expenses” means the aggregate paid in any taxable  
20 year by an eligible taxpayer for:

21 (A) Tuition, fees, books, supplies, and equipment required for the enrollment or attendance  
22 of an eligible student at an eligible educational institution or for participation of an eligible student  
23 in an eligible home school program; or

24 (B) Expenses for special needs services in the case of a special needs student which are  
25 incurred in connection with such enrollment, attendance or participation;

26 (C) Expenses for the purchase of computer or peripheral equipment, computer software,  
27 or Internet access and related services, if such equipment, software, or services are to be used  
28 primarily by the student during any of the years the student is enrolled at an eligible educational  
29 institution or participates in an eligible home school program. These expenses do not include  
30 expenses for computer software designed for sports, games, or hobbies unless the software is  
31 predominantly educational in nature; and

32 (D) Expenses for transportation of an eligible student to or from the eligible educational  
33 institution, or to or from sites of educational activities in which the student’s participation is  
34 authorized as an educational activity by this code or rule promulgated thereunder.

35 (2) “Eligible educational institution” means any private school, parochial school, church  
36 school, school operated in this state by a religious order, or other nonpublic school in this state  
37 authorized by this code or rule promulgated thereunder to provide an educational program that  
38 includes one or more of the grade levels prekindergarten through grade 12.

39 (3) “Eligible home school program” means any home-teaching or visiting-teacher services

40 authorized by this code or rule promulgated thereunder to provide an educational program in this  
41 state that includes one or more of the grade levels prekindergarten through grade 12.

42 (4) "Eligible student" means a student eligible for attendance in public schools in a county  
43 school district in this state.

44 (5) "Eligible taxpayer" means a parent or legal guardian of an eligible student.

45 (d) Rulemaking -- In addition to the rule-making authority provided under §11-10-5 of this  
46 code, the Tax Commissioner may promulgate emergency rules under the provisions of §29A-3-1  
47 et seq. of this code to administer the provisions of this section.

NOTE: The purpose of this bill is to create a personal income tax exemption of up to \$3,000 per year to parent or legal guardians of a student for expenses incurred in providing private or home school pre-K through 12 education for the student.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.