

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2115

FISCAL
NOTE

By Delegate McGeehan

[Introduced January 11, 2023; Referred to the
Committee on Political Subdivisions then Finance]

1 A BILL to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §11-21-12 of said code, all relating to exempting law-enforcement
 3 officers who are members of a municipal paid police department, county sheriff’s office or
 4 the State Police from payment of income and personal property taxes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

1 (a) All property, real and personal, described in this subsection, and to the extent limited by
 2 this section, is exempt from taxation:

3 (1) Property belonging to the United States, other than property permitted by the United
 4 States to be taxed under state law;

5 (2) Property belonging exclusively to the state;

6 (3) Property belonging exclusively to any county, district, city, village, or town in this state
 7 and used for public purposes;

8 (4) Property located in this state belonging to any city, town, village, county, or any other
 9 political subdivision of another state and used for public purposes;

10 (5) Property used exclusively for divine worship;

11 (6) Parsonages and the household goods and furniture pertaining thereto;

12 (7) Mortgages, bonds, and other evidence of indebtedness in the hands of bona fide
 13 owners and holders hereafter issued and sold by churches and religious societies for the purposes
 14 of securing money to be used in the erection of church buildings used exclusively for divine
 15 worship or for the purpose of paying indebtedness thereon;

16 (8) Cemeteries;

17 (9) Property belonging to, or held in trust for, colleges, seminaries, academies, and free
 18 schools, if used for educational, literary, or scientific purposes, including books, apparatus,
 19 annuities, and furniture;

20 (10) Property belonging to, or held in trust for, colleges or universities located in West
21 Virginia, or any public or private nonprofit foundation or corporation which receives contributions
22 exclusively for ~~such~~ the college or university, if the property or dividends, interest, rents, or
23 royalties derived therefrom are used or devoted to educational purposes of ~~such~~ the college or
24 university;

25 (11) Public and family libraries;

26 (12) Property used for charitable purposes and not held or leased out for profit;

27 (13) Property used for the public purposes of distributing electricity, water, or natural gas or
28 providing sewer service by a duly chartered nonprofit corporation when ~~such~~ the property is not
29 held, leased out, or used for profit;

30 (14) Property used for area economic development purposes by nonprofit corporations
31 when the property is not leased out for profit;

32 (15) All real estate not exceeding one acre in extent, and the buildings on the real estate,
33 used exclusively by any college or university society as a literary hall, or as a dormitory or
34 clubroom, if not used with a view to profit, including, but not limited to, property owned by a
35 fraternity or sorority organization affiliated with a university or college or property owned by a
36 nonprofit housing corporation or similar entity on behalf of a fraternity or sorority organization
37 affiliated with a university or college, when the property is used as residential accommodations or
38 as a dormitory for members of the organization;

39 (16) All property belonging to benevolent associations not conducted for private profit;

40 (17) Property belonging to any public institution for the education of the deaf, intellectually
41 disabled, or blind or any hospital not held or leased out for profit;

42 (18) Houses of refuge and mental health facility or orphanage;

43 (19) Homes for children or for the aged, friendless, or infirm not conducted for private profit;

44 (20) Fire engines and implements for extinguishing fires, and property used exclusively for
45 the safekeeping thereof, and for the meeting of fire companies;

46 (21) All property on hand to be used in the subsistence of livestock on hand at the
47 commencement of the assessment year;

48 (22) Household goods to the value of \$200, whether or not held or used for profit;

49 (23) Bank deposits and money;

50 (24) Household goods, which for purposes of this section means only personal property
51 and household goods commonly found within the house and items used to care for the house and
52 its surrounding property, when not held or used for profit;

53 (25) Personal effects, which for purposes of this section means only articles and items of
54 personal property commonly worn on or about the human body or carried by a person and
55 normally thought to be associated with the person when not held or used for profit;

56 (26) Dead victuals laid away for family use;

57 (27) All property belonging to the state, any county, district, city, village, town, or other
58 political subdivision or any state college or university which is subject to a lease purchase
59 agreement and which provides that, during the term of the lease purchase agreement, title to the
60 leased property rests in the lessee so long as lessee is not in default or ~~shall not have~~ has
61 terminated the lease as to the property;

62 (28) Personal property, including vehicles that qualify for a farm use exemption certificate
63 pursuant to §17a-3-2 of this code and livestock, employed exclusively in agriculture, as defined in
64 article ten, section one of the West Virginia Constitution: *Provided*, That this exemption only
65 applies in the case of ~~such~~ the personal property used on a farm or farming operation that annually
66 produces for sale agricultural products, as defined in rules of the Tax Commissioner;

67 (29) Real property owned by a nonprofit organization whose primary purpose is youth
68 development by means of adventure, educational, or recreational activities for young people,
69 which real property contains a facility built with the expenditure of not less than \$100 million that is
70 capable of supporting additional activities within the region or the state and which is leased or used
71 to generate revenue for the nonprofit organization whether or not the property is used by the

72 nonprofit organization for its nonprofit purpose, subject to the requirements, limitations, and
73 conditions set forth in subsection (h) of this section; and

74 (30) Personal property owned by law-enforcement officers who are members of a
75 municipal paid police department, county sheriff's office, or the State Police; and

76 (31) Any other property or security exempted by any other provision of law.

77 (b) Notwithstanding the provisions of subsection (a) of this section, no property is exempt
78 from taxation which has been purchased or procured for the purpose of evading taxation whether
79 temporarily holding the same over the first day of the assessment year or otherwise.

80 (c) Real property which is exempt from taxation by subsection (a) of this section shall be
81 entered upon the assessor's books, together with the true and actual value thereof, but no taxes
82 may be levied upon the property or extended upon the assessor's books.

83 (d) Notwithstanding any other provisions of this section, this section does not exempt from
84 taxation any property owned by, or held in trust for, educational, literary, scientific, religious, or
85 other charitable corporations or organizations, including any public or private nonprofit foundation
86 or corporation existing for the support of any college or university located in West Virginia, unless
87 ~~such~~ the property, or the dividends, interest, rents, or royalties derived therefrom, is used primarily
88 and immediately for the purposes of the corporations or organizations.

89 (e) The Tax Commissioner shall, by issuance of rules, provide each assessor with
90 guidelines to ensure uniform assessment practices statewide to effect the intent of this section.

91 (f) Inasmuch as there is litigation pending regarding application of this section to property
92 held by fraternities and sororities, amendments to this section enacted in the year 1998 shall apply
93 to all cases and controversies pending on the date of ~~such~~ the enactment.

94 (g) The amendment to subdivision (27), subsection (a) of this section, passed during the
95 2005 regular session of the Legislature, shall apply to all applicable lease purchase agreements in
96 existence upon the effective date of the amendment.

97 (h) Nonprofit youth organization exemption - Limitations, Conditions, Collection, and

98 administration of 1.25 percent fee, limitations, and distribution of monies.

99 (1) The exemption from ad valorem taxation provided pursuant to the provisions of
100 subdivision (29), subsection (a) of this section does not apply to a property owned by a nonprofit
101 organization otherwise qualifying for the exemption but which property or facilities are used for-
102 profit or outside the primary purpose of the owner which result in unrelated business taxable
103 income as defined by Section 512 of the Internal Revenue Code of 1986, as amended, unless the
104 income is generated by an activity upon which the 1.25 percent fee authorized by subdivision (2) of
105 this section is applied as provided in subdivision (3) of this subsection.

106 (2) The owner of real property exempt from ad valorem taxation under subdivision (29),
107 subsection (a) of this section shall pay an amount equal to 1.25 percent of the gross revenues the
108 owner receives in accordance with this subsection. For purposes of this subsection, "gross
109 revenues" means the gross amount received by the owner as payment for use of the property or
110 the facilities thereon.

111 (3) Gross revenues derived from the following facilities, uses, activities, and operations are
112 subject to a fee of 1.25 percent of such gross revenues:

113 (A) Gross revenues derived from the use of lodging and campground facilities by persons
114 participating in meetings and multiday spectator sports or multiday recreational, celebratory, or
115 ceremonial events held on-site where on-site lodging or camping is offered as part of the program.
116 For purposes of this section the term "meeting" means, and is limited to, a gathering, assembly, or
117 conference of two or more persons who have deliberately convened at a single specific location at
118 a single specified time and date for a common specific purpose.

119 (B) Gross revenues derived from any retail store located at the facility that is open only to
120 those persons who are attending meetings, spectator sports, recreational, celebratory, or
121 ceremonial events held on-site at the facility.

122 (C) Gross revenues derived from operations of gift shops at a welcome or information
123 center located adjacent to a public highway operated by the nonprofit organization which is open

124 to the general public.

125 (D) Gross revenues derived from the leasing of zip-lines, canopy tours, wheeled sports,
126 and climbing facilities used by the general public on a for-profit basis (i) Under a written agreement
127 with a licensed commercial outfitter operating a business utilizing zip-lines, canopy tours, wheeled
128 sports, or climbing areas of a similar nature in the same or an adjacent county where the facilities
129 are located; and (ii) when the property or facilities are used as part of a training or advanced
130 experience offered by the licensed commercial outfitter.

131 (E) Gross revenues derived from the use or operation of zip-lines, canopy tours, wheeled
132 sports facilities, or activities, climbing facilities or activities, and the use or operation of other
133 sporting facilities on the exempt property that are leased on a for-profit basis for spectator events,
134 such as concerts, spectator sporting events or exhibitions, or similar mass gathering events.

135 (F) Gross revenues derived from leases or agreements for use of the property for meetings
136 and multiday spectator sports or events or multiday recreational, celebratory, or ceremonial
137 events, held on site.

138 (4) Notwithstanding any other provision of this section to the contrary, programs or
139 activities occurring on the property or its facilities held in conjunction with a government
140 organization or sponsored by other nonprofit organizations serving youth, veterans, military
141 services, public service agencies including, fire, police, emergency, and search and rescue
142 services, government agencies, schools and universities, health care providers, and similar
143 organizations or groups which are designed to provide opportunities for learning or training in the
144 areas of leadership, character education, science, technology, engineering, arts and mathematics
145 (STEAM) programs, physical challenges, sustainability, conservation, and outdoor learning shall
146 be considered a charitable or nonprofit use for the purposes of this section and not subject to the
147 1.25 percent fee.

148 (5) Notwithstanding any other provision of this section to the contrary, activities open to the
149 public through individual visitor passes allowing tours and access to the property and its facilities

150 for the purpose of viewing or participating in demonstrations, programs, and facilities providing
151 information and experiences consistent with the owner's nonprofit purposes where zip-lines,
152 canopy tours, wheeled sports, or climbing facilities are merely components of the demonstrations,
153 programs, and facilities used shall be considered a charitable or nonprofit use for the purposes of
154 this section and not subject to the 1.25 percent fee: *Provided*, That ~~such~~ individual visitor passes
155 may not include the rental or use of on-site overnight lodging or camping facilities.

156 (6) Administration –

157 (A) The sheriff of the county wherein the majority of the acreage of the property is located
158 as specified in the deed to ~~such~~ the property, shall collect, on a monthly basis, all monies derived
159 from the fee of 1.25 percent of the gross revenues imposed under this subsection.

160 (B) The sheriff of the county wherein the majority of the acreage of the property is located
161 as specified in the deed to ~~such~~ the property, shall prescribe such forms and schedules as may be
162 necessary for the efficient, accurate, and expeditious payment and reporting of the 1.25 percent
163 fee specified in this subsection on gross revenues.

164 (C) The sheriff of the county wherein the majority of the acreage of the property is located
165 as specified in the deed to ~~such~~ the property, shall administer the fee imposed under this
166 subsection, including refunds and adjustments.

167 (D) Payment, administration, and compliance of fee payers and administrators shall be
168 subject to audit by the Office of Chief Inspector.

169 (E) All ~~monies~~ moneys so collected, net of refunds and adjustments, shall be paid into a
170 special account in the State Treasury, which is hereby created, and the amount thereof shall be
171 distributed and paid annually, by the State Treasurer, on October 1 of each year, into the funds and
172 to the distributees specified in subdivision (7) of this subsection in the amounts specified therein.

173 (7) Distribution –

174 (A) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be
175 paid annually to the Tourism Promotion Fund established pursuant to §5b-2-12 of this code.

176 (B) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be
177 paid annually to the sheriff of the county where the property is located which, but for the exemption
178 provided in subdivision (29), subsection (a) of this section, would be entitled to receive ad valorem
179 taxes on the property. The sheriff shall treat all such payments in the same manner as payments in
180 lieu of taxes, and ~~such~~ the payments are subject to the adjustment mandated under §18-9a-12 of
181 this code. For properties located in more than one county, the amount paid to the sheriff of the
182 county shall be in proportion to the total number of acres located in each county at the close of the
183 fiscal year, as specified in the deed to ~~such~~ the property.

184 (C) Fifty percent of moneys so collected, net of refunds and adjustments, shall be divided
185 equally and paid annually into separate accounts established and maintained by the sheriffs of the
186 county or counties wherein the property is located and the sheriffs of any other county that is within
187 the jurisdiction of the same economic development authority as the county or counties wherein the
188 property is located to be used solely for the establishment and delivery of a science, technology,
189 engineering, art, and math (STEAM) program in conjunction with the owner of the exempt
190 property. The funds shall be divided equally for use in each county and the programs must be
191 approved by the respective county superintendents of schools. Expenditures from the accounts
192 shall be authorized by the county superintendent of schools.

193 (8) If lodging is furnished as part of a retreat, meeting, or multiday spectator sport or event
194 being held on-site wherein on-site lodging or camping is offered as part of the program, any
195 applicable hotel occupancy tax and state and local consumers sales and service tax and use tax
196 shall be paid based upon the actual location of ~~such~~ the lodging.

197 (9) If merchants are allowed to do business on the property, the owner or lessee of the
198 property shall offer space to local merchants on terms at least as favorable as are offered to other
199 merchants.

200 (10) For the purposes of this subsection, owner includes the owner holding record title to
201 the property and its affiliates to the extent they are commonly owned, controlled or have the power

202 to appoint the governing body of the affiliate.

203 (11) The Tourism Commission shall include in its annual report submitted to the Governor
204 and the Legislature a summary of funds paid into the Tourism Promotion Fund and
205 recommendations pertaining to the administration of this section.

206 (12) This subsection may not be construed to prohibit the owner of property otherwise
207 subject to this section from having portions of the property severed from the remainder of the
208 property, assessed and taxed as if nonexempt, and thereafter conducting business on ~~such~~ the
209 property the same as any other nonexempt property: *Provided*, That the area of property to be
210 severed shall be approved by the county commission wherein the property lies so as to include in
211 the severance all property substantially supporting the for profit or business activity giving rise to
212 the specific purpose of the severance and excluding all property entitled to the continued benefits
213 of this act.

214 (i) To assure the implementation of subsection (h) of this section does not harm local and
215 regionally located businesses by use of the tax exempt facility in a manner that cause unfair
216 competition and unreasonable loss of revenue to those businesses, studies shall be periodically
217 conducted to assure that further legislation is in order regarding the uses of the tax exempt facility.
218 The county commission of any county where such a property is located shall report to the Joint
219 Committee on Government and Finance by January 1, every five years after the effective date of
220 this section. The report shall include information on any unfair business competition resulting from
221 the establishment of the nonprofit status, and include a report of the costs and benefits to its
222 county of the tax exemption and associated fee, including an audit of that county's use of the net
223 revenues. The West Virginia University Bureau of Business and Economic Research in
224 coordination of the Center for Business and Economic Research at Marshall University, by
225 January 1, 2020, shall undertake a study and report to the committee, the economic impact of this
226 tax exemption and fee to the county and that region of the state, and make any recommendations
227 regarding the benefits and disadvantages for continuing the provision of this tax exemption and

228 fee, included, but not limited to, the impacts to other small and large businesses in the county, the
 229 costs to the county has incurred as a result of use of the facility, and any other relevant data that
 230 the universities may deem relevant.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-12. West Virginia adjusted gross income of resident individual.

1 (a) General. — The West Virginia adjusted gross income of a resident individual means his
 2 or her federal adjusted gross income as defined in the laws of the United States for the taxable
 3 year with the modifications specified in this section.

4 (b) Modifications increasing federal adjusted gross income. — There shall be added to
 5 federal adjusted gross income, unless already included therein, the following items:

6 (1) Interest income on obligations of any state other than this state or of a political
 7 subdivision of any other state unless created by compact or agreement to which this state is a
 8 party;

9 (2) Interest or dividend income on obligations or securities of any authority, commission or
 10 instrumentality of the United States, which the laws of the United States exempt from federal
 11 income tax but not from state income taxes;

12 (3) Any deduction allowed when determining federal adjusted gross income for federal
 13 income tax purposes for the taxable year that is not allowed as a deduction under this article for the
 14 taxable year;

15 (4) Interest on indebtedness incurred or continued to purchase or carry obligations or
 16 securities the income from which is exempt from tax under this article, to the extent deductible in
 17 determining federal adjusted gross income;

18 (5) Interest on a depository institution tax-exempt savings certificate which is allowed as an
 19 exclusion from federal gross income under Section 128 of the Internal Revenue Code, for the
 20 federal taxable year;

21 (6) The amount of a lump sum distribution for which the taxpayer has elected under

22 Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for
23 federal income tax purposes; and

24 (7) Amounts withdrawn from a medical savings account established by or for an individual
25 under §33-15-20 or §33-16-15 of this code that are used for a purpose other than payment of
26 medical expenses, as defined in those sections.

27 (c) Modifications reducing federal adjusted gross income. — There shall be subtracted
28 from federal adjusted gross income to the extent included therein:

29 (1) Interest income on obligations of the United States and its possessions to the extent
30 includable in gross income for federal income tax purposes;

31 (2) Interest or dividend income on obligations or securities of any authority, commission or
32 instrumentality of the United States or of the State of West Virginia to the extent includable in gross
33 income for federal income tax purposes but exempt from state income taxes under the laws of the
34 United States or of the State of West Virginia, including federal interest or dividends paid to
35 shareholders of a regulated investment company, under Section 852 of the Internal Revenue
36 Code for taxable years ending after June 30, 1987;

37 (3) Any amount included in federal adjusted gross income for federal income tax purposes
38 for the taxable year that is not included in federal adjusted gross income under this article for the
39 taxable year;

40 (4) The amount of any refund or credit for overpayment of income taxes imposed by this
41 state, or any other taxing jurisdiction, to the extent properly included in gross income for federal
42 income tax purposes;

43 (5) Annuities, retirement allowances, returns of contributions and any other benefit
44 received under the West Virginia Public Employees Retirement System, and the West Virginia
45 State Teachers Retirement System, including any survivorship annuities derived therefrom, to the
46 extent includable in gross income for federal income tax purposes: *Provided*, That notwithstanding
47 any provisions in this code to the contrary this modification shall be limited to the first \$2,000 of

48 benefits received under the West Virginia Public Employees Retirement System, the West Virginia
49 State Teachers Retirement System and, including any survivorship annuities derived therefrom, to
50 the extent includable in gross income for federal income tax purposes for taxable years beginning
51 after December 31, 1986; and the first \$2,000 of benefits received under any federal retirement
52 system to which Title 4 U.S.C. §111 applies: *Provided, however,* That the total modification under
53 this paragraph shall may not exceed \$2,000 per person receiving retirement benefits and this
54 limitation shall apply to all returns or amended returns filed after December 31, 1988;

55 (6) Retirement income received in the form of pensions and annuities after December 31,
56 1979, under any West Virginia police, West Virginia Firemen's Retirement System or the West
57 Virginia State Police Death, Disability and Retirement Fund, the West Virginia State Police
58 Retirement System or the West Virginia Deputy Sheriff Retirement System, including any
59 survivorship annuities derived from any of these programs, to the extent includable in gross
60 income for federal income tax purposes;

61 (7) (A) For taxable years beginning after December 31, 2000, and ending prior to January
62 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the
63 Armed Forces of the United States of America with the product thereof multiplied by the first
64 \$30,000 of military retirement income, including retirement income from the regular Armed Forces,
65 Reserves and National Guard paid by the United States or by this state after December 31, 2000,
66 including any survivorship annuities, to the extent included in gross income for federal income tax
67 purposes for the taxable year.

68 (B) For taxable years beginning after December 31, 2000, the first \$20,000 of military
69 retirement income, including retirement income from the regular Armed Forces, Reserves and
70 National Guard paid by the United States or by this state after December 31, 2002, including any
71 survivorship annuities, to the extent included in gross income for federal income tax purposes for
72 the taxable year.

73 (C) For taxable years beginning after December 31, 2017, military retirement income,

74 including retirement income from the regular Armed Forces, Reserves and National Guard paid by
75 the United States or by this state after December 31, 2017, including any survivorship annuities, to
76 the extent included in federal adjusted gross income for the taxable year. For taxable years
77 beginning after December 31, 2018, retirement income from the uniformed services, including the
78 Army, Navy, Marines, Air Force, Coast Guard, Public Health Service, National Oceanic
79 Atmospheric Administration, reserves, and National Guard, paid by the United States or by this
80 state after December 31, 2018, including any survivorship annuities, to the extent included in
81 federal adjusted gross income for the taxable year.

82 (D) ~~In the event that~~ If any of the provisions of this subdivision are found by a court of
83 competent jurisdiction to violate either the Constitution of this state or of the United States, or is
84 held to be extended to persons other than specified in this subdivision, this subdivision shall
85 become null and void by operation of law.

86 (8) Decreasing modification for social security income.

87 (A) For taxable years beginning on and after January 1, 2020, 35 percent of the amount of
88 social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited
89 to, social security benefits paid by the Social Security Administration as Old Age, Survivors and
90 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security
91 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in
92 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification
93 from federal adjusted gross income when determining West Virginia taxable income subject to the
94 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

95 (B) For taxable years beginning on or after January 1, 2021, 65 percent of the social
96 security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to,
97 social security benefits paid by the Social Security Administration as Old Age, Survivors and
98 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security
99 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in

100 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification
101 from federal adjusted gross income when determining West Virginia taxable income subject to the
102 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

103 (C) For taxable years beginning on or after January 1, 2022, 100 percent of the social
104 security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to,
105 social security benefits paid by the Social Security Administration as Old Age, Survivors and
106 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security
107 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in
108 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification
109 from federal adjusted gross income when determining West Virginia taxable income subject to the
110 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

111 (D) The deduction allowed by §11-21-12(c)(8)(A), §11-21-12(c)(8)(B), and §11-21-
112 12(c)(8)(C) of this code are allowable only when the federal adjusted gross income of a married
113 couple filing a joint return does not exceed \$100,000, or \$50,000 in the case of a single individual
114 or a married individual filing a separate return.

115 (9) Federal adjusted gross income in the amount of \$8,000 received from any source after
116 December 31, 1986, by any person who has attained the age of 65 on or before the last day of the
117 taxable year, or by any person certified by proper authority as permanently and totally disabled,
118 regardless of age, on or before the last day of the taxable year, to the extent includable in federal
119 adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical
120 certification from a prior year and he or she is still permanently and totally disabled, a copy of the
121 original certificate is acceptable as proof of disability. A copy of the form filed for the federal
122 disability income tax exclusion is acceptable: *Provided, however*, That:

123 (i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
124 subsection is \$8,000 per person or more, no deduction shall be allowed under this subdivision;
125 and

126 (ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
127 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
128 all gross income received by that person shall be limited to the difference between \$8,000 and the
129 sum of modifications under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

130 (10) Federal adjusted gross income in the amount of \$8,000 received from any source after
131 December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who
132 had been certified as permanently and totally disabled, to the extent includable in federal adjusted
133 gross income for federal tax purposes: *Provided*, That:

134 (i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
135 subsection is \$8,000 or more, no deduction shall be allowed under this subdivision; and

136 (ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
137 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
138 all gross income received by that person shall be limited to the difference between \$8,000 and the
139 sum of subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

140 (11) Contributions from any source to a medical savings account established by or for the
141 individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the account, to
142 the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That the
143 amount subtracted pursuant to this subdivision for any one taxable year may not exceed \$2,000
144 plus interest earned on the account. For married individuals filing a joint return, the maximum
145 deduction is computed separately for each individual; and

146 (12) Income received by law-enforcement officers who are members of a municipal paid
147 police department, county sheriff's office, or the State Police; and

148 ~~(12)~~ (13) Any other income which this state is prohibited from taxing under the laws of the
149 United States including, but not limited to, tier I retirement benefits as defined in Section 86(d)(4) of
150 the Internal Revenue Code.

151 (d) Modification for West Virginia fiduciary adjustment. — There shall be added to or

152 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as
153 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-
154 21-19 of this code.

155 (e) Partners and S corporation shareholders. — The amounts of modifications required to
156 be made under this section by a partner or an S corporation shareholder, which relate to items of
157 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under
158 §11-21-17 of this code.

159 (f) Husband and wife. — If husband and wife determine their federal income tax on a joint
160 return but determine their West Virginia income taxes separately, they shall determine their West
161 Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been
162 determined separately.

163 (g) Effective date. —

164 (1) Changes in the language of this section enacted in the year 2000 shall apply to taxable
165 years beginning after December 31, 2000.

166 (2) Changes in the language of this section enacted in the year 2002 shall apply to taxable
167 years beginning after December 31, 2002.

168 (3) Changes in the language of this section enacted in the year 2019 shall apply to taxable
169 years beginning after December 31, 2018.

170 (4) Changes in the language of this section enacted in the year 2023 shall apply to taxable
171 years beginning after December 31, 2022.

NOTE: The purpose of this bill is to exempt law-enforcement officers, who are members of a municipal paid police department, county sheriff's office, or the State Police, from payment of income and personal property taxes.

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