

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4401

**FISCAL
NOTE**

By Delegates Riley, Maynor, McCormick, Heckert,
and Fehrenbacher

[Introduced January 16, 2026; referred to the
Committee on Finance]

1 A BILL to amend and reenact §21A-1A-28 of the Code of West Virginia, 1931, as amended;
2 referring to unemployment compensation; and modifying the calculation of the taxable
3 wage base.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. DEFINITIONS.

§21A-1A-28.

Wages.

1 (a) "Wages" means all remuneration for personal service, including commissions,
2 gratuities customarily received by an individual in the course of employment from persons other
3 than the employing unit, as long as such gratuities equal or exceed an amount of not less than \$20
4 each month and which are required to be reported to the employer by the employee, bonuses and
5 the cash value of all remuneration in any medium other than cash except for agricultural labor and
6 domestic service. The term "wages" includes remuneration for service rendered to the state as a
7 member of the state National Guard or Air National Guard only when serving on a temporary basis
8 pursuant to a call made by the Governor under §15-1D-1 and §15-1D-2 of this code.

9 (b) The term "wages" does not include:

10 (1) That part of the remuneration which, after remuneration equal to ~~\$9,500~~ \$8,500 is paid
11 during a calendar year to an individual by an employer or his or her predecessor with respect to
12 employment during any calendar year, is paid to such individual by such employer during such
13 calendar year unless that part of the remuneration is subject to a tax under a federal law imposing
14 a tax against which credit may be taken for contributions required to be paid into a state
15 unemployment fund. For the purposes of this section, the term "employment" includes service
16 constituting employment under any unemployment compensation law of another state; or which
17 as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act is
18 required to be covered under this chapter; and, except that for the purposes of §21A-6-1, §21A-6-
19 10, §21A-6-11, and §21A-6-13 of this code, all remuneration earned by an individual in
20 employment shall be credited to the individual and included in his or her computation of base

21 period wages: *Provided*, That the remuneration paid to an individual by an employer with respect
22 to employment in another state or other states upon which contributions were required of and paid
23 by such employer under an unemployment compensation law of such other state or states shall be
24 included as a part of the remuneration equal to the amounts of ~~\$9,500~~ \$8,500. In applying such
25 limitation on the amount of remuneration that is taxable, an employer shall be accorded the benefit
26 of all or any portion of such amount which may have been paid by its predecessor or
27 predecessors: *Provided, however*, That if the definition of the term "wages" as contained in
28 Section 3306(b) of the Internal Revenue Code of 1954, as amended, is amended to include
29 remuneration in excess of ~~\$9,500~~ \$8,500 paid to an individual by an employer under the federal
30 Unemployment Tax Act during any calendar year, wages for the purposes of this definition shall
31 include remuneration paid in a calendar year to an individual by an employer subject to this
32 chapter or his or her predecessor with respect to employment during any calendar year up to an
33 amount equal to the amount of remuneration taxable under the federal Unemployment Tax Act;

34 (2) The amount of any payment made (including any amount paid by an employer for
35 insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of, an
36 individual in its employ or any of his or her dependents, under a plan or system established by an
37 employer which makes provision for individuals in its employ generally (or for such individuals and
38 their dependents), or for a class or classes of such individuals (or for a class or classes of such
39 individuals and their dependents) on account of: (A) Retirement; or (B) sickness or accident
40 disability payments made to an employee under an approved state workers' compensation law; or
41 (C) medical or hospitalization expenses in connection with sickness or accident disability; or (D)
42 death;

43 (3) Any payment made by an employer to an individual in its employ (including any amount
44 paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on
45 account of retirement;

46 (4) Any payment made by an employer on account of sickness or accident disability, or

47 medical or hospitalization expenses in connection with sickness or accident disability to, or on
48 behalf of, an individual in its employ after the expiration of six calendar months following the last
49 calendar month in which such individual worked for such employer;

50 (5) Any payment made by an employer to, or on behalf of, an individual in its employ or his
51 or her beneficiary: (A) From or to a trust described in Section 401(a) which is exempt from tax
52 under Section 501(a) of the federal Internal Revenue Code at the time of such payments unless
53 such payment is made to such individual as an employee of the trust as remuneration for services
54 rendered by such individual and not as a beneficiary of the trust; or (B) under or to an annuity plan
55 which, at the time of such payment, is a plan described in Section 403(a) of the federal Internal
56 Revenue Code;

57 (6) The payment by an employer of the tax imposed upon an employer under Section 3101
58 of the federal Internal Revenue Code with respect to remuneration paid to an employee for
59 domestic service in a private home or the employer of agricultural labor;

60 (7) Remuneration paid by an employer in any medium other than cash to an individual in its
61 employ for service not in the course of the employer's trade or business;

62 (8) Any payment (other than vacation or sick pay) made by an employer to an individual in
63 its employ after the month in which he or she attains the age of 65 years if he or she did not work
64 for the employer in the period for which such payment is made;

65 (9) Payments, not required under any contract of hire, made to an individual with respect to
66 his or her period of training or service in the armed forces of the United States by an employer by
67 which such individual was formerly employed; and

68 (10) Vacation pay, severance pay or savings plans received by an individual before or after
69 becoming totally or partially unemployed but earned prior to becoming totally or partially
70 unemployed: *Provided*, That the term totally or partially unemployed does not include: (A)
71 Employees who are on vacation by reason of the request of the employees or their duly authorized
72 agent, for a vacation at a specific time, and which request by the employees or their agent is

73 acceded to by their employer; (B) employees who are on vacation by reason of the employer's
74 request provided they are so informed at least 90 days prior to such vacation; or (C) employees
75 who are on vacation by reason of the employer's request where such vacation is in addition to the
76 regular vacation and the employer compensates such employee at a rate equal to or exceeding
77 their regular daily rate of pay during the vacation period.

78 (c) The reasonable cash value of remuneration in any medium other than cash shall be
79 estimated and determined in accordance with rules prescribed by the commissioner, except for
80 remuneration other than cash for services performed in agricultural labor and domestic service.

81 (d) The amendments made to this section during the ~~2024~~ 2026 Regular Session shall
82 become effective July 1, ~~2024~~ 2026.

NOTE: The purpose of this bill is to modify the calculation of the taxable wage base.

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