

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4665

FISCAL
NOTE

By Delegates Crouse, Brooks, T. Howell, Anders,
Willis, White, Horst, Young, Garcia, Lewis, and
Pushkin

[Introduced January 21, 2026; referred to the
Committee on Finance]

1 A BILL to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating
2 to personal income tax and retirement income; providing definitions; expanding the state's
3 modifications for tax reducing federal adjusted gross income to retired out-of-state police,
4 first responders, and other retirees who show the work they performed was in the capacity
5 of Law Enforcement Officer, and/or a First Responder; providing procedures on applying
6 for the modification; and requiring the Tax Division to verify eligibility and create a process
7 to store information.

Be it enacted by the Legislature of West Virginia:

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 4 U.S.C. § 111 applies: *Provided, however*, That the total modification under this
53 paragraph shall not exceed \$2,000 per person receiving retirement benefits and this limitation
54 shall apply to all returns or amended returns filed after December 31, 1988;

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

61 (B) Law Enforcement Officers shall include, but are not limited to: Municipal Police
62 Officers, State Police, Deputy Sheriffs, Correctional Officers, Animal Control Officers, Bailiffs, Bike
63 Patrol Officers, Border Patrol Agents, Constables, Crime Scene Investigators, Crisis Negotiators,
64 Customs Officers, Defensive Tactics Instructors, Drug Recognition Experts, Evidence
65 Technicians, Explosive Ordnance Disposal Technicians (EOD), FBI Special Agents, Field Training
66 Officers, Forensics Analysts, Gang Investigators, Homicide Detectives, Investigators, Jailers, K-9
67 Officers, Marine Patrol Officer, Motor Officers, Narcotics Officers, Narcotics Officers, Police
68 Officers, Probation & Parole Officers, Quartermasters, Rangers, Records Specialists, Reserve

69 Officers, School Resource Officers, Special Agents, Sky Marshals, SWAT Operators, Sworn
70 Officers, Traffic Homicide Investigators, Troopers, Undercover Officers, Victim-Witness
71 Advocates, and Youth Programs Coordinators.

72 (C) First Responders include, but are not limited to: Firefighters, Paramedics, Police, and
73 Emergency Medical Technicians (EMT's).

74 (D) In addition to Law Enforcement Officers and First Responders, the following retirees
75 shall also qualify for this West Virginia decreasing modification: Nuclear Materials Couriers, Air
76 Traffic Controllers, other retirees showing the work they performed was in the capacity of Law
77 Enforcement Officer, and/or a First Responder. These types will need to include Federal Form: RI
78 20-124 (Certification of Service Performed as a Law Enforcement Officer, Firefighter, Nuclear
79 Materials Courier, Customs and Border Protection Officer (535 Service), or Air Traffic Controller).

80 (E) To receive this modification, eligible retirees must submit their 1099-R with their return.
81 The West Virginia Tax Division has the right to request additional information to confirm the 1099-
82 R pension income is for services performed in the capacities of a Law Enforcement Officer, First
83 Responder and/or other qualified Federal employees. Prior to reaching out to the retiree, the West
84 Virginia Tax Division will make every effort to first source verify the retiree's eligibility.

85 (F) The West Virginia Tax Division will create a process to store this information so once it's
86 been verified and confirmed, the West Virginia Tax Division will not have to reverify this information
87 for all the retirees' future tax returns;

88 (7)(A) For taxable years beginning after December 31, 2000, and ending prior to January
89 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the
90 Armed Forces of the United States of America with the product thereof multiplied by the first
91 \$30,000 of military retirement income, including retirement income from the regular Armed Forces,
92 Reserves and National Guard paid by the United States or by this state after December 31, 2000,
93 including any survivorship annuities, to the extent included in gross income for federal income tax
94 purposes for the taxable year.

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

100 (C) For taxable years beginning after December 31, 2017, military retirement income,
101 including retirement income from the regular Armed Forces, Reserves and National Guard paid by
102 the United States or by this state after December 31, 2017, including any survivorship annuities, to
103 the extent included in federal adjusted gross income for the taxable year. For taxable years
104 beginning after December 31, 2018, retirement income from the uniformed services, including the
105 Army, Navy, Marines, Air Force, Space Force, Coast Guard, Public Health Service, National
106 Oceanic Atmospheric Administration, reserves, and National Guard, paid by the United States or
107 by this state after December 31, 2018, including any survivorship annuities, to the extent included
108 in federal adjusted gross income for the taxable year.

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

113 (8) Decreasing modification for social security income.

114 (A) For taxable years beginning on or after January 1, 2022, 100 percent of the social
115 security benefits received pursuant to Chapter 7 of Title 42 of the United States Code, including,
116 but not limited to, social security benefits paid by the Social Security Administration as Old Age,
117 Survivors and Disability Insurance Benefits as provided in 42 U.S.C. § 401 *et. seq.* or as
118 Supplemental Security Income for the Aged, Blind, and Disabled as provided in 42 U.S.C. § 1381
119 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a
120 decreasing modification from federal adjusted gross income when determining West Virginia

121 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-
122 12(c)(8)(B) of this code.

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

126 (C) For taxable years beginning on and after January 1, 2024, 35 percent of the amount of
127 social security benefits received pursuant to Chapter 7 of Title 42 of the United States Code,
128 including, but not limited to, social security benefits paid by the Social Security Administration as
129 Old Age, Survivors and Disability Insurance Benefits as provided in 42 U.S.C. § 401 *et. seq.* or as
130 Supplemental Security Income for the Aged, Blind, and Disabled as provided in 42 U.S.C. § 1381
131 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a
132 decreasing modification from federal adjusted gross income when determining West Virginia
133 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-
134 12(c)(8)(F) of this code.

135 (D) For taxable years beginning on or after January 1, 2025, 65 percent of the social
136 security benefits received pursuant to Chapter 7 of Title 42 of the United States Code, including,
137 but not limited to, social security benefits paid by the Social Security Administration as Old Age,
138 Survivors and Disability Insurance Benefits as provided in 42 U.S.C. § 401 *et. seq.* or as
139 Supplemental Security Income for the Aged, Blind, and Disabled as provided in 42 U.S.C. § 1381
140 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a
141 decreasing modification from federal adjusted gross income when determining West Virginia
142 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-
143 12(c)(8)(F) of this code.

144 (E) For taxable years beginning on or after January 1, 2026, 100 percent of the social
145 security benefits received pursuant to Chapter 7 of Title 42 of the United States Code, including,
146 but not limited to, social security benefits paid by the Social Security Administration as Old Age,

147 Survivors and Disability Insurance Benefits as provided in 42 U.S.C. § 401 *et. seq.* or as
148 Supplemental Security Income for the Aged, Blind, and Disabled as provided in 42 U.S.C. 1381 *et.*
149 *seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a
150 decreasing modification from federal adjusted gross income when determining West Virginia
151 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-
152 12(c)(8)(F) of this code.

153 (F) The deduction allowed by §11-21-12(c)(8)(C), §11-21-12(c)(8)(D), and §11-21-
154 12(c)(8)(E) of this code are allowable only when the federal adjusted gross income of a married
155 couple filing a joint return exceeds \$100,000, or \$50,000 in the case of a single individual or a
156 married individual filing a separate return.

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

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

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

172 (10) Federal adjusted gross income in the amount of \$8,000 received from any source after

173 December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who
174 had been certified as permanently and totally disabled, to the extent includable in federal adjusted
175 gross income for federal tax purposes: *Provided*, That:

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

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

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

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

191 (d) Modification for West Virginia fiduciary adjustment. — There shall be added to or
192 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as
193 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-
194 21-19 of this code.

195 (e) Partners and S corporation shareholders. — The amounts of modifications required to
196 be made under this section by a partner or an S corporation shareholder, which relate to items of
197 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under
198 §11-21-17 of this code.

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

203 (g) Effective date. —

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

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

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

210 (4) Changes in the language of this section enacted in the year 2024 shall apply
211 retroactively to taxable years beginning after December 31, 2023.

NOTE: The purpose of this bill is to expand the state's modifications for tax reducing federal adjusted gross income to retired out-of-state police, first responders, and other retirees who show the work they performed was in the capacity of Law Enforcement Officer, and/or a First Responder.

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