

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 5**

**FISCAL  
NOTE**

By Senator Oliverio

[Introduced January 14, 2026; referred

to the Committee on Pensions; and then 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 exempting West Virginia campus police officer retirement income from personal income  
3 tax after specified date.

*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

(7) Amounts withdrawn from a medical savings account established by or for an individual under §33-15-20 or §33-16-15 of this code that are used for a purpose other than payment of 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;

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) 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) Retirement income received by retired West Virginia campus police officers after July 1,  
62 2026, under any retirement system, including any retirement plan sponsored by institutions of  
63 higher education which is a qualified plan under section 401 of the Internal Revenue Code,  
64 including any survivorship annuities derived from any of these programs, to the extent includable  
65 in gross income for federal income tax purposes;

66 (8) (A) For taxable years beginning after December 31, 2000, and ending prior to January  
67 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the  
68 Armed Forces of the United States of America with the product thereof multiplied by the first  
69 \$30,000 of military retirement income, including retirement income from the regular Armed Forces,  
70 Reserves and National Guard paid by the United States or by this state after December 31, 2000,  
71 including any survivorship annuities, to the extent included in gross income for federal income tax  
72 purposes for the taxable year.

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

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

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

91 (8) (9) Decreasing modification for social security income.

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

99 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-  
100 12(c)(8)(B) of this code.

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

104 (C) For taxable years beginning on and after January 1, 2024, 35 percent of the amount of  
105 social security benefits received pursuant to Chapter 7 of Title 42 of the United States Code,  
106 including, but not limited to, social security benefits paid by the Social Security Administration as  
107 Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as  
108 Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381  
109 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a  
110 decreasing modification from federal adjusted gross income when determining West Virginia  
111 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-  
112 12(c)(8)(F) of this code.

113 (D) For taxable years beginning on or after January 1, 2025, 65 percent of the social  
114 security benefits received pursuant to Chapter 7 of Title 42 of the United States Code, including,  
115 but not limited to, social security benefits paid by the Social Security Administration as Old Age,  
116 Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as  
117 Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381  
118 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a  
119 decreasing modification from federal adjusted gross income when determining West Virginia  
120 taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-  
121 12(c)(8)(F) of this code.

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

125      Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as  
126      Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381  
127      *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a  
128      decreasing modification from federal adjusted gross income when determining West Virginia  
129      taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-  
130      12(c)(8)(F) of this code.

131                (F) The deduction allowed by §11-21-12(c)(8)(C), §11-21-12(c)(8)(D), and §11-21-  
132      12(c)(8)(E) of this code are allowable only when the federal adjusted gross income of a married  
133      couple filing a joint return exceeds \$100,000, or \$50,000 in the case of a single individual or a  
134      married individual filing a separate return.

135                (9)-(10) Federal adjusted gross income in the amount of \$8,000 received from any source  
136      after December 31, 1986, by any person who has attained the age of 65 on or before the last day  
137      of the taxable year, or by any person certified by proper authority as permanently and totally  
138      disabled, regardless of age, on or before the last day of the taxable year, to the extent includable in  
139      federal adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical  
140      certification from a prior year and he or she is still permanently and totally disabled, a copy of the  
141      original certificate is acceptable as proof of disability. A copy of the form filed for the federal  
142      disability income tax exclusion is acceptable: *Provided, however*, That:

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

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

150                (10)(11) Federal adjusted gross income in the amount of \$8,000 received from any source

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

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

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

160 (11) (12) Contributions from any source to a medical savings account established by or for  
161 the individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the  
162 account, to the extent includable in federal adjusted gross income for federal tax purposes:  
163 *Provided*, That the amount subtracted pursuant to this subdivision for any one taxable year may  
164 not exceed \$2,000 plus interest earned on the account. For married individuals filing a joint return,  
165 the maximum deduction is computed separately for each individual; and

166 (12) (13) Any other income which this state is prohibited from taxing under the laws of the  
167 United States including, but not limited to, tier I retirement benefits as defined in Section 86(d)(4) of  
168 the Internal Revenue Code.

169 (d) Modification for West Virginia fiduciary adjustment. — There shall be added to or  
170 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as  
171 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-  
172 21-19 of this code.

173 (e) Partners and S corporation shareholders. — The amounts of modifications required to  
174 be made under this section by a partner or an S corporation shareholder, which relate to items of  
175 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under  
176 §11-21-17 of this code.

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

181 (g) Effective date. –

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

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

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

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

190 (5) Changes in the language of this section enacted in the year 2026 shall apply  
191 retroactively to taxable years beginning after December 31, 2025.

NOTE: The purpose of this bill is to exempt from personal income tax West Virginia campus police officer retirement income, after July 1, 2026, including any survivorship annuities, to the extent included in gross income for federal income tax purposes for the taxable year.

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