



1 as defined in the laws of the United States for the taxable year  
2 with the modifications specified in this section.

3 (b) *Modifications increasing federal adjusted gross income.* --

4 There shall be added to federal adjusted gross income unless  
5 already included therein the following items:

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

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

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

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

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

1           (6) The amount of a lump sum distribution for which the  
2 taxpayer has elected under Section 402(e) of the Internal Revenue  
3 Code of 1986, as amended, to be separately taxed for federal income  
4 tax purposes; and

5           (7) Amounts withdrawn from a medical savings account  
6 established by or for an individual under section twenty, article  
7 fifteen, chapter thirty-three of this code or section fifteen,  
8 article sixteen of said chapter that are used for a purpose other  
9 than payment of medical expenses, as defined in those sections.

10          (c) *Modifications reducing federal adjusted gross income.* --  
11 There shall be subtracted from federal adjusted gross income to the  
12 extent included therein:

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

16          (2) Interest or dividend income on obligations or securities  
17 of any authority, commission or instrumentality of the United  
18 States or of the State of West Virginia to the extent includable in  
19 gross income for federal income tax purposes but exempt from state  
20 income taxes under the laws of the United States or of the State of  
21 West Virginia, including federal interest or dividends paid to  
22 shareholders of a regulated investment company, under Section 852  
23 of the Internal Revenue Code for taxable years ending after June  
24 30, 1987;

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

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

9           (5) Annuities, retirement allowances, returns of contributions  
10 and any other benefit received under the West Virginia Public  
11 Employees Retirement System, the West Virginia State Teachers  
12 Retirement System and all forms of military retirement, including  
13 regular Armed Forces, Reserves and National Guard, including any  
14 survivorship annuities derived therefrom, to the extent includable  
15 in gross income for federal income tax purposes: *Provided*, That  
16 notwithstanding any provisions in this code to the contrary this  
17 modification shall be limited to the first \$2,000 of benefits  
18 received under the West Virginia Public Employees Retirement  
19 System, the West Virginia State Teachers Retirement System and,  
20 including any survivorship annuities derived therefrom, to the  
21 extent includable in gross income for federal income tax purposes  
22 for taxable years beginning after December 31, 1986; and the first  
23 \$2,000 of benefits received under any federal retirement system to  
24 which Title 4 U.S.C. §111 applies: *Provided, however*, That the

1 total modification under this paragraph shall not exceed \$2,000 per  
2 person receiving retirement benefits and this limitation shall  
3 apply to all returns or amended returns filed after December 31,  
4 1988;

5 (6) Retirement income received in the form of pensions and  
6 annuities after December 31, 1979, under any West Virginia police,  
7 West Virginia Firemen's Retirement System or the West Virginia  
8 State Police Death, Disability and Retirement Fund, the West  
9 Virginia State Police Retirement System or the West Virginia Deputy  
10 Sheriff Retirement System, including any survivorship annuities  
11 derived from any of these programs, to the extent includable in  
12 gross income for federal income tax purposes;

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

23 (B) For taxable years beginning after December 31, 2002, the  
24 first \$20,000 of military retirement income, including retirement

1 income from the regular Armed Forces, Reserves and National Guard  
2 paid by the United States or by this state after December 31, 2002,  
3 including any survivorship annuities, to the extent included in  
4 gross income for federal income tax purposes for the taxable year.

5 (C) In the event that any of the provisions of this  
6 subdivision are found by a court of competent jurisdiction to  
7 violate either the Constitution of this state or of the United  
8 States, or is held to be extended to persons other than specified  
9 in this subdivision, this subdivision shall become null and void by  
10 operation of law.

11 (8) Federal adjusted gross income in the amount of \$8,000  
12 received from any source after December 31, 1986, by any person who  
13 has attained the age of sixty-five on or before the last day of the  
14 taxable year, or by any person certified by proper authority as  
15 permanently and totally disabled, regardless of age, on or before  
16 the last day of the taxable year, to the extent includable in  
17 federal adjusted gross income for federal tax purposes: *Provided,*  
18 That if a person has a medical certification from a prior year and  
19 he or she is still permanently and totally disabled, a copy of the  
20 original certificate is acceptable as proof of disability. A copy  
21 of the form filed for the federal disability income tax exclusion  
22 is acceptable: *Provided, however, That:*

23 (i) Where the total modification under subdivisions (1), (2),  
24 (5), (6) and (7) of this subsection is \$8,000 per person or more,

1 no deduction shall be allowed under this subdivision; and

2 (ii) Where the total modification under subdivisions (1), (2),  
3 (5), (6) and (7) of this subsection is less than \$8,000 per person,  
4 the total modification allowed under this subdivision for all gross  
5 income received by that person shall be limited to the difference  
6 between \$8,000 and the sum of modifications under subdivisions (1),  
7 (2), (5), (6) and (7) of this subsection;

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

14 (i) Where the total modification under subdivisions (1), (2),  
15 (5), (6), (7) and (8) of this subsection is \$8,000 or more, no  
16 deduction shall be allowed under this subdivision; and

17 (ii) Where the total modification under subdivisions (1), (2),  
18 (5), (6), (7) and (8) of this subsection is less than \$8,000 per  
19 person, the total modification allowed under this subdivision for  
20 all gross income received by that person shall be limited to the  
21 difference between \$8,000 and the sum of subdivisions (1), (2),  
22 (5), (6), (7) and (8) of this subsection;

23 (10) Contributions from any source to a medical savings  
24 account established by or for the individual pursuant to section

1 twenty, article fifteen, chapter thirty-three of this code or  
2 section fifteen, article sixteen, chapter thirty-three, plus  
3 interest earned on the account, to the extent includable in federal  
4 adjusted gross income for federal tax purposes: *Provided*, That the  
5 amount subtracted pursuant to this subdivision for any one taxable  
6 year may not exceed \$2,000 plus interest earned on the account.  
7 For married individuals filing a joint return, the maximum  
8 deduction is computed separately for each individual;

9       (11) For the 2006 taxable year only, severance wages received  
10 by a taxpayer from an employer as the result of the taxpayer's  
11 permanent termination from employment through a reduction in force  
12 and through no fault of the employee, not to exceed \$30,000. For  
13 purposes of this subdivision:

14       (i) The term "severance wages" means any monetary compensation  
15 paid by the employer in the taxable year as a result of permanent  
16 termination from employment in excess of regular annual wages or  
17 regular annual salary;

18       (ii) The term "reduction in force" means a net reduction in  
19 the number of employees employed by the employer in West Virginia,  
20 determined based on total West Virginia employment of the  
21 employer's controlled group;

22       (iii) The term "controlled group" means one or more chains of  
23 corporations connected through stock ownership with a common parent  
24 corporation if stock possessing at least fifty percent of the



1 voting power of all classes of stock of each of the corporations is  
2 owned directly or indirectly by one or more of the corporations and  
3 the common parent owns directly stock possessing at least fifty  
4 percent of the voting power of all classes of stock of at least one  
5 of the other corporations;

6 (iv) The term "corporation" means any corporation, joint-stock  
7 company or association and any business conducted by a trustee or  
8 trustees wherein interest or ownership is evidenced by a  
9 certificate of interest or ownership or similar written instrument;  
10 and

11 (12) Commencing in the tax year 2011, the dollar amount of  
12 monetary contributions to any state, county or municipal park and  
13 the fair market value of any services contributed to any state,  
14 county or municipal park, not to exceed, in the aggregate, the sum  
15 of \$3,000: Provided, That seventy-five percent of the total  
16 contribution claimed shall be in currency of the United States.  
17 The Tax Commissioner shall propose rules for legislative approval  
18 in accordance with the provisions of article three, chapter twenty-  
19 nine-a of this code designed to ascertain and verify contributions  
20 designated under this subdivision. The Tax Commissioner is further  
21 directed to develop and implement forms upon which contributions,  
22 in the form of services, may be ascertained and verified; and

23 ~~(12)~~ (13) Any other income which this state is prohibited from  
24 taxing under the laws of the United States.

1           (d) *Modification for West Virginia fiduciary adjustment.* --  
2 There shall be added to or subtracted from federal adjusted gross  
3 income, as the case may be, the taxpayer's share, as beneficiary of  
4 an estate or trust, of the West Virginia fiduciary adjustment  
5 determined under section nineteen of this article.

6           (e) *Partners and S corporation shareholders.* -- The amounts of  
7 modifications required to be made under this section by a partner  
8 or an S corporation shareholder, which relate to items of income,  
9 gain, loss or deduction of a partnership or an S corporation, shall  
10 be determined under section seventeen of this article.

11           (f) *Husband and wife.* -- If husband and wife determine their  
12 federal income tax on a joint return but determine their West  
13 Virginia income taxes separately, they shall determine their West  
14 Virginia adjusted gross incomes separately as if their federal  
15 adjusted gross incomes had been determined separately.

16           (g) *Effective date.* -- (1) Changes in the language of this  
17 section enacted in the year 2000 shall apply to taxable years  
18 beginning after December 31, 2000.

19           (2) Changes in the language of this section enacted in the  
20 year 2002 shall apply to taxable years beginning after December 31,  
21 2002.

NOTE: The purpose of this bill is to allow for a reduction in

the adjusted gross income of a taxpayer for contributions to the maintenance and improvement of state, county and municipal parks.

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