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ENROLLED

Senate Bill No. 436

(By SENATORS YOST, KLEMPA, UNGER AND PLYMALE)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing the personal income tax adjustment to the gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

Be it enacted by the Legislature of West Virginia:

That §11-21-12d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. RESIDENTS.

§11-21-12d. Additional modification reducing federal adjusted gross income.

In addition to amounts authorized to be subtracted from federal adjusted gross income pursuant to subsection (c), section

1 twelve of this article, any person who retires under an employer-
2 provided defined benefit pension plan that terminates prior to or
3 after the retirement of that person and the pension plan is covered
4 by a guarantor whose maximum benefit guarantee is less than the
5 maximum benefit to which the retiree was entitled had the plan not
6 terminated may subtract annually from his or her federal adjusted
7 income a sum equal to the difference in the amount of the maximum
8 annual pension benefit the person would have received for such tax
9 year had the plan not terminated and the maximum annual pension
10 benefit actually received from the guarantor under a benefit
11 guarantee plan: *Provided*, That if the Tax Commissioner determines
12 that this adjustment reduces the revenues of the state by
13 \$2 million or more in any one year, then the Tax Commissioner shall
14 reduce the percentage of the reduction to a level at which the
15 commissioner believes will reduce the cost of the adjustment to
16 \$2 million for the next year. This tax adjustment is effective for
17 taxable years beginning on and after January 1, 2008: *Provided*,
18 *however*, That for the taxable year 2007, the tax adjustment shall
19 be effective and shall apply retroactively: *Provided further*, That
20 the adjustment terminates for the tax years on and after January 1,
21 2015. This modification is available regardless of the type of
22 return form filed.