



1           (a) *General.* -- The West Virginia adjusted gross income of a  
2 resident individual means his or her federal adjusted gross income  
3 as defined in the laws of the United States for the taxable year  
4 with the modifications specified in this section.

5           (b) *Modifications increasing federal adjusted gross income.* --  
6 There shall be added to federal adjusted gross income unless  
7 already included therein the following items:

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

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

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

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

23           (5) Interest on a depository institution tax-exempt savings  
24 certificate which is allowed as an exclusion from federal gross

1 income under Section 128 of the Internal Revenue Code, for the  
2 federal taxable year;

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

7 (7) Amounts withdrawn from a medical savings account  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

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

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

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

1 of the Internal Revenue Code for taxable years ending after June  
2 30, 1987;

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

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

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

1 \$2,000 of benefits received under any federal retirement system to  
2 which Title 4 U.S.C. §111 applies: *Provided, however,* That the  
3 total modification under this paragraph shall not exceed \$2,000 per  
4 person receiving retirement benefits and this limitation shall  
5 apply to all returns or amended returns filed after December 31,  
6 1988;

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

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

1 (B) For taxable years beginning after December 31, 2002, the  
2 first \$20,000 of military retirement income, including retirement  
3 income from the regular Armed Forces, reserves and National Guard  
4 paid by the United States or by this state after December 31, 2002,  
5 including any survivorship annuities, to the extent included in  
6 gross income for federal income tax purposes for the taxable year.

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

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

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

4 (ii) Where the total modification under subdivisions (1), (2),  
5 (5), (6) and (7) of this subsection is less than \$8,000 per person,  
6 the total modification allowed under this subdivision for all gross  
7 income received by that person shall be limited to the difference  
8 between \$8,000 and the sum of modifications under subdivisions (1),  
9 (2), (5), (6) and (7) of this subsection;

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

16 (i) Where the total modification under subdivisions (1), (2),  
17 (5), (6), (7) and (8) of this subsection is \$8,000 or more, no  
18 deduction shall be allowed under this subdivision; and

19 (ii) Where the total modification under subdivisions (1), (2),  
20 (5), (6), (7) and (8) of this subsection is less than \$8,000 per  
21 person, the total modification allowed under this subdivision for  
22 all gross income received by that person shall be limited to the  
23 difference between \$8,000 and the sum of subdivisions (1), (2),  
24 (5), (6), (7) and (8) of this subsection;

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

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

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

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

24           (iii) The term "controlled group" means one or more chains of



1 corporations connected through stock ownership with a common parent  
2 corporation if stock possessing at least fifty percent of the  
3 voting power of all classes of stock of each of the corporations is  
4 owned directly or indirectly by one or more of the corporations and  
5 the common parent owns directly stock possessing at least fifty  
6 percent of the voting power of all classes of stock of at least one  
7 of the other corporations;

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

13 (12) Any other income which this state is prohibited from  
14 taxing under the laws of the United States; and

15 (13) Federal adjusted gross income in the amount of \$25,000  
16 received from any source after December 31, 2012, taxpayer who has  
17 graduated from any regionally accredited post-secondary institution  
18 in the United States or any accredited post-secondary institution  
19 within the State of West Virginia with a two-year, four-year or  
20 advanced degree in a tax year which is not more than two years  
21 prior to the year which the taxpayer is filing: *Provided, That no*  
22 taxpayer is eligible to claim the modification for more than any  
23 two tax years: *Provided, however, That the State Tax Commissioner*  
24 shall promulgate legislative rules pursuant to the provisions of

1 chapter twenty-nine-a of this code regarding the documentation  
2 necessary to claim the modification: *Provided further,* That no  
3 person may claim the modification after December 31, 2019: *And*  
4 *Provided further,* On or before June 1, 2014 and each year  
5 thereafter, the Tax Commissioner shall submit to the Joint  
6 Committee of Government and Finance all information regarding the  
7 use of the modification in the preceding years. The Joint  
8 Committee on Government and Finance shall review the information  
9 and any other information deemed relevant by the Joint Committee on  
10 Government and Finance on or before July 1, 2014, and each year  
11 thereafter, to determine the effectiveness of the modification.

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

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

22       (f) *Husband and wife.* -- If husband and wife determine their  
23 federal income tax on a joint return but determine their West  
24 Virginia income taxes separately, they shall determine their West

1 Virginia adjusted gross incomes separately as if their federal  
2 adjusted gross incomes had been determined separately.

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

6 (2) Changes in the language of this section enacted in the  
7 year 2002 shall apply to taxable years beginning after December 31,  
8 2002.

NOTE: The purpose of this bill is to establish incentives to attract and retain young talent to the State of West Virginia. The bill establishes a modification reducing federal adjusted gross income for recent graduates of higher education institutions. The bill requires the Joint Committee on Government and Finance to review the effectiveness of the modification. The bill also provides for rule-making authority.

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