

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Introduced**

### **House Bill 2403**

**FISCAL  
NOTE**

BY DELEGATE MCGEEHAN

[Introduced January 14, 2019; Referred  
to the Committee on Fire Departments and  
Emergency Medical Services then Finance.]

1 A BILL to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §11-21-12 of said code, all relating to exempting firefighters and  
 3 volunteer firefighters from payment of income and real and personal property taxes.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. ASSESSMENTS GENERALLY.**

**§11-3-9. Property exempt from taxation.**

1 (a) All property, real and personal, described in this subsection, and to the extent limited  
 2 by this section, is exempt from taxation:

3 (1) Property belonging to the United States, other than property permitted by the United  
 4 States to be taxed under state law;

5 (2) Property belonging exclusively to the state;

6 (3) Property belonging exclusively to any county, district, city, village or town in this state  
 7 and used for public purposes;

8 (4) Property located in this state belonging to any city, town, village, county or any other  
 9 political subdivision of another state and used for public purposes;

10 (5) Property used exclusively for divine worship;

11 (6) Parsonages and the household goods and furniture pertaining thereto;

12 (7) Mortgages, bonds and other evidence of indebtedness in the hands of bona fide  
 13 owners and holders hereafter issued and sold by churches and religious societies for the  
 14 purposes of securing money to be used in the erection of church buildings used exclusively for  
 15 divine worship or for the purpose of paying indebtedness thereon;

16 (8) Cemeteries;

17 (9) Property belonging to, or held in trust for, colleges, seminaries, academies and free  
 18 schools, if used for educational, literary or scientific purposes, including books, apparatus,  
 19 annuities and furniture;

20 (10) Property belonging to, or held in trust for, colleges or universities located in West

21 Virginia, or any public or private nonprofit foundation or corporation which receives contributions  
22 exclusively for such college or university, if the property or dividends, interest, rents or royalties  
23 derived therefrom are used or devoted to educational purposes of such college or university;

24 (11) Public and family libraries;

25 (12) Property used for charitable purposes and not held or leased out for profit;

26 (13) Property used for the public purposes of distributing electricity, water or natural gas  
27 or providing sewer service by a duly chartered nonprofit corporation when such property is not  
28 held, leased out or used for profit;

29 (14) Property used for area economic development purposes by nonprofit corporations  
30 when the property is not leased out for profit;

31 (15) All real estate not exceeding one acre in extent, and the buildings on the real estate,  
32 used exclusively by any college or university society as a literary hall, or as a dormitory or  
33 clubroom, if not used with a view to profit, including, but not limited to, property owned by a  
34 fraternity or sorority organization affiliated with a university or college or property owned by a  
35 nonprofit housing corporation or similar entity on behalf of a fraternity or sorority organization  
36 affiliated with a university or college, when the property is used as residential accommodations or  
37 as a dormitory for members of the organization;

38 (16) All property belonging to benevolent associations not conducted for private profit;

39 (17) Property belonging to any public institution for the education of the deaf, intellectually  
40 disabled or blind or any hospital not held or leased out for profit;

41 (18) Houses of refuge and mental health facility or orphanage;

42 (19) Homes for children or for the aged, friendless or infirm not conducted for private profit;

43 (20) Fire engines and implements for extinguishing fires, and property used exclusively  
44 for the safekeeping thereof, and for the meeting of fire companies;

45 (21) All property on hand to be used in the subsistence of livestock on hand at the  
46 commencement of the assessment year;

47 (22) Household goods to the value of \$200, whether or not held or used for profit;

48 (23) Bank deposits and money;

49 (24) Household goods, which for purposes of this section means only personal property  
50 and household goods commonly found within the house and items used to care for the house and  
51 its surrounding property, when not held or used for profit;

52 (25) Personal effects, which for purposes of this section means only articles and items of  
53 personal property commonly worn on or about the human body or carried by a person and  
54 normally thought to be associated with the person when not held or used for profit;

55 (26) Dead victuals laid away for family use;

56 (27) All property belonging to the state, any county, district, city, village, town or other  
57 political subdivision or any state college or university which is subject to a lease purchase  
58 agreement and which provides that, during the term of the lease purchase agreement, title to the  
59 leased property rests in the lessee so long as lessee is not in default or shall not have terminated  
60 the lease as to the property;

61 (28) Personal property, including vehicles that qualify for a farm use exemption certificate  
62 pursuant to §17A-3-2 of this code and livestock, employed exclusively in agriculture, as defined  
63 in article 10, section one of the West Virginia Constitution: *Provided*, That this exemption only  
64 applies in the case of such personal property used on a farm or farming operation that annually  
65 produces for sale agricultural products, as defined in rules of the Tax Commissioner;

66 (29) Real property owned by a nonprofit organization whose primary purpose is youth  
67 development by means of adventure, educational or recreational activities for young people,  
68 which real property contains a facility built with the expenditure of not less than \$100 million that  
69 is capable of supporting additional activities within the region or the state and which is leased or  
70 used to generate revenue for the nonprofit organization whether or not the property is used by  
71 the nonprofit organization for its nonprofit purpose, subject to the requirements, limitations and  
72 conditions set forth in subsection (h) of this section; ~~and~~

73           (30) Real and personal property owned by firefighters who are full-time employees of a  
74 local fire department and volunteer firefighters who have successfully completed training  
75 requirements under §29-3-6 of this code and who are employed by a volunteer fire department;  
76 and

77           ~~(30)~~ (31) Any other property or security exempted by any other provision of law.

78           (b) Notwithstanding the provisions of subsection (a) of this section, no property is exempt  
79 from taxation which has been purchased or procured for the purpose of evading taxation whether  
80 temporarily holding the same over the first day of the assessment year or otherwise.

81           (c) Real property which is exempt from taxation by subsection (a) of this section shall be  
82 entered upon the assessor's books, together with the true and actual value thereof, but no taxes  
83 may be levied upon the property or extended upon the assessor's books.

84           (d) Notwithstanding any other provisions of this section, this section does not exempt from  
85 taxation any property owned by, or held in trust for, educational, literary, scientific, religious or  
86 other charitable corporations or organizations, including any public or private nonprofit foundation  
87 or corporation existing for the support of any college or university located in West Virginia, unless  
88 such property, or the dividends, interest, rents or royalties derived therefrom, is used primarily  
89 and immediately for the purposes of the corporations or organizations.

90           (e) The Tax Commissioner shall, by issuance of rules, provide each assessor with  
91 guidelines to ensure uniform assessment practices statewide to effect the intent of this section.

92           (f) Inasmuch as there is litigation pending regarding application of this section to property  
93 held by fraternities and sororities, amendments to this section enacted in the year 1998 shall apply  
94 to all cases and controversies pending on the date of such enactment.

95           (g) The amendment to subdivision (27), subsection (a) of this section, passed during the  
96 2005 regular session of the Legislature, shall apply to all applicable lease purchase agreements  
97 in existence upon the effective date of the amendment.

98           (h) Nonprofit youth organization exemption - Limitations, Conditions, Collection and

99 administration of one and one quarter percent fee, limitations and distribution of ~~monies~~ moneys.

100 (1) The exemption from ad valorem taxation provided pursuant to the provisions of  
101 subdivision (29), subsection (a) of this section does not apply to a property owned by a nonprofit  
102 organization otherwise qualifying for the exemption but which property or facilities are used for-  
103 profit or outside the primary purpose of the owner which result in unrelated business taxable  
104 income as defined by Section 512 of the Internal Revenue Code of 1986, as amended, unless  
105 the income is generated by an activity upon which the one and one quarter percent fee authorized  
106 by subdivision (2) of this section is applied as provided in subdivision (3) of this subsection.

107 (2) The owner of real property exempt from ad valorem taxation under subdivision (29),  
108 subsection (a) of this section shall pay an amount equal to one and one quarter percent of the  
109 gross revenues the owner receives in accordance with this subsection. For purposes of this  
110 subsection, "gross revenues" means the gross amount received by the owner as payment for use  
111 of the property or the facilities thereon.

112 (3) Gross revenues derived from the following facilities, uses, activities and operations are  
113 subject to a fee of one and one quarter percent of such gross revenues:

114 (A) Gross revenues derived from the use of lodging and campground facilities by persons  
115 participating in meetings and multiday spectator sports or multiday recreational, celebratory or  
116 ceremonial events held on-site where on-site lodging or camping is offered as part of the program.  
117 For purposes of this section the term "meeting" means, and is limited to, a gathering, assembly  
118 or conference of two or more persons who have deliberately convened at a single specific location  
119 at a single specified time and date for a common specific purpose.

120 (B) Gross revenues derived from any retail store located at the facility that is open only to  
121 those persons who are attending meetings, spectator sports, recreational, celebratory or  
122 ceremonial events held on-site at the facility.

123 (C) Gross revenues derived from operations of gift shops at a welcome or information  
124 center located adjacent to a public highway operated by the nonprofit organization which is open

125 to the general public.

126 (D) Gross revenues derived from the leasing of zip-lines, canopy tours, wheeled sports  
127 and climbing facilities used by the general public on a for-profit basis (i) Under a written agreement  
128 with a licensed commercial outfitter operating a business utilizing zip-lines, canopy tours, wheeled  
129 sports or climbing areas of a similar nature in the same or an adjacent county where the facilities  
130 are located; and (ii) when the property or facilities are used as part of a training or advanced  
131 experience offered by the licensed commercial outfitter.

132 (E) Gross revenues derived from the use or operation of zip-lines, canopy tours, wheeled  
133 sports facilities or activities, climbing facilities or activities and the use or operation of other  
134 sporting facilities on the exempt property that are leased on a for-profit basis for spectator events,  
135 such as concerts, spectator sporting events or exhibitions or similar mass gathering events.

136 (F) Gross revenues derived from leases or agreements for use of the property for meetings  
137 and multiday spectator sports or events or multiday recreational, celebratory or ceremonial  
138 events, held on site.

139 (4) Notwithstanding any other provision of this section to the contrary, programs or  
140 activities occurring on the property or its facilities held in conjunction with a government  
141 organization or sponsored by other nonprofit organizations serving youth, veterans, military  
142 services, public service agencies including, fire, police, emergency and search and rescue  
143 services, government agencies, schools and universities, health care providers and similar  
144 organizations or groups which are designed to provide opportunities for learning or training in the  
145 areas of leadership, character education, science, technology, engineering, arts and mathematics  
146 (STEAM) programs, physical challenges, sustainability, conservation and outdoor learning shall  
147 be considered a charitable or nonprofit use for the purposes of this section and not subject to the  
148 one and one quarter percent fee.

149 (5) Notwithstanding any other provision of this section to the contrary, activities open to  
150 the public through individual visitor passes allowing tours and access to the property and its

151 facilities for the purpose of viewing or participating in demonstrations, programs and facilities  
152 providing information and experiences consistent with the owner's nonprofit purposes where zip-  
153 lines, canopy tours, wheeled sports or climbing facilities are merely components of the  
154 demonstrations, programs and facilities used shall be considered a charitable or nonprofit use for  
155 the purposes of this section and not subject to the one and one quarter percent fee: *Provided,*  
156 That such individual visitor passes may not include the rental or use of on-site overnight lodging  
157 or camping facilities.

158 (6) Administration –

159 (A) The sheriff of the county wherein the majority of the acreage of the property is located  
160 as specified in the deed to such property, shall collect, on a monthly basis, all moneys derived  
161 from the fee of one and one quarter percent of the gross revenues imposed under this subsection.

162 (B) The sheriff of the county wherein the majority of the acreage of the property is located  
163 as specified in the deed to such property, shall prescribe such forms and schedules as may be  
164 necessary for the efficient, accurate, and expeditious payment and reporting of the one and one  
165 quarter percent fee specified in this subsection on gross revenues.

166 (C) The sheriff of the county wherein the majority of the acreage of the property is located  
167 as specified in the deed to such property, shall administer the fee imposed under this subsection,  
168 including refunds and adjustments.

169 (D) Payment, administration and compliance of fee payers and administrators shall be  
170 subject to audit by the Office of Chief Inspector.

171 (E) All ~~moneys~~ moneys so collected, net of refunds and adjustments, shall be paid into a  
172 special account in the State Treasury, which is hereby created, and the amount thereof shall be  
173 distributed and paid annually, by the State Treasurer, on October 1 of each year, into the funds  
174 and to the distributees specified in subdivision (7) of this subsection in the amounts specified  
175 therein.

176 (7) Distribution –



177 (A) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be  
178 paid annually to the Tourism Promotion Fund established pursuant to §5b-2-12 of this code.

179 (B) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be  
180 paid annually to the sheriff of the county where the property is located which, but for the exemption  
181 provided in subdivision (29), subsection (a) of this section, would be entitled to receive ad valorem  
182 taxes on the property. The sheriff shall treat all such payments in the same manner as payments  
183 in lieu of taxes, and such payments are subject to the adjustment mandated under §18-9a-12 of  
184 this code. For properties located in more than one county, the amount paid to the sheriff of the  
185 county shall be in proportion to the total number of acres located in each county at the close of  
186 the fiscal year, as specified in the deed to such property.

187 (C) Fifty percent of moneys so collected, net of refunds and adjustments, shall be divided  
188 equally and paid annually into separate accounts established and maintained by the sheriffs of  
189 the county or counties wherein the property is located and the sheriffs of any other county that is  
190 within the jurisdiction of the same economic development authority as the county or counties  
191 wherein the property is located to be used solely for the establishment and delivery of a science,  
192 technology, engineering, art and math (STEAM) program in conjunction with the owner of the  
193 exempt property. The funds shall be divided equally for use in each county and the programs  
194 must be approved by the respective county superintendents of schools. Expenditures from the  
195 accounts shall be authorized by the county superintendent of schools.

196 (8) If lodging is furnished as part of a retreat, meeting, or multiday spectator sport or event  
197 being held on-site wherein on-site lodging or camping is offered as part of the program, any  
198 applicable hotel occupancy tax and state and local consumers sales and service tax and use tax  
199 shall be paid based upon the actual location of such lodging.

200 (9) If merchants are allowed to do business on the property, the owner or lessee of the  
201 property shall offer space to local merchants on terms at least as favorable as are offered to other  
202 merchants.

203 (10) For the purposes of this subsection, owner includes the owner holding record title to  
204 the property and its affiliates to the extent they are commonly owned, controlled or have the power  
205 to appoint the governing body of the affiliate.

206 (11) The Tourism Commission shall include in its annual report submitted to the Governor  
207 and the Legislature a summary of funds paid into the Tourism Promotion Fund and  
208 recommendations pertaining to the administration of this section.

209 (12) This subsection may not be construed to prohibit the owner of property otherwise  
210 subject to this section from having portions of the property severed from the remainder of the  
211 property, assessed and taxed as if nonexempt and thereafter conducting business on such  
212 property the same as any other nonexempt property: *Provided*, That the area of property to be  
213 severed shall be approved by the county commission wherein the property lies so as to include  
214 in the severance all property substantially supporting the for profit or business activity giving rise  
215 to the specific purpose of the severance and excluding all property entitled to the continued  
216 benefits of this act.

217 (i) To assure the implementation of subsection (h) of this section does not harm local and  
218 regionally located businesses by use of the tax exempt facility in a manner that cause unfair  
219 competition and unreasonable loss of revenue to those businesses, studies shall be periodically  
220 conducted to assure that further legislation is in order regarding the uses of the tax exempt facility.  
221 The county commission of any county where such a property is located shall report to the Joint  
222 Committee on Government and Finance by January 1, every five years after the effective date of  
223 this section. The report shall include information on any unfair business competition resulting from  
224 the establishment of the nonprofit status, and include a report of the costs and benefits to its  
225 county of the tax exemption and associated fee, including an audit of that county's use of the net  
226 revenues. The West Virginia University Bureau of Business and Economic Research in  
227 coordination of the Center for Business and Economic Research at Marshall University, by  
228 January 1, 2020, shall undertake a study and report to the committee, the economic impact of

229 this tax exemption and fee to the county and that region of the state, and make any  
230 recommendations regarding the benefits and disadvantages for continuing the provision of this  
231 tax exemption and fee, included, but not limited to, the impacts to other small and large  
232 businesses in the county, the costs to the county has incurred as a result of use of the facility,  
233 and any other relevant data that the universities may deem relevant.

## **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  
10 or 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  
14 the 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  
19 an 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 of this code or section fifteen, article sixteen of said chapter that are used for a  
26 purpose other than payment of medical expenses, as defined in those sections.

27 (c) *Modifications reducing federal adjusted gross income.* -- There shall be subtracted from  
28 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  
32 or instrumentality of the United States or of the State of West Virginia to the extent includable in  
33 gross income for federal income tax purposes but exempt from state income taxes under the laws  
34 of the United States or of the State of West Virginia, including federal interest or dividends paid  
35 to 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,  
50 to the extent includable in gross income for federal income tax purposes for taxable years  
51 beginning after December 31, 1986; and the first \$2,000 of benefits received under any federal  
52 retirement system to which Title 4 U.S.C. §111 applies: *Provided, however*, That the total  
53 modification under this paragraph shall not exceed \$2,000 per person receiving retirement  
54 benefits and this limitation shall apply to all returns or amended returns filed after December 31,  
55 1988;

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

62 (7) (A) For taxable years beginning after December 31, 2000, and ending prior to January  
63 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the  
64 Armed Forces of the United States of America with the product thereof multiplied by the  
65 first \$30,000 of military retirement income, including retirement income from the regular armed  
66 forces, Reserves and National Guard paid by the United States or by this state after December  
67 31, 2000, including any survivorship annuities, to the extent included in gross income for federal  
68 income tax purposes for the taxable year.

69 (B) For taxable years beginning after December 31, 2000, the first \$20,000 of military  
70 retirement income, including retirement income from the regular armed forces, Reserves and  
71 National Guard paid by the United States or by this state after December 31, 2002, including any

72 survivorship annuities, to the extent included in gross income for federal income tax purposes for  
73 the taxable year.

74 (C) For taxable years beginning after December 31, 2017, military retirement income,  
75 including retirement income from the regular armed forces, Reserves and National Guard paid by  
76 the United States or by this state after December 31, 2017, including any survivorship annuities,  
77 to the extent included in federal adjusted gross income for the taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

123 (iii) The term "controlled group" means one or more chains of corporations connected

124 through stock ownership with a common parent corporation if stock possessing at least fifty  
125 percent of the voting power of all classes of stock of each of the corporations is owned directly or  
126 indirectly by one or more of the corporations and the common parent owns directly stock  
127 possessing at least 50 percent of the voting power of all classes of stock of at least one of the  
128 other corporations;

129 (iv) The term "corporation" means any corporation, joint-stock company or association and  
130 any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a  
131 certificate of interest or ownership or similar written instrument; ~~and~~

132 (12) Income received by firefighters who are full-time employees of a local fire department  
133 and volunteer firefighters who have successfully completed training requirements under §29-3-6  
134 of this code and who are employed by a volunteer fire department; and

135 ~~(12)~~ (13) Any other income which this state is prohibited from taxing under the laws of the  
136 United States.

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

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

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

149 (g) *Effective date.* --



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

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

NOTE: The purpose of this bill is to exempt firefighters, who are full-time employees of a local fire department, and volunteer firefighters who have successfully completed training requirements under §29-3-6 of this code and who are employed by a volunteer fire department, from payment of income and real and personal property taxes.

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