WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED

Committee Substitute for

HOUSE BILL No. 904

(By Mr. Bonkovich & Mr. Wiedembid)

PASSED

March 13, 1976

In Effect ninety days from Passage

FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE
THIS DATE 3/26/76
AN ACT to amend and reenact section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia personal income tax exemption of retirement income; exempting survivorship annuities derived from all forms of military retirement income; increasing the exemption of retirement income received by persons over sixty-five, and providing such exemption shall apply to retirement income received by the surviving spouse of such person regardless of age.

Be it enacted by the Legislature of West Virginia:

That section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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 federal adjusted gross
income as defined in the laws of the United States for the taxable year with the modifications specified in this section.

(b) Modifications increasing federal adjusted gross income.—There shall be added to federal adjusted gross income:

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

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

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax; and

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

(c) Modifications reducing federal adjusted gross income.—There shall be subtracted from federal adjusted gross income:

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

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States;

(3) Any gain from the sale or other disposition of property having a higher fair market value on the first day of January, one thousand nine hundred sixty-one, than the adjusted basis at said date for federal income tax purposes: Provided, That the amount of this adjustment is limited to that portion of any
such gain which does not exceed the difference between such
fair market value and such adjusted basis: Provided, however,
That if such gain is considered a long-term capital gain for
federal income tax purposes, the modification shall be limited to
fifty per centum of such portion of the gain;

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

(5) Annuities, retirement allowances, returns of contrib-
utions and any other benefit received under the public em-
ployees retirement system, the department of public safety
death, disability and retirement fund, the state teachers re-
tirement system, and all forms of military retirement, including
regular armed forces, reserves and national guard, including
any survivorship annuities derived therefrom, to the extent in-
cludible in gross income for federal income tax purposes;

(6) Retirement income received in the form of pensions
and annuities after the thirty-first day of December, one
day of December, one thousand nine hundred seventy-five, by any person who has
attained the age of sixty-five or the surviving spouse of such
person regardless of age, from any source other than those
enumerated in subdivision five of this subsection to the extent
includible in gross income for federal tax purposes: Provided,
That the total modification for all retirement income received
from such sources other than those enumerated in subdivision
five of this subsection shall be limited to an amount in the ag-
gregate not to exceed eight thousand dollars per person; and

(7) Any pay or allowances received after the thirty-first
day of December, one thousand nine hundred seventy-three,
by West Virginia residents as compensation for active service
in the armed forces of the United States: Provided, That such
deduction shall be limited to an amount not to exceed four
thousand dollars.

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

(e) **Partners.**—The amounts of modifications required to be made under this section by a partner, which relate to items of income, gain, loss or deduction of a partnership, shall be determined under section seventeen.

(f) **Husband and wife.**—If husband and wife determine their federal income tax on a joint return but determine their West Virginia income taxes separately, they shall determine their West Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been determined separately.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 24th day of December, 1976.

Governor
PRESENTED TO THE GOVERNOR

Date 3/19/76

Time 4:40 p.m.