

FILED

2011 MAR 30 PM 3: 22

**WEST VIRGINIA LEGISLATURE**  
**EIGHTIETH LEGISLATURE**  
**REGULAR SESSION, 2011**

WEST VIRGINIA  
SECRETARY OF STATE

—●—  
**ENROLLED**

**Senate Bill No. 436**

(By SENATORS YOST, KLEMPA, UNGER AND PLYMALE)

[PASSED MARCH 12, 2011; IN EFFECT NINETY DAYS FROM PASSAGE.]

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SECRETARY OF STATE

## 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.**

1 In addition to amounts authorized to be subtracted from  
2 federal adjusted gross income pursuant to subsection (c),  
3 section twelve of this article, any person who retires under  
4 an employer-provided defined benefit pension plan that  
5 terminates prior to or after the retirement of that person and  
6 the pension plan is covered by a guarantor whose maximum  
7 benefit guarantee is less than the maximum benefit to which  
8 the retiree was entitled had the plan not terminated may

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Paul A. Miller*  
.....  
Chairman Senate Committee

*John A. ...*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Hobbes*  
.....  
Clerk of the Senate

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SECRETARY OF STATE  
KENTUCKY

*Bryan D. ...*  
.....  
Clerk of the House of Delegates

*Jeffrey ...*  
.....  
Acting President of the Senate

*...*  
.....  
Speaker of the House of Delegates

The within *is approved* this the *30th*  
Day of *March*, 2011.

*Earl Ray Tomblin*  
.....  
Governor

**PRESENTED TO THE GOVERNOR**

**MAR 24 2011**

**Time** 10:30 am