2	(By Senators Kessler (Mr. President) and Hall,
3	By Request of the Executive)
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5	[Introduced January 17, 2012; referred to the Committee on
6	Finance.]
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L O	A BILL to amend and reenact §11-21-9 of the Code of West Virginia,
L1	1931, as amended, relating to updating the meaning of "federal
L2	adjusted gross income" and certain other terms used in the
L3	West Virginia Personal Income Tax Act; and specifying
L 4	effective dates.
L 5	Be it enacted by the Legislature of West Virginia:
L 6	That \$11-21-9 of the Code of West Virginia, 1931, as amended,
L 7	be amended and reenacted to read as follows:
L 8	ARTICLE 21. PERSONAL INCOME TAX.
L 9	§11-21-9. Meaning of terms.
20	(a) Any term used in this article has the same meaning as when
21	used in a comparable context in the laws of the United States

Senate Bill No. 209

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22 relating to income taxes, unless a different meaning is clearly

- 1 required. Any reference in this article to the laws of the United 2 States means the provisions of the Internal Revenue Code of 1986, 3 as amended, and any other provisions of the laws of the United 4 States that relate to the determination of income for federal 5 income tax purposes. All amendments made to the laws of the United 6 States after December 31, 2009 2010, but prior to January 1, 2011 7 2012, shall be given effect in determining the taxes imposed by 8 this article to the same extent those changes are allowed for 9 federal income tax purposes, whether the changes are retroactive or 10 prospective, but no amendment to the laws of the United States made 11 on or after January 1, 2011 2012, shall be given any effect.
- (b) Medical savings accounts. -- The term "taxable trust" does not include a medical savings account established pursuant to section twenty, article fifteen, chapter thirty-three of this code or section fifteen, article sixteen of said chapter. Employer contributions to a medical savings account established pursuant to said sections are not wages for purposes of withholding under section seventy-one of this article.
- 19 (c) Surtax. -- The term "surtax" means the twenty percent 20 additional tax imposed on taxable withdrawals from a medical 21 savings account under section twenty, article fifteen, chapter 22 thirty-three of this code and the twenty percent additional tax

- 1 imposed on taxable withdrawals from a medical savings account under
- 2 section fifteen, article sixteen of said chapter which are
- 3 collected by the Tax Commissioner as tax collected under this
- 4 article.
- 5 (d) Effective date. -- The amendments to this section enacted
- 6 in the year  $\frac{2011}{2012}$  are retroactive to the extent allowable under
- 7 federal income tax law. With respect to taxable years that began
- 8 prior to January 1, <del>2012</del> 2013, the law in effect for each of those
- 9 years shall be fully preserved as to that year, except as provided
- 10 in this section.
- 11 (e) For purposes of the refundable credit allowed to a low
- 12 income senior citizen for property tax paid on his or her homestead
- 13 in this state, the term "laws of the United States" as used in
- 14 subsection (a) of this section means and includes the term "low
- 15 income" as defined in subsection (b), section twenty-one of this
- 16 article and as reflected in the poverty guidelines updated
- 17 periodically in the federal register by the U. S. Department of
- 18 Health and Human Services under the authority of 42 U. S. C.
- 19 §9902(2).

<sup>(</sup>NOTE: The purpose of this bill is to update the meaning of "federal adjusted gross income" and certain other terms used but

not defined in the West Virginia Personal Income Tax Act by bringing them into conformity with their meanings under the Internal Revenue Code for federal income tax purposes.

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