

H. B. 2288

(By Delegate Armstead)

[Introduced January 12, 2011; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-24-4 of the Code of West Virginia, 1931, as amended, relating to decreasing the corporate income tax rate beginning in the year 2012 by eliminating the higher tax rate should the combined balance in the Revenue Fund Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve Fund - Part B not equal or exceed ten percent of the General Revenue Fund.

Be it enacted by the Legislature of West Virginia:

That §11-24-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-4. Imposition of primary tax and rate thereof; effective and termination dates.

Primary tax. --

1 (1) In the case of taxable periods beginning after June 30,
2 1967, and ending prior to January 1, 1983, a tax is hereby imposed
3 for each taxable year at the rate of six percent per annum on the
4 West Virginia taxable income of every domestic or foreign
5 corporation engaging in business in this state or deriving income
6 from property, activity or other sources in this state, except
7 corporations exempt under section five.

8 (2) In the case of taxable periods beginning on or after
9 January 1, 1983, and ending prior to July 1, 1987, a tax is hereby
10 imposed for each taxable year on the West Virginia taxable income
11 of every domestic or foreign corporation engaging in business in
12 this state or deriving income from property, activity or other
13 sources in this state, except corporations exempt under section
14 five of this article, and any banks, banking associations or
15 corporations, trust companies, building and loan associations and
16 savings and loan associations, at the rates which follow:

17 (A) On taxable income not in excess of \$50,000, the rate of
18 six percent; and

19 (B) On taxable income in excess of \$50,000, the rate of seven
20 percent.

21 (3) In the case of taxable periods beginning on or after July
22 1, 1987, a tax is hereby imposed for each taxable year on the West
23 Virginia taxable income of every domestic or foreign corporation
24 engaging in business in this state or deriving income from
25 property, activity or other sources in this state, except

1 corporations exempt under section five of this article, at the rate
2 of nine and three-quarters percent. Beginning July 1, 1988, and on
3 each July 1 thereafter for four successive calendar years, the rate
4 shall be reduced by fifteen one hundredths of one percent per year,
5 with such rate to be nine percent on and after July 1, 1992.

6 (4) In the case of taxable periods beginning on or after
7 January 1, 2007, a tax is hereby imposed for each taxable year on
8 the West Virginia taxable income of every domestic or foreign
9 corporation engaging in business in this state or deriving income
10 from property, activity or other sources in this state, except
11 corporations exempt under section five of this article, at the rate
12 of eight and three-quarters percent.

13 (5) In the case of taxable periods beginning on or after
14 January 1, 2009, a tax is hereby imposed for each taxable year on
15 the West Virginia taxable income of every domestic or foreign
16 corporation engaging in business in this state or deriving income
17 from property, activity or other sources in this state, except
18 corporations exempt under section five of this article, at the rate
19 of eight and one-half percent.

20 (6) In the case of taxable periods beginning on or after
21 January 1, 2012, a tax is hereby imposed for each taxable year on
22 the West Virginia taxable income of every domestic or foreign
23 corporation engaging in business in this state or deriving income
24 from property, activity or other sources in this state, except
25 corporations exempt under section five of this article, at the rate

1 of seven and three-quarters percent. ~~Provided, That the reduction~~
2 ~~in tax authorized by this subsection shall be suspended if the~~
3 ~~combined balance of funds as of June 30, two thousand eleven, in~~
4 ~~the Revenue Fund Shortfall Reserve Fund and the Revenue Fund~~
5 ~~Shortfall Reserve Fund - Part B established in section twenty,~~
6 ~~article two, chapter eleven b of this code does not equal or exceed~~
7 ~~ten percent of the General Revenue Fund budgeted for the fiscal~~
8 ~~year commencing July 1, two thousand eleven: Provided, however,~~
9 ~~That the rate reduction schedule will resume in the calendar year~~
10 ~~immediately following any subsequent fiscal year when the combined~~
11 ~~balance of funds as of June 30 of that fiscal year in the Revenue~~
12 ~~Fund Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve~~
13 ~~Fund - Part B next equals or exceeds ten percent of the General~~
14 ~~Revenue Fund budgeted for the immediately succeeding fiscal year~~

15 (7) In the case of taxable periods beginning on or after
16 January 1, 2013, a tax is hereby imposed for each taxable year on
17 the West Virginia taxable income of every domestic or foreign
18 corporation engaging in business in this state or deriving income
19 from property, activity or other sources in this state, except
20 corporations exempt under section five of this article, at the rate
21 of seven percent. ~~Provided, That the reduction in tax authorized~~
22 ~~by this subsection shall be suspended for one calendar year~~
23 ~~subsequent to the occurrence of the suspension of the reduction in~~
24 ~~tax authorized by subdivision (6) of this section: Provided,~~
25 ~~however, That the reduction in tax on the first day of any calendar~~

~~1 year authorized by this subsection shall be suspended if the
2 combined balance of funds as of June 30 of the preceding year in
3 the Revenue Fund Shortfall Reserve Fund and the Revenue Fund
4 Shortfall Reserve Fund - Part B established in section twenty,
5 article two, chapter eleven-b of this code does not equal or exceed
6 ten percent of the General Revenue Fund budgeted for the fiscal
7 year commencing July 1, of the preceding year~~

8 (8) In the case of taxable periods beginning on or after
9 January 1, 2014, a tax is hereby imposed for each taxable year on
10 the West Virginia taxable income of every domestic or foreign
11 corporation engaging in business in this state or deriving income
12 from property, activity or other sources in this state, except
13 corporations exempt under section five of this article, at the rate
14 of six and one-half percent. ~~Provided, That the reduction in tax
15 authorized by this subsection shall be suspended for one calendar
16 year subsequent to the occurrence of the suspension of the
17 reduction in tax authorized by subdivision (7) of this section:-
18 Provided, however, That the reduction in tax on the first day of
19 any calendar year authorized by this subsection shall be suspended
20 if the combined balance of funds as of June 30 of the preceding
21 year in the Revenue Fund Shortfall Reserve Fund and the Revenue
22 Fund Shortfall Reserve Fund - Part B established in section twenty,
23 article two, chapter eleven-b of this code does not equal or exceed
24 ten percent of the General Revenue Fund budgeted for the fiscal
25 year commencing July 1, of the preceding year~~

NOTE: The purpose of this bill is to decrease the corporate income tax rate beginning in the year 2012 by eliminating the higher tax rate should the combined balance in the Revenue Fund Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve Fund - Part B not equal or exceed ten percent of the General Revenue Fund.

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