

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

Introduced

### House Bill 4709

FISCAL  
NOTE

BY DELEGATE BATES

[Introduced February 15, 2022; Referred to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §11-21-4g; to amend and reenact §11B-2-20 of said code; and to amend said  
 3 code by adding thereto a new section, designated §11B-2-33, all relating to reducing  
 4 personal income tax rates generally; reducing rates by certain amounts after December  
 5 31, 2022; creating stabilization and future economic reform fund from which expenditures  
 6 may be made only upon appropriation of the Legislature and solely for the purpose of  
 7 reducing the rates of personal income tax in accordance with this and future Acts of the  
 8 Legislature; and directing the secretary of revenue to annually cause to be deposited into  
 9 the stabilization and future economic reform fund the first 50 percent of all surplus  
 10 revenues, if any, determined to have accrued during the fiscal year just ended instead of  
 11 directing the secretary of revenue to annually of causing those surplus revenues to be  
 12 deposited into the revenue shortfall reserve fund..

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

**CHAPTER 11. TAXATION.**

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-4g. Rate of tax — Taxable years beginning after December 31, 2022.**

1 (a) Rate of tax on individuals (except married individuals filing separate returns),  
 2 individuals filing joint returns, heads of households, estates and trusts. — The tax imposed by  
 3 §11-21-3 of this code on the West Virginia taxable income of every individual (except married  
 4 individuals filing separate returns); every individual who is a head of a household in the  
 5 determination of his or her federal income tax for the taxable year; every husband and wife who  
 6 file a joint return under this article; every individual who is entitled to file his or her federal income  
 7 tax return for the taxable year as a surviving spouse; and every estate and trust shall be  
 8 determined in accordance with the following table:

9 <u>If the West Virginia</u>	
10 <u>taxable income is:</u>	<u>The tax is:</u>

11		
12	<u>Not over \$20,000</u>	<u>2.7% of the taxable income</u>
13		
14	<u>Over \$20,000 but not</u>	<u>\$270.00 plus 3.6% of excess</u>
15	<u>over \$35,000</u>	<u>over \$20,000</u>
16		
17	<u>Over \$35,000 but not</u>	<u>\$810.00 plus 4.05% of excess</u>
18	<u>over \$50,000</u>	<u>over \$35,000</u>
19		
20	<u>Over \$50,000 but not</u>	<u>\$1,417.50 plus 5.4% of excess</u>
21	<u>over \$70,000</u>	<u>over \$50,000</u>
22		
23	<u>Over \$70,000</u>	<u>\$2,497.50 plus 5.85% of excess</u>
24		<u>over \$70,000</u>

25  
 26 (b) Rate of tax on married individuals filing separate returns. — In the case of husband  
 27 and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-  
 28 3 of this code on the West Virginia taxable income of each spouse shall be determined in  
 29 accordance with the following table:

30	<u>If the West Virginia</u>	
31	<u>taxable income is:</u>	<u>The tax is:</u>
32		
33	<u>Not over \$10,000</u>	<u>2.7% of the taxable income</u>
34		
35	<u>Over \$10,000 but not</u>	<u>\$135.00 plus 3.6% of excess</u>
36	<u>over \$17,500</u>	<u>over \$10,000</u>
37		
38	<u>Over \$17,500 but not</u>	<u>\$405 plus 4.05% of</u>
39	<u>over \$25,000</u>	<u>excess over \$17,500</u>
40		
41	<u>Over \$25,000 but not</u>	<u>\$708.75 plus 5.4% of excess</u>
42	<u>over \$35,000</u>	<u>over \$25,000</u>
43		
44	<u>Over \$35,000</u>	<u>\$1,248.75 plus 5.85% of</u>
45		<u>excess over \$35,000</u>

46  
 47 (c) Applicability of this section. — The provisions of this subsection shall be applicable in  
 48 determining the rates of tax imposed by this article for all taxable years beginning after December  
 49 31, 2022, and shall be in lieu of the rates of tax specified in §11-21-4e of this code.

**CHAPTER 11B. DEPARTMENT OF REVENUE.**

**ARTICLE 2. STATE BUDGET OFFICE.**

**§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.**

1 (a) Notwithstanding any provision of this section, the Governor may reduce appropriations  
2 according to any of the methods set forth in §11B-2-21 and §11B-2-22 of this code. The Governor  
3 may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature  
4 from the Revenue Shortfall Reserve Fund established in this section.

5 (b) The Revenue Shortfall Reserve Fund is continued within the State Treasury and shall  
6 be funded as may be required by other provisions of this code and by any appropriation made to  
7 the fund by the Legislature. Moneys in the fund may be expended solely for the purposes set forth  
8 in this section. ~~The Revenue Shortfall Reserve Fund shall be funded continuously and on a~~  
9 ~~revolving basis in accordance with this subsection up to an aggregate amount not to exceed~~  
10 ~~thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal~~  
11 ~~year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this~~  
12 ~~subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus~~  
13 ~~revenues may accrue from time to time.~~

14 ~~Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited~~  
15 ~~into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus~~  
16 ~~revenues, if any, determined to have accrued during the fiscal year just ended, as may be~~  
17 ~~necessary to bring the balance of the Revenue Shortfall Reserve Fund to thirteen percent of the~~  
18 ~~total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the~~  
19 ~~end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or~~  
20 ~~exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year just~~  
21 ~~ended, then there shall be no further deposit by the secretary under the provisions of this section~~  
22 ~~of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall~~  
23 ~~Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund,~~  
24 ~~General Revenue~~

25           (c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances  
26 are such as to otherwise trigger the authority of the Governor to reduce appropriations under this  
27 section or section twenty-one or twenty-two of this article, then in that event the Governor may  
28 notify the presiding officers of both houses of the Legislature in writing of his or her intention to  
29 convene the Legislature pursuant to section nineteen, article VI of the Constitution of West  
30 Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to  
31 request a supplementary appropriation bill at the next preceding regular session of the Legislature  
32 to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue  
33 shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall  
34 Reserve Fund during any special legislative session called for the purposes set forth in this section  
35 or during the next preceding regular session of the Legislature, then the Governor may proceed  
36 with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code. Should any  
37 amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by  
38 the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also  
39 proceed with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code.

40           (d) Upon the creation of the fund, the Legislature is authorized and may make an  
41 appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency  
42 revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined  
43 solely by the Legislature.

44           (e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely  
45 payments of the state's obligations, the Governor may, by executive order, after first notifying the  
46 presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue  
47 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and  
48 subject to all other conditions, requirements and limitations set forth in this section, the Governor  
49 may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The  
50 amount of funds borrowed under this subsection shall not exceed one and one-half percent of the

51 general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount  
52 the Governor determines is necessary to make timely payment of the state's obligations,  
53 whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without  
54 interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days  
55 of their withdrawal.

56 (f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury.  
57 The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West  
58 Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of §4-11A-2 of this  
59 code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust  
60 Fund to the Physician's Mutual Insurance Company pursuant to the provisions of §33-20F-1 *et*  
61 *seq.* of this code and all interest and other return earned on the moneys in the Revenue Shortfall  
62 Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be  
63 expended solely for the purposes set forth in subsection (d) of this section, subject to the following  
64 conditions:

65 (1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other  
66 return earned thereon may be expended for any purpose unless all moneys in the Revenue  
67 Shortfall Reserve Fund described in subsection (b) of this section have first been expended,  
68 except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund  
69 – Part B may be expended as provided in subdivision (2) of this subsection;

70 (2) Notwithstanding any other provision of this section to the contrary, the Legislature may  
71 appropriate any interest and other return earned thereon that may accrue on the moneys in the  
72 Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes  
73 set forth in §4-11A-3 of this code; and

74 (3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made  
75 only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

76 (g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund  
77 – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the  
78 provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue  
79 Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to,  
80 but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue,  
81 for the fiscal year just ended.

82 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
83 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
84 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
85 Investments for management and investment of the moneys in accordance with the provisions of  
86 §12-6C-1 *et seq.* of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be  
87 made available to the West Virginia Investment Management Board for management and  
88 investment of the moneys in accordance with the provisions of §12-6-1 *et seq.* of this code. Any  
89 balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return  
90 earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain  
91 in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

92 (2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made  
93 available to the West Virginia Investment Management Board for management and investment of  
94 the moneys in accordance with the provisions of §12-6-1 *et seq.* of this code. Any balance of the  
95 Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned  
96 thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the  
97 Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.

**§11B-2-33. Stabilization and future economic reform fund; use of general revenue  
surpluses.**

1 (a) The “Stabilization and Future Economic Reform Fund” is hereby established within the  
2 State Treasury. The fund shall be funded continuously in accordance with this section, with all

3 interest or other earnings on the moneys therein credited to the fund. The fund shall be funded in  
4 accordance with the provisions of this section, as may be required by other provisions of this  
5 code, and by any appropriation made to the fund by the Legislature. Moneys in the fund may be  
6 expended solely for the purposes set forth in this section.

7 (b) Notwithstanding any other provision of this code to the contrary, within 60 days of the  
8 end of each fiscal year, the secretary shall cause to be deposited into the Stabilization and Future  
9 Economic Reform Fund the first 50 percent of all surplus revenues, if any, determined to have  
10 accrued during the fiscal year just ended.

11 (c) The moneys in the Stabilization and Future Economic Reform Fund shall be made  
12 available to the West Virginia Board of Treasury Investments and to the West Virginia Investment  
13 Management Board for management and investment of the moneys in accordance with the  
14 provisions of §12-6C-1 et seq. of this code in such amounts as may be directed in the discretion  
15 of the Secretary of Revenue. Any balance of the fund, including accrued interest and other return  
16 earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain  
17 in fund for the purposes set forth in this section.

18 (d) The moneys in the Stabilization and Future Economic Reform Fund may be expended  
19 only upon appropriation of the Legislature and solely for the purpose of reducing the rates of  
20 personal income tax imposed under §11-21-1 et seq. of this code in accordance with this and  
21 future Acts of the Legislature: *Provided*, That upon elimination of all rates of personal income tax  
22 imposed under §11-21-1 et seq. of this code, the fund shall be closed and balance of the fund  
23 shall be expended pursuant to appropriation of the Legislature.

NOTE: The purpose of this bill is to reduce personal income tax rates and to create a fund into which one half of each fiscal year's general revenue surplus will be deposited to offset any loss of revenues determined by the Legislature to have resulted from this and any future reductions of those rates instead of using that portion of the surplus to fund the state's Rainy Day Fund.

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