

WEST VIRGINIA LEISLATURE

2021 REGULAR SESSION

ENGROSSED

House Bill 3300

BY DELEGATES HOUSEHOLDER, CRISS, BARRETT,
ESPINOSA, GEARHEART, LINVILLE, MAYNARD, HOTT,
HARDY, ELLINGTON AND J. PACK

[Originating in the Committee on Finance; reported on
March 22, 2021]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto
2 a new section, designated §11-21-4g; and to amend said code by adding thereto a new
3 section, designated §11B-2-33, all relating to reducing personal income tax rates
4 generally; reducing rates by certain amounts after December 31, 2021; incrementally
5 reducing rates thereafter to zero based upon annual calculations and actions by the Tax
6 Commissioner; creating, and providing funding for, personal income tax reduction fund;
7 providing for deposits by Secretary of Revenue from income tax reduction fund into
8 general revenue fund; and providing for investment and disposition of 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, 2021 and thereafter.

1 (a)(1) 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:

<u>If the West Virginia</u> <u>taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$10,000</u>	<u>2.8% of the taxable income</u>
<u>Over \$10,000 but not</u> <u>over \$25,000</u>	<u>\$280.00 plus 3.7% of excess</u> <u>over \$10,000</u>
<u>Over \$25,000 but not</u> <u>over \$40,000</u>	<u>\$835.00 plus 4.2% of excess</u> <u>over \$25,000</u>

19		
20	<u>Over \$40,000 but not</u>	<u>\$1,465.00 plus 5.6% of excess</u>
21	<u>over \$60,000</u>	<u>over \$40,000</u>
22		
23	<u>Over \$60,000</u>	<u>\$2,585.00 plus 6% of excess</u>
24		<u>over \$60,000</u>

25
 26 (2) 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 \$5,000</u>	<u>2.8% of the taxable income</u>
34		
35	<u>Over \$5,000 but not</u>	<u>\$140.00 plus 3.7% of excess</u>
36	<u>over \$12,500</u>	<u>over \$5,000</u>
37		
38	<u>Over \$12,500 but not</u>	<u>\$417.50 plus 4.2% of</u>
39	<u>over \$20,000</u>	<u>excess over \$12,500</u>
40		
41	<u>Over \$20,000 but not</u>	<u>\$732.50 plus 5.6% of excess</u>
42	<u>over \$30,000</u>	<u>over \$20,000</u>
43		
44	<u>Over \$30,000</u>	<u>\$1,292.50 plus 6% of</u>
45		<u>excess over \$30,000</u>

46
 47 (3) 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, 2021, and shall be in lieu of the rates of tax specified in §11-21-4e of this code.

50 (b) Rate of tax — Taxable years beginning after December 31, 2022 – (1) The provisions
 51 of this subsection shall be applicable in determining the rates of tax imposed by this article for all
 52 taxable years beginning after December 31, 2022, and shall be in lieu of the rates of tax specified
 53 in subsection (a) of this section.

54 (2) After December 31, 2021, the Tax Commissioner shall determine the general revenue
 55 collections received by the state during calendar year 2021, and calculate the reduction in the
 56 rates imposed by this article during calendar year 2021 that would have reduced those calendar

57 year collections by \$150 million. In calculating the reduction of rates, the Tax Commissioner shall
58 provide for a reduction of each percentage in each marginal rate of tax for calendar year 2021.
59 The calculation of the reduction of percentages shall be as uniformly as possible, but where
60 uniformity cannot be achieved, the reductions shall be scaled to reduce the rates of lower income
61 taxpayers at a more accelerated rate of reduction.

62 (3) After calculating the reduction of rates as provided in subdivision (2) of this subsection,
63 the Tax Commissioner, no later than March 1, 2022, shall by administrative order publish the new
64 rates as calculated pursuant subdivision (2) of this subsection, which rates shall be imposed in
65 lieu of the rates of tax imposed by this article under subsection (a) of this section for taxable years
66 beginning after December 31, 2022.

67 (4) After December 31, 2022, and after each December 31 thereafter until all the rates of
68 tax imposed by this article are eliminated, the Tax Commissioner shall perform in like fashion
69 the duties required in subdivisions (2) and (3) of this subsection.

70 (5) Notwithstanding any provision of this subsection to the contrary, in any calendar year
71 in which the Secretary of Revenue deposits funds into the General Revenue Fund of the state
72 from the income tax reduction fund as required by §11B-2-33 of this code, the Tax Commissioner
73 shall calculate the reduction in the rates imposed by this article during that calendar year that
74 would have reduced those calendar year collections by \$300 million and impose those reduced
75 rates instead of rates based upon the \$150 million reduction otherwise required by this
76 subsection.

77 (6) For tax years beginning January 1, 2022, and each year thereafter, the marriage
78 penalty is abolished. The Tax Commissioner shall by emergency rule and proposed legislative
79 rule provide for the elimination of the marriage penalty under this article effective January 1, 2022,
80 to the end that persons married to each other shall pay no more taxes each year under this article
81 than the least amount of taxes that may be imposed upon their incomes regardless of whether
82 they file jointly or separately.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-33. Income tax reduction fund.

1 (a) The income tax reduction fund is hereby established. The income tax reduction fund
2 shall be funded continuously and on a revolving basis in accordance with this section, with all
3 interest or other earnings on the moneys therein credited to the fund. The income tax reduction
4 fund shall be funded as provided by this section, by other provisions of this code, and by any
5 appropriation made to the fund by the Legislature. Moneys in the income tax reduction fund may
6 be expended solely for the purposes set forth in this section.

7 (b) Notwithstanding any other provision of this code to the contrary, moneys to be
8 deposited in the income tax reduction fund include:

9 (1) Not more than \$25 million annually of the net amount of all West Virginia state sales
10 and use tax collections on all sales made on and after July 1, 2022, in which the internet was
11 used to order, ship, or buy a product, on-line, but only where the sale was made by an out of state
12 vendor that registered with the State Tax Division for the first time on or after January 1, 2021, to
13 collect and remit state sales and use taxes to the state. The State Tax Commissioner shall deposit
14 the amounts as required by this section into the fund;

15 (2) The net amount of the state's share of the gross sales received by the State Lottery
16 Commission that are derived from lottery games authorized under §29-22-1 *et seq.* of this code
17 on and after July 1, 2022, that utilize an electronic computer and a video screen to operate a
18 lottery game and communicate the results thereof, such as the games of "Travel" or "Keno", and
19 which do not utilize an interactive electronic terminal device allowing input by an individual player,
20 that are made available by the State Lottery Commission in locations other than: (A) Private clubs
21 licensed in accordance with the provisions of §60-7-1 *et seq.* of this code; (B) retail licensees
22 licensed in accordance with the provisions of §60-3A-1 *et seq.* of this code; or (C) in the facilities

23 of class A licensees which are licensed in accordance with the provisions of §11-16-9 of this code,
24 in which facility at least 75 percent of the nonintoxicating beer sold by the class A licensee in the
25 preceding year was sold for consumption on the premises. The State Lottery Commission shall
26 deposit the amounts as required by this section into the fund;

27 (3) The net amount of the state's share of gross terminal income received by the State
28 Lottery Commission that are derived from lottery games that are derived from limited video lottery
29 operations authorized under §29-22B-1 et seq. of this code on and after July 1, 2022, that are
30 operated at a retail location by a licensed operator authorized by the State Lottery Commission
31 to operate limited video lottery terminals as a limited video lottery retailer. The State Lottery
32 Commission shall deposit the amounts as required by this section into the fund; and

33 (4) The net amount of the state's share of gross terminal income received by the State
34 Lottery Commission that are derived from limited video lottery operations under §29-22B-1 et seq.
35 of this code from any additional limited video lottery terminals used at an existing location as
36 authorized by the State Lottery Commission under §29-22B-1101 of this code on and after July
37 1, 2022. The State Lottery Commission shall deposit the amounts as required by this section into
38 the fund;

39 (5) The net amount of the state's share of gross revenues received by the State Lottery
40 Commission that are derived from sports wagering at a licensed racetrack authorized under §29-
41 22D-1 et seq. of this code on and after July 1, 2022. The State Lottery Commission shall deposit
42 the amounts as required by this section into the fund;

43 (6) The net amount of the state's share of gross revenues received by the State Lottery
44 Commission that are derived from interactive gaming at a licensed racetrack authorized under
45 §29-22E-1 et seq. of this code on and after July 1, 2022. The State Lottery Commission shall
46 deposit the amounts as required by this section into the fund;

47 (7) Notwithstanding any provision of §11B-2-20 of this code to the contrary and in lieu
48 thereof, on and after July 1, 2022, within sixty days of the end of each fiscal year, the Secretary

49 of Revenue shall cause to be deposited into the Revenue Shortfall Reserve Fund the first twenty-
50 five percent of all surplus revenues, if any, determined to have accrued during the fiscal year just
51 ended. After depositing the amounts into the Revenue Shortfall Reserve Fund as required under
52 this subdivision, the Secretary of Revenue shall deposit fifty percent of all remaining surplus
53 revenues described in that section into the income tax reduction fund; and

54 (8) All other amounts directed to be deposited into the fund by any provision of this code
55 or appropriation.

56 (c) Notwithstanding any other provision of this code to the contrary, there is hereby
57 dedicated for the purposes of this section the moneys to be deposited in the income tax reduction
58 fund as follows:

59 (1) Notwithstanding any other provision of this code to the contrary, in the fiscal year
60 beginning July 1, 2022, and each fiscal year thereafter, \$18 million from gross collections of the
61 tax imposed by §11-21-1, et seq. of this code shall be deposited each calendar year to the credit
62 of the income tax reduction fund in accordance with the following schedule. Each calendar month,
63 except for July, August and September each year, \$2 million shall be transferred, on or before
64 the twenty-eighth day of the month, to the income tax reduction fund. In any month in which
65 collections are insufficient to meet the requirements of this section, the whole of the collections
66 shall be transferred to the fund and the balance shall be transferred to the credit of the fund from
67 ensuing monthly collections until the full deficit amount is deposited.

68 (2) Notwithstanding any other provision of this code to the contrary, in the fiscal year
69 beginning July 1, 2022, and each fiscal year thereafter, \$9 million from gross collections of the
70 tax imposed by §11-15-1, et seq. and §11-15A-1, et seq. of this code shall be deposited each
71 calendar year to the credit of the income tax reduction fund in accordance with the following
72 schedule. Each calendar month, except for July, August and September each year, \$1 million
73 shall be transferred, on or before the twenty-eighth day of the month, to the income tax reduction
74 fund. In any month in which collections are insufficient to meet the requirements of this section,

75 the whole of the collections shall be transferred to the fund and the balance shall be transferred
76 to the credit of the fund from ensuing monthly collections until the full deficit amount is deposited.

77 (3) Notwithstanding any other provision of this code to the contrary, in the fiscal year
78 beginning July 1, 2022, and each fiscal year thereafter, \$2,700,000 from gross collections of the
79 taxes imposed by §11-13A-1, et seq. of this code shall be deposited each calendar year to the
80 credit of the income tax reduction fund in accordance with the following schedule. Each calendar
81 month, except for July, August and September each year, \$300,000 shall be transferred, on or
82 before the twenty-eighth day of the month, to the income tax reduction fund. In any month in which
83 collections are insufficient to meet the requirements of this section, the whole of the collections
84 shall be transferred to credit of the fund and the balance shall be transferred to the credit of the
85 fund from ensuing monthly collections until the full deficit amount is deposited.

86 (4) Notwithstanding any other provision of this code to the contrary, in the fiscal year
87 beginning July 1, 2022, and each fiscal year thereafter, \$1,800,000 from gross collections of the
88 taxes imposed by §11-17-1, et seq. of this code shall be deposited each calendar year to the
89 credit of the income tax reduction fund in accordance with the following schedule. Each calendar
90 month, except for July, August and September each year, \$200,000 shall be transferred, on or
91 before the twenty-eighth day of the month, to the income tax reduction fund. In any month in which
92 collections are insufficient to meet the requirements of this section, the whole of the collections
93 shall be transferred to the fund and the balance shall be transferred to the credit of the fund from
94 ensuing monthly collections until the full deficit amount is deposited.

95 (5) Notwithstanding any other provision of this code to the contrary, in the fiscal year
96 beginning July 1, 2022, and each fiscal year thereafter, \$1,800,000 from gross collections of the
97 tax imposed by §11-24-1, et seq. of this code shall be deposited each calendar year to the credit
98 of the income tax reduction fund in accordance with the following schedule. Each calendar month,
99 except for July, August and September each year, \$200,000 shall be transferred, on or before the
100 twenty-eighth day of the month, to the income tax reduction fund. In any month in which collections

101 are insufficient to meet the requirements of this section, the whole of the collections shall be
102 transferred to the fund and the balance shall be transferred to the credit of the fund from ensuing
103 monthly collections until the full deficit amount is deposited.

104 (6) Notwithstanding any other provision of this code to the contrary, in the fiscal year
105 beginning July 1, 2022, and each fiscal year thereafter, \$1,800,000 from gross collections of the
106 taxes imposed by Chapter 33 of this code shall be deposited each calendar year to the credit of
107 the income tax reduction fund in accordance with the following schedule. Each calendar month,
108 except for July, August and September each year, \$200,000 shall be transferred, on or before the
109 twenty-eighth day of the month, to the income tax reduction fund. In any month in which collections
110 are insufficient to meet the requirements of this section, the whole of the collections shall be
111 transferred to the fund and the balance shall be transferred to the credit of the fund from ensuing
112 monthly collections until the full deficit amount is deposited.

113 (7) Notwithstanding any other provision of this code to the contrary, in the fiscal year
114 beginning July 1, 2022, and each fiscal year thereafter, \$1,800,000 from gross collections of the
115 taxes imposed by §11-13-1, et seq. of this code shall be deposited each calendar year to the
116 credit of the income tax reduction fund in accordance with the following schedule. Each calendar
117 month, except for July, August and September each year, \$200,000 million shall be transferred,
118 on or before the twenty-eighth day of the month, to the income tax reduction fund. In any month
119 in which collections are insufficient to meet the requirements of this section, the whole of the
120 collections shall be transferred to the fund and the balance shall be transferred to the credit of the
121 fund from ensuing monthly collections until the full deficit amount is deposited.

122 (d) In addition to the amounts to be deposited in the income tax reduction fund under
123 subsections (b) and (c) of this section, there is hereby dedicated for the purposes of this section
124 the moneys to be deposited in the income tax reduction fund as follows:

125 (1) Notwithstanding any other provision of this code to the contrary, in the fiscal year
126 beginning July 1, 2022, and each fiscal year thereafter, one-half of one percent of gross

127 collections of any amounts collected and received each month under any act of the Legislature
128 providing that funds collected or received under the act shall be used for specific purposes shall
129 be deposited each calendar month to the credit of the income tax reduction fund.

130 (2) Excluded from the requirements of subdivision (1) of this subsection are the following:

131 (A) Federal funds received by the state;

132 (B) All funds derived from the sale of farm and dairy products from farms operated by any
133 spending unit of the state;

134 (C) All endowment funds, bequests, donations, executive emergency funds and death and
135 disability funds;

136 (D) All fees and funds collected at state educational institutions for student activities;

137 (E) All funds derived from collections from dormitories, boardinghouses, cafeterias and
138 road camps;

139 (F) All moneys received from counties by institutions for the deaf and blind on account of
140 clothing for indigent pupils;

141 (G) All insurance collected on account of losses by fire and refunds;

142 (H) All funds derived from bookstores and sales of blank paper and stationery, and
143 collections by the chief inspector of public offices; and

144 (I) All moneys collected and belonging to the capitol building fund, state road fund, state
145 road sinking fund, general school fund, school fund, state fund (moneys belonging to counties,
146 districts and municipalities), state interest and sinking funds, state compensation funds, the fund
147 maintained by the Public Service Commission for the investigation and supervision of applications
148 and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt,
149 trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and
150 granted by the federal government for fish and wildlife conservation.

151 (e)(1) If at the end of any fiscal year the income tax reduction fund is funded at an amount
152 equal to or exceeding \$400 million, the Secretary of Revenue shall certify the same to the State
153 Tax Commissioner on or before the next ensuing July 31.

154 (2) Not later than 60 days following the certification, the Secretary of Revenue shall
155 transfer the sum of \$100 million from the income tax reduction fund to the General Revenue Fund
156 of the state.

157 (f) The moneys in the income tax reduction fund shall be made available to the West
158 Virginia Board of Treasury Investments and to the West Virginia Investment Management Board
159 for management and investment of the moneys in accordance with the provisions of §12-6C-1 et
160 seq. of this code in such amounts as may be directed in the discretion of the Secretary of
161 Revenue. Any balance of the income tax reduction fund, including accrued interest and other
162 return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall
163 remain in the income tax reduction fund for the purposes set forth in this section.

NOTE: The purpose of this bill is to incrementally reduce and eliminate personal income taxes.