

H. B. 2661

(By Delegates C. Miller, Ashley, Sumner,
Carmichael and Sobonya)

[Introduced January 20, 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 reducing the corporate net
income tax rate to five point nine percent effective July 1,
2011.

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) In the case of taxable periods beginning
June 30, 1967, and ending prior to January 1, 1983, a tax is hereby
imposed for each taxable year at the rate of six percent per annum
on the West Virginia taxable income of every domestic or foreign
corporation engaging in business in this state or deriving income
from property, activity or other sources in this state, except

1 corporations exempt under section five.

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

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

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

15 (3) In the case of taxable periods beginning on or after July
16 1, 1987, a tax is hereby imposed for each taxable year on the West
17 Virginia taxable income of every domestic or foreign corporation
18 engaging in business in this state or deriving income from
19 property, activity or other sources in this state, except
20 corporations exempt under section five of this article, at the rate
21 of nine and three-quarters percent. Beginning July 1, 1988, and on
22 each July 1 thereafter for four successive calendar years, the rate
23 shall be reduced by fifteen one hundredth of one percent per year,
24 with ~~such~~ the rate to be nine percent on and after July 1, 1992.

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

8 (5) In the case of taxable periods beginning on or after
9 January 1, 2009, 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 eight and one-half percent.

15 (6) In the case of taxable periods beginning on or after
16 January 1, 2012, 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 and three-quarters percent: *Provided*, That the reduction
22 in tax authorized by this subsection shall be suspended if the
23 combined balance of funds as of June 30, 2011, in the Revenue Fund
24 Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve Fund

1 - Part B established in section twenty, article two, chapter
2 eleven-b of this code does not equal or exceed ten percent of the
3 General Revenue Fund budgeted for the fiscal year commencing July
4 1, 2011: *Provided, however,* That the rate reduction schedule will
5 resume in the calendar year immediately following any subsequent
6 fiscal year when the combined balance of funds as of June 30 of
7 that fiscal year in the Revenue Fund Shortfall Reserve Fund and the
8 Revenue Fund Shortfall Reserve Fund - Part B next equals or exceeds
9 ten percent of the General Revenue Fund budgeted for the
10 immediately succeeding fiscal year.

11 (7) In the case of taxable periods beginning on or after
12 January 1, 2013, a tax is hereby imposed for each taxable year on
13 the West Virginia taxable income of every domestic or foreign
14 corporation engaging in business in this state or deriving income
15 from property, activity or other sources in this state, except
16 corporations exempt under section five of this article, at the rate
17 of seven percent: *Provided,* That the reduction in tax authorized
18 by this subsection shall be suspended for one calendar year
19 subsequent to the occurrence of the suspension of the reduction in
20 tax authorized by subdivision (6) of this section: *Provided,*
21 *however,* That the reduction in tax on the first day of any calendar
22 year authorized by this subsection shall be suspended if the
23 combined balance of funds as of June 30 of the preceding year in
24 the Revenue Fund Shortfall Reserve Fund and the Revenue Fund

1 Shortfall Reserve Fund - Part B established in section twenty,
2 article two, chapter eleven-b of this code does not equal or exceed
3 ten percent of the General Revenue Fund budgeted for the fiscal
4 year commencing July 1 of the preceding year.

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

23 (9) For taxable periods beginning on or after July 1, 2011, a
24 tax is hereby imposed for each taxable year on the West Virginia

1 taxable income of every domestic or foreign corporation engaging in
2 business in this state or deriving income from property, activity
3 or other sources in this state, except corporations exempt under
4 section five of this article, at the rate of five point nine
5 percent. The provisions of this subsection supercedes and replaces
6 the provisions of subsection (4) of this section for the taxable
7 year 2011 and thereafter.

NOTE: The purpose of this bill is to reduce the rate of tax on corporate net income to five point nine percent, effective the tax year beginning July 1, 2011.

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