SB392

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 392

BY SENATORS SMITH (MR. PRESIDENT) AND WOELFEL

(BY REQUEST OF THE EXECUTIVE)

[Passed March 14, 2026; in effect 90 days from passage (June 12, 2026)]

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AN ACT to amend and reenact §11-21-4h of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new section, designated §11-21-4j, relating to providing a reduction in personal income tax; modifying the effective date of future personal income tax reductions; providing for reduced graduated income tax rates; reducing the rate of tax on certain composite returns; reducing the rate of withholding tax on nonresident income; reducing the rate of withholding tax on the nonresident sale of real estate; reducing the rate of withholding on lottery winnings; applying reduced rates beginning on and after January 1, 2026; providing for contingent additional future reductions in the personal income tax rates when certain criteria have been met; and providing effective dates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-4h. Future personal income tax reductions.

(a) For the purposes of this section, the terms defined in this section have the meanings ascribed to them unless a different meaning is clearly required by the context in which the term is used:

(1) "Adjusted consumer price ratio" means the fiscal year consumer price index divided by the base year consumer price index.

(2) "Adjusted general revenue fund collections" means all net general revenue fund collections minus the net general revenue fund collections related to the imposition of the taxes imposed under the provisions of §11-13A-1 *et seq.* of this code.

(3) "Base year revenues" means actual general revenue fund collections for 2019 fiscal year, which is $4,293,884,754.

(4) "Base year consumer price index" means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July 2018 and June 2019.

(5) "Excess fiscal year general revenue fund collections" means the positive difference from subtracting the inflation adjusted base year revenues from the adjusted general revenue fund collections from the immediately preceding fiscal year.

(6) "Fiscal year consumer price index" means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July and June of the immediately preceding fiscal year.

(7) "Inflation adjusted base year revenues" means the base year general revenue fund collections multiplied by the adjusted consumer price ratio.

(b) *Future personal income tax rate reductions.* — Beginning on August 15, 2026, and every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues. If the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues, then there will be a reduction in the personal income tax rates as determined under this section beginning the second taxable year following the determination.

(c) *Determination of rate.* — In order to determine the amount of a personal income tax reduction, the excess fiscal year general revenue fund collections will be divided by the amount of the immediately preceding fiscal year's total personal income tax collections for all funds and will be rounded down to the nearest whole percentage. The amount of the percentage of reduction will be applied equally across the tax rates applicable in the tax year immediately preceding the rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount larger than a 10 percent reduction in the rates set forth in §11-21-4e of this code.

(d) *Certification of reduction.* – The Secretary of Revenue and the State Auditor will certify to the Tax Commissioner that a rate change is required under this section as soon as possible after August 15 so that the Tax Commissioner may notify taxpayers of any change in personal income tax rates. The certification will provide base year revenues, the total fiscal year general revenue fund collections from the immediately preceding fiscal year, the base year consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio, the amount of inflation adjusted base year revenues, the amount of excess fiscal year general revenue fund collections and the amount of the immediately preceding fiscal year's total personal income tax collections for all funds.

(e) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2027, and shall be in lieu of the rates of tax specified in §11-21-4j of this code.

(f) *Annual reports.* — The Tax Commissioner shall prepare an annual report to the Joint Committee on Government and Finance detailing any relevant modifications to the personal income tax.

(g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code explaining and implementing this section.

§11-21-4j. Rate of tax — Taxable years beginning on and after January 1, 2026.

(a) *Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts.* — For taxable years beginning on and after January 1, 2026, the tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust (except non-grantor trusts administered by licensed private trust companies created pursuant to the provisions of §31I-1-1 *et seq.* of this code) shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over $10,000	2.11% of the taxable income
Over $10,000 but not over $25,000	$211 plus 2.81% of excess over $10,000
Over $25,000 but not over $40,000	$632.50 plus 3.16% of excess over $25,000
Over $40,000 but not over $60,000	$1,106.50 plus 4.22% of excess over $40,000
Over $60,000	$1,950.50 plus 4.58% of excess over $60,000

(b) Rate of tax on married individuals filing separate returns. — For taxable years beginning on and after January 1, 2026, in the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over $5,000	2.11% of the taxable income
Over $5,000 but not over $12,500	$105.50 plus 2.81% of excess over $5,000
Over $12,500 but not over $20,000	$316.25 plus 3.16% of excess over $12,500
Over $20,000 but not over $30,000	$553.25 plus 4.22% of excess over $20,000
Over $30,000	$975.25 plus 4.58% of excess over $30,000

(c) *Rate of tax on non-grantor trusts administered by licensed private trust companies.* – In the case of non-grantor trusts administered by licensed private trust companies created pursuant to §31I-1-1 *et seq.* of this code, there is no tax imposed by §11-21-3 of this code.

(d) *Effect of rates on nonresident composite and withholding obligations.* — Notwithstanding any provision of this article to the contrary, for taxable years beginning on and after the date specified in subsection (e) of this section, whenever the words "six and one-half percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts (except non-grantor trusts administered by licensed private trust companies created pursuant to the provisions of §31I-1-1 *et seq.* of this code), the stated percentage shall be changed to 4.58 percent.

(e) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2026, and shall be in lieu of the rates of tax specified in §11-21-4i of this code.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

FILED
2026 MAR 31 P 4: 18
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

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President of the Senate

....
Speaker of the House of Delegates

The within is ....Approved.... this the ....31st....

Day of ....March...................................., 2026.

....
Governor

PRESENTED TO THE GOVERNOR

Time 4:30pm