WEST VIRGINIA CODE CHAPTER 11B

WV Legislature

§11B-1-1. Department of Revenue; Office of Secretary of Revenue; Director of Budget; federal funds.

(a) The Department of Revenue and the office of secretary of revenue are continued in the executive branch of state government. Wherever in this code the words "office of secretary of tax and revenue" or "secretary of tax and revenue" are used, such words shall mean the office of secretary of revenue or the secretary of revenue. Wherever in this code the words "department of tax and revenue" are used, such words shall mean the Department of Revenue.

(b) The secretary of revenue shall be the chief executive officer of the department and director of the budget. The secretary shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the Governor.

(c) The Department of Revenue is hereby authorized to receive federal funds for deposit in compliance with §12-2-2 of this code and for expenditure only upon appropriation by the Legislature of this state and in accordance with §4-11-1 *et seq.* of this code.

(d) The secretary shall serve at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in §6-7-2a of this code.

WV Legislature

§11B-1-2. Agencies, boards, commissions, divisions and offices comprising the department of finance and revenue.

(a) There shall be in the Department of Revenue the following agencies, boards, commissions, divisions and offices, including all of the allied, advisory, affiliated or related entities which are incorporated in and shall be administered as part of the Department of Revenue:

(1) The Alcohol Beverage Control Commissioner provided for in article sixteen, chapter eleven of this code and article one, chapter sixty of this code;

(2) The Division of Banking provided for in article two, chapter thirty-one-a of this code;

(3) The board of banking and financial institutions provided for in article three, chapter thirty-one-a of this code;

(4) The state budget office, heretofore known as the budget section of the Finance Division, Department of Administration, previously provided for in article two, chapter five-a of this code and now provided for in article two of this chapter;

(5) The agency of Insurance Commissioner provided for in article two, chapter thirty-three of this code;

(6) The lending and credit rate board provided for in chapter forty-seven-a of this code;

(7) The Lottery Commission and the position of lottery director provided for in article twenty-two, chapter twenty-nine of this code;

(8) The Municipal Bond Commission provided for in article three, chapter thirteen of this code;

(9) The office of tax appeals provided for in article ten-a, chapter eleven of this code;

(10) The state athletic commission provided for in article five-a, chapter twenty-nine of this code;

(11) The Tax Division provided for in article one, chapter eleven of this code; and

(12) The West Virginia Racing Commission provided for in article twenty-three, chapter nineteen of this code.

(b) The department shall also include any other agency, board, commission, division, office or unit subsequently incorporated in the department by the Legislature.

WV Legislature

§11B-1-3. Powers and duties of secretary, administrators, division heads and employees.

(a) The secretary shall have control and supervision of the Department of Revenue and shall be responsible for the work of each of its employees.

(b) The secretary shall have the power and authority specified in this article and article two, chapter five-f of this code and as specified elsewhere in this code, whether heretofore or hereinafter enacted by the Legislature and whether the code provision refers to the secretary of revenue or to the secretary of tax and revenue.

(c) The secretary has authority to assess agencies, boards, commissions, divisions and offices in the Department of Revenue for the payment of expenses of the office of the secretary.

(d) The secretary shall have plenary power and authority within and for the department to employ professional staff, including, but not limited to, certified public accountants, economists and attorneys, assistants and other employees as necessary for the efficient operation of the department.

(e) The secretary and administrators, division heads and other employees of the department shall perform the duties specified in this code for their respective offices or positions and shall also perform other duties as the Governor prescribes.

WV Legislature

§11B-1-4. Reports by secretary.

The secretary shall make an annual report to the Governor concerning the conduct of the department and the administration of the budget. The secretary shall also make other reports as the Governor may require. Copies of any such reports shall be submitted to the Legislature in the manner required by §5-1-20 of this code.

WV Legislature

§11B-1-5. Delegation of powers and duties by secretary.

The secretary may delegate powers and duties vested in the secretary to his or her assistants and employees, but the secretary shall be responsible for all official acts of the department.

WV Legislature

§11B-1-6. Confidentiality of information.

(a) Information provided to secretary under expectation of confidentiality. -- Information that would be confidential under the laws of this state when provided to a division, agency, board, commission or office within the Department of Revenue shall be confidential when that information is provided to the secretary of the Department of Revenue or to an employee in the office of the secretary. The confidential information may be disclosed only: (1) To the applicable agency, board, commission or division of the department to which the information relates; or (2) in the manner authorized by provisions of this code applicable to that agency, board, commission or division. This confidentiality rule is a specific exemption from disclosure under article one, chapter twenty-nine-b of this code.

(b) Interdepartmental communication of confidential information. -– Notwithstanding any provision of this code to the contrary, information that by statute is confidential in the possession of any division, agency, board, commission or office of the Department of Revenue may be disclosed to the secretary, or an employee in the office of the secretary, who must safeguard the information and may not further disclose the information except under the same conditions, restrictions and limitations applicable to the administrator of the agency, board, commission, division or office of the department in whose hands the information is confidential: Provided, That nothing contained in this section shall be construed to require the disclosure to the secretary or to an employee in the office of the secretary of individually identifiable health care or other information that, under federal law, may not be disclosed by the administrator without subjecting the administrator or the agency, board, commission, division or office to sanctions or other penalties by the United States or any agency thereof. This confidentiality rule is a specific exemption from disclosure under article one, chapter twenty-nine-b of this code.

WV Legislature

§11B-1-7. Right of appeal from interference with functioning of agency.

Upon occasion of a showing that the application of the authority vested under the provisions of this article may interfere with the successful functioning of any department, institution or agency of the government, that department, institution or agency has the right of appeal to the Governor for review of the case and the decision or conclusion of the Governor shall control in appeals.

WV Legislature

§11B-1-8. Eliminating Division of Personnel Exemption for Tax Division personnel.

(a) Legislative findings and intent. —

(1) The several exemptions from centralized administration of the state's personnel have created multiple, redundant, inefficient, and overly complex personnel and human resources systems in several parts of state government; and

(2) Shifting to a centralized oversight system that includes necessary flexibility for all state departments—instead of a few favored agencies—would facilitate the streamlining of state government and the proper management of the state executive personnel systems.

(b) Definitions. — As used in this section:

(1) "Commissioner" means the Commissioner of the Tax Division of the Department of Revenue or his or her designee; and

(2) "Division" means the Tax Division of the Department of Revenue.

(c) Beginning on July 1, 2026, the division's authority to establish a classified system for personnel administration under this section is abolished and all personnel within the special merit system created under this section are subject to the provisions of §29-6-1 *et seq*. of this code except that:

(1) Any and all job classifications, specifications, and compensation structures established by the division, prior to July 1, 2026, by the authority granted under this section, shall transfer to the oversight and administration of the Division of Personnel; and

(2) Following the transfer, the Division of Personnel shall not modify the job classifications, specifications, and compensation structures created pursuant to this section prior to July 1, 2026, except with the consent of the Secretary of the Department of Revenue or as provided in §5F-2-9 of this code.

WV Legislature

§11B-2-1. Budget office.

The budget section of the Department of Administration is hereby transferred to the Department of Revenue and continued as the budget office. The budget office shall act as staff agency for the Governor in the exercise of his powers and duties under section fifty-one, article VI of the Constitution of West Virginia and shall exercise and perform the other powers and duties of the budget office set forth in this article or previously conferred upon the budget section of the Finance Division, Department of Administration, prior to the effective date of this section in calendar year two thousand four, and set forth whether in article two, chapter five-a of this code, prior to the effective date of this section in calendar year two thousand four, this article or elsewhere in this code.

WV Legislature

§11B-2-2. General powers and duties of secretary as director of budget.

The secretary of revenue, under the immediate supervision of the Governor, shall have the power and duty to:

(1) Exercise general supervision of, and make rules and regulations for, the government of this division;

(2) Administer the budget in accordance with this article;

(3) Serve the Governor in the consideration of requests for appropriations and the preparation of the budget document;

(4) Make investigations and submit reports as the Governor requires;

(5) Make a continuous study of state expenditures and eligibility for federal matching dollars and make recommendations to the Governor for the more economical use of state funds as he or she shall find practicable;

(6) Render assistance to spending officers with respect to the fiscal affairs of spending units; and

(7) Exercise other powers as are vested in the secretary by this article, or which may be appropriate to the discharge of the secretary's duties under this article.

WV Legislature

§11B-2-3. Requests for appropriations; copies to legislative Auditor.

(a) The spending officer of each spending unit, other than the legislative and the judicial branches of state government, shall, on or before September 1, of each year, submit to the secretary a request for appropriations for the fiscal year next ensuing. On or before the same date, the spending officer shall also transmit two copies of the request to the Legislative Auditor for the use of the finance committees of the Legislature.

(b) If the spending officer of any spending unit fails to transmit to the Legislative Auditor two copies of the request for appropriations within the time specified in this section, the Legislative Auditor or the state budget office shall notify the secretary, Auditor and treasurer of the failure. Upon notification, no funds appropriated to that spending unit shall be encumbered or expended until the spending officer thereof has transmitted two copies of the request for appropriation to the Legislative Auditor.

(c) If a spending officer submits to the secretary an amendment to the request for appropriations, two copies of the amendment shall forthwith be transmitted to the Legislative Auditor.

(d) Notwithstanding any provision in this section to the contrary, the State Superintendent of Schools shall, on or before December 15, of each year, submit to the secretary a request for appropriations for the fiscal year next ensuing for state aid to schools and submit two copies of the request to the Legislative Auditor for the use of the finance committees of the Legislature. The request for appropriation shall be accompanied with copies of certified enrollment and employee lists from all county superintendents for the current school year. If certified enrollment and employee lists are not available to the state superintendent from any of the county school boards, the state superintendent shall notify those school boards and no funds shall be expended for salary or compensation to their county superintendent until the certified lists of enrollment and employees are submitted.

WV Legislature

§11B-2-4. Contents of requests.

A request for an appropriation for a spending unit shall specify and itemize in written form:

(1) A statement showing the amount and kinds of revenue and receipts collected for use of the spending agency during the next preceding fiscal year and anticipated collections for the fiscal year next ensuing;

(2) A statement by purposes and objects of the amount of appropriations requested for the spending unit without deducting the amount of anticipated collections of special revenue, federal funds or other receipts;

(3) A statement showing the actual expenditures of the spending unit for the preceding year and estimated expenditures for the current fiscal year itemized by purposes and objects, including those from regular and supplementary appropriations, federal funds, private contributions, transfers, allotments from an emergency or contingency fund and any other expenditures made by or for the spending unit;

(4) A statement showing the number, classification and compensation of persons employed by the spending unit distinguishing between regular, special and casual employees during the preceding fiscal year and during the current fiscal year. The statement shall show the personnel requirements in similar form for the ensuing fiscal year for which appropriations are requested;

(5) A statement showing in detail the purposes for which increased amounts of appropriations, if any, are requested and giving a justification statement for the expenditure of the increased amount. A construction or other improvement request shall show in detail the kind and scope of construction or improvement requested;

(6) A statement of money claims against the state arising out of the activities of the spending unit; and

(7) Any other information as the secretary requests.

WV Legislature

§11B-2-5. Form of requests.

The secretary shall specify the form and detail of itemization of requests for appropriations and statements to be submitted by a spending unit: Provided, That a request for appropriations must include at a minimum the information required by section four of this article. The secretary shall furnish blank forms for this purpose.

WV Legislature

§11B-2-6. Information concerning state finances.

The secretary shall ascertain for the preceding year and as estimated for the current fiscal year:

(1) The condition of each of the funds of the state;

(2) A statement of all revenue collections both general and special; and

(3) Any other information relating to the finances of the state as the Governor requests.

WV Legislature

§11B-2-7. Appropriations for judiciary.

The Governor shall transmit to the secretary the appropriations required by law for the judiciary for the fiscal year next ensuing and which have been certified to the Governor by the Auditor. The Auditor shall certify the appropriations to the Governor in accordance with section fifty-one, article VI of the Constitution of West Virginia on or before September 1, of each year.

WV Legislature

§11B-2-8. Examination of requests for appropriations.

(a) The secretary shall examine the requests of a spending unit with respect to requested appropriations, itemization, sufficiency of justification statements and accuracy and completeness of all other information which the spending officer is required to submit.

(b) If the secretary finds a request, report or statement of a spending unit inaccurate, incomplete or inadequate, he or she shall consult with the spending officer of the unit and require the submission of the requests in proper form and content. The secretary shall assist spending officers in the preparation of their requests.

WV Legislature

§11B-2-9. Appropriation requests by other than spending units.

A person or organization, other than a spending officer, who desires to request a general appropriation in the state budget, shall submit his or her request to the secretary on or before September 1, of each year. The request shall be in the form prescribed by the secretary and shall be accompanied by a justification statement.

WV Legislature

§11B-2-10. Powers of secretary in administration of expenditures.

(a) The secretary shall supervise and control the expenditure of appropriations made by the Legislature excluding those made to the Legislature and those made to the judicial branch of the state government.

(b) The expenditure of an appropriation made by the Legislature, except made for the Legislature itself and the judicial branch of state government, shall be conditioned upon compliance by the spending unit with the provisions of this article.

(c) An appropriation made by the Legislature, except made for the Legislature itself and the judicial branch of state government, shall be expended only in accordance with this article.

WV Legislature

§11B-2-11. Estimates of revenue; reports on revenue collections; withholding department funds on noncompliance.

(a) Prior to the beginning of each fiscal year, the secretary shall estimate the revenue to be collected month by month by each classification of tax for that fiscal year as it relates to the official estimate of revenue for each tax for that fiscal year and the secretary shall certify this estimate to the Governor and the Legislative Auditor and the West Virginia Investment Management Board by July 1, for that fiscal year.

(1) The secretary shall ascertain the collection of the revenue of the state and shall determine for each month of the fiscal year the proportion which the amount actually collected during a month bears to the collection estimated by him or her for that month. The secretary shall certify to the Governor, the Legislative Auditor and the Investment Management Board, as soon as possible after the close of each month, and not later than the 15th day of each month, and at other times as the Governor, the Legislative Auditor or the Investment Management Board may request, the condition of the state revenues and of the several funds of the state and the proportion which the amount actually collected during the preceding month bears to the collection estimated by him or her for that month. The secretary shall include in this certification the same information previously certified for prior months in each fiscal year. The certification for the final month of a fiscal year shall also include the proportion which the amount actually collected during the preceding fiscal year bears to the appropriations made for that year. For the purposes of this section, the secretary shall have the authority to require all necessary estimates and reports from any spending unit of the state government.

(2) If the secretary fails to certify to the Governor, the Legislative Auditor and the Investment Management Board the information required by this subsection within the time specified herein, the Legislative Auditor shall notify the Auditor and Treasurer of the failure and thereafter no funds appropriated to the Department of Revenue may be expended until the secretary has certified the information required by this subsection.

(b) Prior to July 1, of each fiscal year, the secretary shall estimate daily revenue flows for the General Revenue Fund for the next fiscal year as it relates to the official estimate of revenue. Subsequent to the end of each fiscal year, the secretary shall compare the projected daily revenue flows with the actual daily revenue flows from the previous year. The secretary may for any month or months, at his or her discretion, revise the annual projections of the daily revenue flows. The secretary shall certify to the Governor, the Legislative Auditor and the Investment Management Board, as soon as possible after the close of each month and not later than the 15th day of each month, and at other times as the Governor, the Legislative Auditor or the Investment Management Board may request, the condition of the General Revenue Fund and the comparison of the projected daily revenue flows with the actual daily revenue flows. If the secretary fails to certify to the Governor, the Legislative Auditor and the Investment Management Board the information required by this subsection within the time specified herein, the Legislative Auditor shall notify the Auditor and treasurer of the failure and thereafter no funds appropriated to the Department of Revenue may be expended

WV Legislature

until the secretary has certified the information required by this subsection.

WV Legislature

§11B-2-12. Submission of expenditure schedules; contents; submission of information on unpaid obligations; copies to Legislative Auditor.

(a) Prior to the beginning of each fiscal year, the spending officer of a spending unit shall submit to the secretary a detailed expenditure schedule for the ensuing fiscal year. The schedule shall be submitted in such form and at such time as the secretary may require. The schedule shall show:

(1) A proposed biweekly rate of expenditure for amounts appropriated for personal services;

(2) Each and every position budgeted under personal services for the next ensuing fiscal year, with the biweekly salary or compensation of each position;

(3) A proposed quarterly rate of expenditure for amounts appropriated for employee benefits, current expenses, equipment and repairs and alterations classified by a uniform system of accounting as called for in section twenty-five of this article for each item of every appropriation;

(4) A proposed yearly plan of expenditure for amounts appropriated for buildings and lands; and

(5) A proposed quarterly plan of receipts itemized by type of revenue.

(b) The secretary may accept a differently itemized expenditure schedule from a spending unit to which the above itemizations are not applicable.

(c) The secretary shall consult with and assist spending officers in the preparation of expenditure schedules.

(d) Within fifteen days after the end of each month of the fiscal year, the head of every spending unit shall certify to the Legislative Auditor the status of obligations and payments of the spending unit for amounts of employee benefits, including, but not limited to, obligations and payments for social security withholding and employer matching, public employees' insurance premiums and public employees' retirement and Teachers Retirement Systems.

(e) In the event the Legislative Auditor determines from certified reports or from other sources that any spending unit is not making all payments and transfers for employee benefits from funds appropriated for that purpose, the Legislative Auditor shall notify the secretary of administration, Auditor and Treasurer of the determination and thereafter no funds appropriated to the spending unit shall be encumbered or expended for the salary or compensation to the head of the spending unit until the Legislative Auditor determines that the payments or transfers are being made on a timely basis.

(f) When a spending officer submits an expenditure schedule to the secretary as required by this section, the spending officer shall at the same time transmit a copy thereof to the

WV Legislature

Legislative Auditor and the Joint Committee on Government and Finance or its designee. If a spending officer of a spending unit fails to transmit a copy to the Legislative Auditor on or before the beginning of the fiscal year, the Legislative Auditor shall notify the secretary, Auditor and Treasurer of the failure and thereafter no funds appropriated to the spending unit shall be encumbered or expended until the spending officer thereof has transmitted a copy to the Legislative Auditor.

WV Legislature

§11B-2-13. Examination and approval of expenditure schedules; amendments; copies to legislative Auditor.

(a) The secretary shall examine the expenditure schedule of each spending unit and if it conforms to the appropriations made by the Legislature, the requirements of this article and is in accordance with sound fiscal policy, the secretary shall approve the schedule. In addition, the secretary shall give special consideration in the approval of expenditure schedules to accounts in which the appropriations consist predominantly of personal services funds so that the quarterly allotments of funds to the various spending units are sufficient to pay personnel costs in the quarter in which they are due.

(b) The expenditure of the appropriations made to a spending unit shall be only in accordance with the approved expenditure schedule unless the schedule is amended with the consent of the secretary, or unless appropriations are reduced in accordance with the provisions of sections twenty to twenty-two, inclusive, of this article. The spending officer of a spending unit shall transmit to the Legislative Auditor a copy of each and every requested amendment to the schedule at the same time that the requested amendment is submitted to the secretary. The secretary shall send to the Legislative Auditor copies of any schedule amended with the secretary's approval.

WV Legislature

§11B-2-14. Reserves for emergencies.

The secretary, with the approval of the Governor, may require that an expenditure schedule provide for a reserve for emergencies out of the total amount appropriated to the spending unit. The amount of the reserve shall be determined by the secretary in consultation with the spending officer.

WV Legislature

§11B-2-15. Reserves for public employees insurance program.

(a) There is continued a special revenue account in the State Treasury, designated the "Public Employees Insurance Reserve Fund", which is an interest-bearing account and may be invested in accordance with the provisions of article six, chapter twelve of this code, with the interest income a proper credit to the fund.

(b) The fund shall consist of moneys appropriated by the Legislature and moneys transferred annually pursuant to the provisions of subsection (c) of this section. These moneys shall be held in reserve and appropriated by the Legislature only for the support of the programs provided by the Public Employees Insurance Agency: *Provided*, That the moneys held in the fund may be appropriated to the Bureau for Medical Services.

(c) Annually each state agency, except for the higher education central office created in article four, chapter eighteen-b of this code; the higher education governing boards as defined in articles two and three of said chapter; and the state institutions of higher education as defined in section two, article one of said chapter shall transfer one percent of its annualized expenditures from state funds, excluding federal funds based on filled full-time equivalents as determined by the state budget office as of the first day of April for that fiscal year, to the Public Employees Insurance Reserve Fund. The secretary may exempt that transfer only upon a showing by the requesting agency that the continued operation of that agency is dependent upon receipt of the exemption.

(d) Annually the secretary shall provide a report to the Governor and the Legislature on the amount of reserves established pursuant to the provisions of this section, the number of exemptions granted and the agencies receiving those exemptions.

WV Legislature

§11B-2-15a. PEIA Rainy Day Fund.

(a) There is hereby created in the State Treasury a special account, designated the PEIA Rainy Day Fund, which is an interest-bearing account administered by the Secretary of Revenue in accordance with the provisions of this section.

(b) The PEIA Rainy Day Fund may consist of moneys appropriated by the Legislature, income from investment of moneys held in the special revenue account, and all other sums available for deposit to the account, public or private. Any balance remaining in the special revenue account at the end of the fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used in a manner consistent with this article.

(c) The Secretary of Revenue, upon the written approval of the Governor, may transfer moneys from the PEIA Rainy Day Fund to the Public Employees Insurance Agency only to (1) reduce or prevent benefit cuts, (2) reduce premium increases, or (3) any combination thereof. The amount of moneys transferred may be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

(d) The Secretary of Revenue may contract with the West Virginia Investment Management Board, or the West Virginia Board of Treasury Investments, for any services with respect to fund investments which the secretary considers necessary.

(e) The Secretary of Revenue may promulgate legislative rules, and emergency rules as provided in §29A-3-15 of this code, as the secretary considers necessary to implement and administer the provisions of this section.

WV Legislature

§11B-2-16. Limitation on expenditures.

The expenditures of a spending unit during a quarter of the fiscal year shall not exceed the amount of the approved allotment, unless the Governor approves the expenditure of a larger amount. Any amounts remaining unexpended at the close of the quarter shall be available for reallocation and expenditure during any succeeding quarter of the same fiscal year.

WV Legislature

§11B-2-17. Transfers between items of appropriation of executive, legislative and judicial branches.

Notwithstanding any other provision of law to the contrary, there shall be no transfer of amounts between items of appropriations nor shall moneys appropriated for any particular purpose be expended for any other purpose by any spending unit of the executive, legislative or judicial branch except as hereinafter provided:

(1) Any transfer of amounts between items of appropriations for the executive branch of state government shall be made only as authorized by the Legislature.

(2) Any transfer of amounts between items of appropriations for the legislative branch of state government shall be made only pursuant to the joint rules adopted by the body and any amendments thereto, as certified to the State Auditor, the State Treasurer and the Legislative Auditor.

(3) Any transfer of amounts between items of appropriations for the judicial branch of state government shall be made only pursuant to rules adopted by the Supreme Court of Appeals and any amendments thereto, as certified to the State Auditor, the State Treasurer and the Legislative Auditor.

WV Legislature

§11B-2-18. Expenditure of excess in collections; notices to Auditor and treasurer.

(a) If the amount actually collected by a spending unit exceeds the amount which it is authorized to expend from collections, the excess in collections shall be set aside in a special surplus fund for the spending unit. Expenditures from this fund shall be made only in accordance with the following procedure:

(1) The spending officer shall submit to the secretary:

(A) A plan of expenditure showing the purposes for which the excess is to be expended; and

(B) A justification statement showing the reasons why the expenditure is necessary and desirable.

(2) The secretary shall submit the request to the Governor with his or her recommendation.

(3) If the Governor approves the plan of expenditure and justification statement and is satisfied that the expenditure is required to defray the additional cost of the service or activity of the spending unit and that the expenditure is in accordance with sound fiscal policy, he or she may authorize the use of the excess during the current fiscal year. Notices of the authorization shall be sent to the State Auditor, the State Treasurer and the Legislative Auditor.

(b) An expenditure from a special surplus fund without the authorization of the Governor, or other than in accordance with this section, shall be an unlawful use of public funds.

WV Legislature

§11B-2-19. Reports by spending units; copies to legislative Auditor.

A spending unit shall submit to the secretary reports with respect to the work and expenditures of the unit as the secretary may request for the purposes of this article. Upon receipt thereof, the secretary shall immediately send a copy of each report to the Legislative Auditor.

WV Legislature

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

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

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Except as provided otherwise in this subsection, effective July 1, 2024, within 60 days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first 50 percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the combined balance of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B to an amount equal to 20 percent of a rolling average of the preceding three fiscal years' general revenue appropriations in Title II, Section 1, providing for appropriations from general revenue, of the enrolled and enacted version of the state's fiscal year budget: *Provided,* That no general revenue supplemental appropriations appropriated from the state's general revenue unappropriated balance or general revenue unappropriated surplus balance will be included in the calculation of the state's general revenue appropriations.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or §11B-2-21 or §11B-2-22 of this code, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section 19, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code.

(d) Upon the creation of the fund, the Legislature is authorized and may make an

WV Legislature

appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters, or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund. The amount of funds borrowed under this subsection may not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within 90 days of their withdrawal.

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

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

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

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

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, 10 percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, $100 million, or such greater

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

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

WV Legislature

§11B-2-21. Reduction of appropriations — Reduction of appropriations from general revenue.

If the Governor determines that the amounts, or parts thereof, appropriated from the general revenue cannot be expended without creating an overdraft or deficit in the General Fund, he or she may, before the end of the fiscal year, instruct the secretary to reduce all appropriations out of general revenue in a degree as necessary to prevent an overdraft or a deficit in the General Fund. No reduction of appropriations may be made after June 30 of the fiscal year.

WV Legislature

§11B-2-22. Reduction of appropriations -- Reduction of appropriations from other funds.

(a) The Governor, in the manner set forth in section twenty-one of this article, may reduce appropriations from:

(1) Funds supported by designated taxes or fees; and

(2) Fees or other collections set aside for the support of designated activities or services.

(b) Each fund and each fee or collection account shall be treated separately.

WV Legislature

§11B-2-23. Approval of secretary of requests for changes and receipt and expenditure of federal funds by state agencies; copies or sufficient summary information to be furnished to secretary; consolidated report of federal funds; central agency for receipt of federal funds; unlawful acts.

(a) Every agency of the state government when making requests or preparing budgets to be submitted to the federal government for funds, equipment, material or services, the grant or allocation of which is conditioned upon the use of state matching funds, shall have the request or budget approved in writing by the secretary before submitting it to the proper federal authority. When the federal authority has approved the request or budget, the agency of the state government shall resubmit it to the secretary for recording before any allotment or encumbrance of the federal funds can be made. Whenever any agency of the state government receives from any agency of the federal government a grant or allocation of funds which do not require state matching, the state agency shall report to the secretary the amount of the federal funds granted or allocated.

(b) Unless contrary to federal law, any agency of state government, when making requests or preparing budgets to be submitted to the federal government for funds for personal services, shall include in the request or budget the amount of funds necessary to pay for the costs of any fringe benefits related to the personal service. For the purposes of this section, "fringe benefits" means any employment benefit granted by the state which involves state funds, including, but not limited to, contributions to insurance, retirement and social security and which does not affect the basic rate of pay of an employee.

(c) In addition to the other requirements of this section, the secretary shall, as soon as possible after the end of each fiscal year but no later than December 31, of each year, submit to the Governor a consolidated report which shall contain a detailed itemization of all federal funds received by the state during the preceding and current fiscal years, as well as those scheduled or anticipated to be received during the remainder of the current fiscal year and the next ensuing fiscal year. The itemization shall show:

(1) Each spending unit which has received or is scheduled or expected to receive federal funds in either of the fiscal years;

(2) The amount of each separate grant or distribution received or to be received; and

(3) A brief description of the purpose of every grant or other distribution, with the name of the federal agency, bureau or department making the grant or distribution: *Provided,* That it is not necessary to include in the report an itemization of federal block grants, or federal funds received for the benefit of the Division of Highways of the Department of Transportation.

(d) The secretary may obtain from the spending units any and all information necessary to prepare a report.

WV Legislature

(e) Notwithstanding the other provisions of this section and in supplementation of the provisions of this section, the Legislature hereby determines that the Department of Revenue and its secretary need to be the single and central agency for receipt of information and documents in respect of applications for, and changes, receipt and expenditure of, federal funds by state agencies. Every agency of state government, when making application for federal funds in the nature of a grant, allocation or otherwise; when amending the applications or requests; when in receipt of federal funds; or when undertaking any expenditure of federal funds, in all respective instances, shall provide to the secretary of revenue document copies or sufficient summary information in respect of the federal funds to enable the secretary to provide approval in writing for any activity in respect to the federal funds.

WV Legislature

§11B-2-24. Expenditure of appropriations -- Generally.

The expenditure of an appropriation made by the Legislature shall be conditioned upon compliance by the spending unit with sections twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of this article.

WV Legislature

§11B-2-25. Expenditure of appropriations -- Other than for purchases of commodities.

A requisition for expenditure, other than an order for the purchase of commodities, shall be submitted as follows:

(1) The spending officer shall prepare and submit to the director a requisition showing the amount, purpose and appropriation from which the expenditure is requested;

(2) The director of the budget shall examine the requisition and determine whether the amount is within the quarterly allotment, is in accordance with the approved expenditure schedule and otherwise conforms to the provisions of this article;

(3) If the director approves the requisition, he or she shall encumber the proper account in the amount of the requisition and shall transmit the requisition to the Auditor for disbursement in accordance with law; and

(4) If the director disapproves the requisition, he or she shall return it to the spending unit with a statement of his or her reasons.

WV Legislature

§11B-2-26. Expenditure of appropriations -- Purchases of commodities.

If a requisition is a request for a purchase of commodities, the spending unit shall transmit the requisition to the state budget office for the purpose of ascertaining whether it conforms to the expenditure schedule. If it does not conform, the requisition shall be returned by the state budget office to the spending unit. If it conforms, the state budget office shall transmit the requisition to the Purchasing Division of the Department of Administration for purchase in accordance with article three, chapter five-a of this code. When a copy of the purchase order issued pursuant thereto is received from the Purchasing Division by the director in accordance with the provisions of section fourteen, article three, chapter five-a of this code, the director shall ascertain whether the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of the order and, if so, shall encumber the proper account and certify the fact to the Purchasing Division and, if not, shall notify the Purchasing Division which, upon receipt of notification, shall return the requisition to the spending unit.

WV Legislature

§11B-2-27. Expenditure of appropriations — Payment of personal services.

A requisition for the payment of personal services shall, upon receipt by the director of the budget, be checked against the personnel schedule of the spending unit making the requisition. The director shall approve a requisition for personal services only if the amounts requested are in accordance with the personnel schedule of the spending unit: Provided, That the director of the budget is not required to verify or approve requisitions for the payment of personal services for any spending unit that does not participate in the human resource payroll module of the West Virginia Enterprise Resource Planning System as set forth in section one, article six-d, chapter twelve of this code.

WV Legislature

§11B-2-28. Expenditure of appropriations -- Legislative and judicial expenditures.

(a) The provisions of sections twenty-six and twenty-seven of this article shall not apply to the expenditure of amounts appropriated for the use of the Legislature or for the judiciary.

(b) In the case of appropriations made for the Legislature, the Clerk of the House of Delegates or the clerk of the Senate shall present his or her requisition directly to the Auditor.

(c) In the case of appropriations made for the judiciary, the clerk of the court shall present his or her requisition or claim directly to the Auditor.

(d) In the case of appropriations made for criminal charges, the clerk or the proper officer shall present his or her claim directly to the Auditor.

WV Legislature

§11B-2-29. Appropriations for officers, commissions, boards or institutions without office at capitol.

All appropriations now or hereafter made for officers, commissions, boards or institutions, public or private, other than state institutions of higher education, state charitable institutions, state hospitals and sanitariums and state penal and correctional institutions, not having an office at the State Capitol, shall, unless otherwise provided by law, be expended on requisitions of the officer, commission, board or institution, after approval by the secretary of the Department of Revenue.

WV Legislature

§11B-2-30. Submission of requests, amendments, reports, etc., to legislative Auditor; misdemeanor penalty for noncompliance.

(a) The provisions of sections three, eleven, twelve, thirteen, nineteen and twenty-three of this article and section twenty-five, article two, chapter five-a of this code requiring the secretary or the spending officer of the spending units to supply copies of the documents specified therein to the Legislative Auditor shall be strictly adhered to by all persons.

(b) Any failure by any person to comply with the provisions of subsection (a) of this section shall be a misdemeanor and, upon conviction thereof, the person shall be fined the sum of $1,000. This penalty shall be in addition to other penalties provided elsewhere in this article and other remedies provided by law.

WV Legislature

§11B-2-31. Effectuation of transfer of budget section and transition.

To effectuate the transfer of the budget section of the Finance Division, Department of Administration to the Department of Revenue upon the effective date of this section in the year 2004:

(1) All employees, records, responsibilities, obligations, assets and property, of whatever kind and character, of the budget section, Finance Division of the Department of Administration are hereby transferred to the state budget office of the Department of Revenue beginning the effective date of this section in the year 2004.

(2) The unencumbered balances of all funds allocated to the budget section of the Division of Finance for fiscal years ending June 30, 2004, and the fiscal year ending June 30, 2005, are hereby transferred to the state budget office of the Department of Revenue on the effective date of this section in the year 2004.

(3) All orders, determinations, rules, permits, grants, contracts, certificates, licenses, waivers, bonds, authorizations and privileges which have been issued, made, granted or allowed to become effective by the Governor, any state department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which have been transferred to the secretary of the Department of Revenue or to the Department of Revenue, and were in effect on the date the transfer occurred continue in effect, for the benefit of the department, according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the Governor, the secretary of revenue, or other authorized official, a court of competent jurisdiction or by operation of law.

(4) Any proceedings, including, but not limited to, notices of proposed rulemaking, in which the budget section, Finance Division of the Department of Administration was an initiating or responding party are not affected by the transfer of the budget section to the Department of Revenue. Orders issued in any proceedings continue in effect until modified, terminated, superseded or revoked by the Governor, the secretary of revenue, by a court of competent jurisdiction or by operation of law. Nothing in this subdivision prohibits the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that a proceeding could have been discontinued or modified if the division had not been transferred to the Department of Revenue. Transfer of the budget section of the Finance Division does not affect suits commenced prior to the effective date of the transfer and all such suits and proceedings shall be had, appeals taken and judgments rendered in the same manner and with like effect as if the transfer had not occurred, except that the secretary of the Department of Revenue or other officer may, in an appropriate case, be substituted or added as a party.

WV Legislature

§11B-2-32. Establish a special revenue fund designated the Public Employees Insurance Agency Financial Stability Fund; authority of the Secretary of Revenue to redirect certain special revenue funds to the Public Employees Insurance Agency Financial Stability Fund.

(a) There is hereby created a special revenue account in the State Treasury, designated the Public Employees Insurance Agency Financial Stability Fund, to be administered by the Secretary of Revenue.

(b) The Public Employees Insurance Agency Financial Stability Fund shall consist of moneys appropriated by the Legislature and moneys transferred annually pursuant to the provisions of subsection (c) of this section. These moneys shall be appropriated by the Legislature only for the purposes of lowering retiree premiums, to help reduce benefit cuts, to help reduce premium increases or any combination thereof.

(c) Notwithstanding any other provisions of this code to the contrary, beginning July 1, 2016, and ending June 30, 2020, the Secretary of Revenue shall redirect nonaligned state special revenue funds, in the total aggregate amount of $15 million per fiscal year, to be deposited in the Public Employees Insurance Agency Financial Stability Fund. Not more than three million seven hundred fifty thousand dollars may be transferred to the Public Employees Insurance Agency Financial Stability Fund in any quarter of a fiscal year. Not later than thirty days before redirecting the nonaligned state special revenue funds, the secretary shall provide written notice of the amount that will be redirected in each affected account to the Speaker of the House of Delegates, to the President of the Senate and to the agency head who oversees any account that will have funds redirected into the Public Employee Insurance Agency Financial Stability Fund.

(d) For purposes of this section:

(1) “Nonaligned state special revenue funds” means state revenue funds that are:

(A) Not derived from any federal fund, from any federal grant program or from any other federal revenue source established under the laws of the federal government of the United States of America;

(B) Not derived from any state special revenue fund dedicated, directed or designated to be used for operations of the Legislative Branch of government;

(C) Not derived from any state special revenue fund dedicated, directed or designated to be used for operations of the Judicial Branch of government;

(D) Not expressly dedicated, directed or designated by the Constitution of this state to be used for an express and specified purpose; and

(E) Not moneys held as retirement funds administered by the Consolidated Public Retirement Board, or not held as funds for benefits administered by the Public Employees

WV Legislature

Insurance Agency.

(2) “State special revenue funds” means specific revenue sources which, by legislative enactments, are not required to be accounted for as general revenue.

(e) It is the intent of the Legislature that this section shall be interpreted to authorize the redirection, diminishment or modification of special revenue funding for constitutional officers, except that not more than twenty-five percent of the balance of moneys existing at the time of a transfer in any nonaligned state special revenue fund administered by a constitutional officer may be transferred to the Public Employees Insurance Agency Financial Stability Fund: Provided, That not more than three million seven hundred fifty thousand dollars may be transferred from any nonaligned state special revenue fund administered by a constitutional officer to the Public Employees Insurance Agency Financial Stability Fund in any fiscal year without an express appropriation of the Legislature.

WV Legislature

§11B-2-33. Personal Income Tax Reduction Fund.

(a) The personal income tax reduction fund is hereby established. The personal income tax reduction fund shall be funded continuously and on a revolving basis in accordance with this section, with all interest or other earnings on the moneys therein credited to the fund. The personal income tax reduction fund shall be funded as provided in §11-6N-4(b)(4) of this code. Moneys in the personal income tax reduction fund may be expended solely for the purposes set forth in this section.

(b) Notwithstanding any other provision of this code to the contrary, on or before the last day of any fiscal year, the net proceeds of the personal income tax reduction fund will be certified and included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for that fiscal year.

(c) Not later than 60 days following the certification, the Secretary of Revenue shall transfer the certified amount determined in subsection (b) of this section to the general revenue fund. The amounts transferred will not be included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for the fiscal year in which the money is transferred.

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

(e) Termination – Upon the certification of a reduction in the personal income tax under the provisions of §11-21-4h of this code that results in the elimination of the personal income tax, or if the personal income tax provided for under §11-21-1 *et seq*. is eliminated by separate enactment of the Legislature, this fund will be thereby eliminated and any monies dedicated thereto shall be dedicated to the general revenue of the state.

WV Legislature