WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 104

(By Mr. Originating in the Committee on the Judiciary)

PASSED February 8, 1968

In Effect Ninety Days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68
AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section fifty-one, article six thereof, relating to the annual budget generally, the budget bill and supplementary appropriation bills.

Be it enacted by the Legislature of West Virginia:

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be
held in the year one thousand nine hundred sixty-eight,
which proposed amendment is as follows:
That section fifty-one, article six of the constitution of
the state of West Virginia, be amended to read as follows:

"ARTICLE VI. THE LEGISLATURE.

"Section 51. Budget and Supplementary Appropriation
Bills.—The Legislature shall not appropriate any money
out of the treasury except in accordance with provisions
of this section.

"Subsection A—Appropriation Bills

"(1) Every appropriation bill shall be either a budget
bill, or a supplementary appropriation bill, as hereinafter
provided.

"Subsection B—Budget Bills

"(2) Within ten days after the convening of the regular
session of the Legislature in odd-numbered years, unless
such time shall be extended by the Legislature, and on
the second Wednesday of January in even-numbered
years, the governor shall submit to the Legislature a
budget for the next ensuing fiscal year. The budget shall
contain a complete plan of proposed expenditures and
estimated revenues for the fiscal year and shall show
the estimated surplus or deficit of revenues at the end
of each fiscal year. Accompanying each budget shall
be a statement showing: (a) An estimate of the revenues
and expenditures for the current fiscal year, including
the actual revenues and actual expenditures to the extent
available, and the revenues and expenditures for the
next preceding fiscal year; (b) the current assets, liabilities, reserves and surplus or deficit of the state; (c) the
debts and funds of the state; (d) an estimate of the state's
financial condition as of the beginning and end of the fiscal
year covered by the budget; (e) any explanation the
governor may desire to make as to the important features
of the budget and any suggestions as to methods for
reduction or increase of the state's revenue.

“(3) Each budget shall embrace an itemized estimate
of the appropriations, in such form and detail as the
governor shall determine or as may be prescribed by
law: (a) For the Legislature as certified to the governor
in the manner hereinafter provided; (b) for the executive
department; (c) for the judiciary department, as provided
38 by law, certified to the governor by the auditor; (d) for
39 payment and discharge of the principal and interest of
40 any debt of the state created in conformity with the con-
41 stitution, and all laws enacted in pursuance thereof;
42 (e) for the salaries payable by the state under the con-
43 stitution and laws of the state; (f) for such other purposes
44 as are set forth in the constitution and in laws made in
45 pursuance thereof.
46 “(4) The governor shall deliver to the presiding officer
47 of each house the budget and a bill for all the proposed
48 appropriations of the budget clearly itemized and classi-
49 fied, in such form and detail as the governor shall deter-
50 mine or as may be prescribed by law; and the presiding
51 officer of each house shall promptly cause the bill to be
52 introduced therein, and such bill shall be known as the
53 ‘Budget Bill.’ The governor may, with the consent of
54 the Legislature, before final action thereon by the Leg-
55 islature, amend or supplement the budget to correct an
56 oversight, or to provide funds contingent on passage of
57 pending legislation, and in case of an emergency, he may
58 deliver such an amendment or supplement to the pre-
siding officers of both houses; and the amendment or supplement shall thereby become a part of the budget bill as an addition to the items of the bill or as a modification of or a substitute for any item of the bill the amendment or supplement may affect.

"(5) The Legislature shall not amend the budget bill so as to create a deficit but may amend the bill by increasing or decreasing any item therein: Provided, That no item relating to the judiciary shall be decreased, and except as otherwise provided in this constitution, the salary or compensation of any public officer shall not be increased or decreased during his term of office: Provided further, That the Legislature shall not increase the estimate of revenue submitted in the budget without the approval of the governor.

"(6) The governor and such representatives of the executive departments, boards, officers and commissions of the state expending or applying for state moneys as have been designated by the governor for this purpose, shall have the right, and when requested by either house of the Legislature it shall be their duty, to appear and be
heard with respect to any budget bill, and to answer inquiries relative thereto.

"Subsection C—Supplementary Appropriation Bills

"(7) Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriations shall be valid except in accordance with the provisions following: (a) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called therein a supplementary appropriation bill; (b) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be laid and collected as shall be directed in the bill unless it appears from such budget that there is sufficient revenue available.

"Subsection D—General Provisions

"(8) If the budget bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session, the governor shall issue a proclamation extending the session for such further period as may,
in his judgment, be necessary for the passage of the bill;
but no matter other than the bill shall be considered
during such an extension of a session except a provision
for the cost thereof.

“(9) For the purpose of making up the budget, the
governor shall have the power, and it shall be his duty,
to require from the proper state officials, including herein
all executive departments, all executive and administra-
tive officers, bureaus, boards, commissions and agencies
expending or supervising the expenditure of, and all
institutions applying for state moneys and appropriations,
such itemized estimates and other information, in such
form and at such times as he shall direct. The estimates
for the legislative department, certified by the presiding
officer of each house, and for the judiciary, as provided
by law, certified by the auditor, shall be transmitted to
the governor in such form and at such times as he shall
direct, and shall be included in the budget.

“(10) The governor may provide for public hearings
on all estimates and may require the attendance at
such hearings of representatives of all agencies and all
122 institutions applying for state moneys. After such public
123 hearings he may, in his discretion, revise all estimates
124 except those for the legislative and judiciary depart-
125 ments.
126 "(11) Every budget bill or supplementary appropria-
127 tion bill passed by a majority of the members elected
128 to each house of the Legislature shall, before it becomes
129 a law, be presented to the governor. The governor may
130 veto the bill, or he may disapprove or reduce items or
131 parts of items contained therein. If he approves he shall
132 sign it and thereupon it shall become a law. The bill,
133 items or parts thereof, disapproved or reduced by the
134 governor, shall be returned with his objections to each
135 house of the Legislature.
136 "Each house shall enter the objections at large upon
137 its journal and proceed to reconsider. If, after recon-
138 sideration, two thirds of the members elected to each
139 house agree to pass the bill, or such items or parts thereof,
140 as were disapproved or reduced, the bill, items or parts
141 thereof, approved by two thirds of such members, shall
142 become law, notwithstanding the objections of the gover-
nor. In all such cases, the vote of each house shall be
determined by yeas and nays to be entered on the
journal.

"A bill, item or part thereof, which is not returned by
the governor within five days (Sundays excepted) after
the bill has been presented to him shall become a law in
like manner as if he had signed the bill, unless the Leg-
islature, by adjournment, prevents such return, in which
case it shall be filed in the office of the secretary of
state, within five days after such adjournment, and
shall become a law; or it shall be so filed within such
time as if he had signed the bill, unless the Leg-
islature, by adjournment, prevents such return, in which
case it shall become a law; or it shall be so filed within such
case it shall become law to the extent not disapproved
by the governor.

"(12) The Legislature may, from time to time, enact
such laws, not inconsistent with this section, as may be
necessary and proper to carry out its provisions.

"(13) In the event of any inconsistency between any
of the provisions of this section and any of the other
provisions of the constitution, the provisions of this sec-
tion shall prevail. But nothing herein shall be construed
as preventing the governor from calling extraordinary
sessions of the Legislature, as provided by section eight
of this article, or as preventing the Legislature at such
extraordinary sessions from considering any emergency
appropriation or appropriations.

"(14) If any item of any appropriation bill passed under
the provisions of this section shall be held invalid upon
any ground, such invalidity shall not affect the legality
of the bill or of any other item of such bill or bills."

Sec. 2. Amendment to Be Known as the "Modern
Budget Amendment"; Summary of Purpose.—In accord-
ance with the provisions of section thirteen, article six,
chapter three of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, said proposed
amendment is hereby designated as the "Modern Bud-
get Amendment," and the purpose of the proposed amend-
ment is summarized as follows: "To improve and sim-
plify the budget making process by vesting in one person,
the chief executive, the responsibility for preparing the
state budget for consideration by the Legislature."
Sec. 3. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation and the summary of the purpose for the same as hereinbefore adopted and stated, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, and the cost of such advertising, determined in accordance with the provisions of section three, article three, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall in the first instance, if found necessary by him, be paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

Sec. 4. Form of Ballot; Election.—For the purpose of enabling the voters of the state to vote on the question of this proposed amendment to the constitution and any other proposed amendments to the constitution which may be submitted at the said general election to be held in the year one thousand nine hundred sixty-eight, the board of ballot commissioners of each county is hereby
12. required to place upon, and at the foot of, the official ballot to be voted at that election under the heading reading "Ballot on Constitutional Amendment(s)," in the first position under said heading, the following:

No. 1 Modern Budget Amendment

☐ For Ratification.

☐ Against Ratification.

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, and the result thereof ascertained by the same officers and in the same manner as the election of officers to be voted for at said election, and all the provisions of the law relating to general elections, including all duties to be performed by any officer or board, as far as practicable, and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.
Sec. 5. Certificates of Election Commissioners; Canvass of Vote; Certifying Result.—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or to the following effect:

"We, the undersigned, who acted as commissioners (or canvassers, as the case may be) of the election held at Precinct No. _______, in the district of ___________, in the county of ___________, on the ______ day of ___________, one thousand nine hundred sixty-eight, upon the question of the ratification or rejection of the proposed constitutional amendment, do hereby certify that the result of said election is as follows:

"Amendment No. 1. Modern Budget Amendment

"For ratification __________ votes.

"Against ratification __________ votes.

"Given under our hands this ______ day of __________, one thousand nine hundred sixty-eight."

The said two certificates shall correspond with each other in all respects and contain the full and true returns
in said election at each place of voting on said question.

The said commissioners, or any one of them (or said canvassers or any one of them, as the case may be), shall, within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court of the county, together with the ballots, and the other to the clerk of the circuit court of the county.

The said certificates, together with the ballots cast on the question of said proposed amendment, shall be laid before the commissioners of the county court at the courthouse at the same time the ballots, poll books and the certificates of election of the members of the Legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out and signed by said commissioners as a board of canvassers, in the form or to the following effect:

"We, the board of canvassers of the county of ___, having carefully and impartially examined the returns
of the election held in said county, in each district thereof,
on the _____ day of ________________, one thousand nine hun-
dred sixty-eight, do certify that the result of the election
in said county, on the question of the ratification or re-
)jection of the proposed amendment is as follows:

"Amendment No. 1. Modern Budget Amendment

"For ratification ______________ votes.

"Against ratification ______________ votes.

"Given under our hands this _____ day of __________, one thousand nine hundred sixty-eight."

One of the certificates shall be filed in the office of the
clerk of the county court, and the other forwarded by
mail to the secretary of state, who shall file and preserve
the same until the day on which the result of said election
in the state is to be ascertained, as hereinafter stated.

Sec. 6. Proclamation of Result of Election by Gover-
nor.—On the twenty-fifth day after the election is held,
or as soon thereafter as practicable, the said certificates
shall be laid before the governor, whose duty it shall be
to ascertain therefrom the result of said election in the
state, and declare the same by proclamation published
in one or more newspapers printed at the seat of government. If a majority of the votes cast at said election upon said question be for ratification of said amendment, the proposed amendment so ratified shall be in force and effect from and after the time of such ratification, as part of the constitution of the state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tampa
Chairman Senate Committee

Clayton L. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

J. Howard Rainey
Clerk of the Senate

Clerk of the House of Delegates

Howard J. Cassen
President of the Senate

W.谢恩·怀特
Speaker House of Delegates

The within approved this the 14th day of February, 1968.

Hubert C. Smith
Governor
PRESENTED TO THE GOVERNOR

Date 7/1/68
Time 3:00 P.M.