

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2488

**FISCAL
NOTE**

BY DELEGATES GEARHEART, STORCH, BUTLER, FOLK,

FRICH, HOUSEHOLDER, HOWELL AND ELLINGTON

[Introduced February 16, 2017; Referred

to the Committee on Government Organization then

Finance.]

1 A BILL to amend and reenact §12-2-2 of the Code of West Virginia, 1931, as amended, relating
 2 to the forfeiture of unencumbered funds in special revenue accounts and repayment of
 3 certain percentages of the special revenue accounts to the General Revenue Fund, if
 4 these accounts have been inactive for designated periods; and prohibiting expenditures
 5 from these accounts pending the forfeiture of the funds.

Be it enacted by the Legislature of West Virginia:

1 That §12-2-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted
 2 to read as follows:

**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE
 STATE OR ANY POLITICAL SUBDIVISION.**

**§12-2-2. Itemized record of moneys received for deposit; regulations governing deposits;
 credit to state fund; exceptions.**

1 (a) All officials and employees of the state authorized by statute to accept moneys on
 2 behalf of the State of West Virginia shall keep a daily itemized record of moneys received for
 3 deposit in the State Treasury and shall deposit within one business day with the State Treasurer
 4 all moneys received or collected by them for or on behalf of the state for any purpose whatsoever.
 5 The State Treasurer may grant an exception to the one business day rule when circumstances
 6 make compliance difficult or expensive. The State Treasurer may review the procedures and
 7 methods used by officials and employees authorized to accept moneys due the state and change
 8 the procedures and methods if he or she determines it is in the best interest of the state: *Provided,*
 9 That the State Treasurer may not review or amend the procedures by which the Department of
 10 Revenue accepts moneys due the state. The State Treasurer shall propose rules for legislative
 11 approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code
 12 governing the procedure for deposits. The official or employee making deposits with the State
 13 Treasurer shall prepare deposit lists in the manner and upon report forms prescribed by the State

14 Treasurer in the state accounting system. The State Treasurer shall review the deposits in the
15 state accounting system and forward the information to the State Auditor and to the Secretary of
16 Revenue.

17 (b) All moneys received by the state from appropriations made by the Congress of the
18 United States shall be recorded in special fund accounts, in the State Treasury apart from the
19 general revenues of the state, and shall be expended in accordance with the provisions of article
20 eleven, chapter four of this code. All moneys, other than federal funds, defined in section two,
21 article eleven, chapter four of this code, shall be credited to the state fund and treated by the State
22 Auditor and State Treasurer as part of the general revenue of the state except the following funds
23 which shall be recorded in separate accounts:

24 (1) All funds excluded by the provisions of section six, article eleven, chapter four of this
25 code;

26 (2) All funds derived from the sale of farm and dairy products from farms operated by any
27 spending unit of the state;

28 (3) All endowment funds, bequests, donations, executive emergency funds and death and
29 disability funds;

30 (4) All fees and funds collected at state educational institutions for student activities;

31 (5) All funds derived from collections from dormitories, boardinghouses, cafeterias and
32 road camps;

33 (6) All moneys received from counties by institutions for the deaf and blind on account of
34 clothing for indigent pupils;

35 (7) All insurance collected on account of losses by fire and refunds;

36 (8) All funds derived from bookstores and sales of blank paper and stationery, and
37 collections by the chief inspector of public offices;

38 (9) All moneys collected and belonging to the capitol building fund, state road fund, state
39 road sinking fund, general school fund, school fund, state fund (moneys belonging to counties,

40 districts and municipalities), state interest and sinking funds, state compensation funds, the fund
41 maintained by the Public Service Commission for the investigation and supervision of applications
42 and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt,
43 trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and
44 granted by the federal government for fish and wildlife conservation; and

45 (10) All moneys collected or received under any act of the Legislature providing that funds
46 collected or received under the act shall be used for specific purposes: Provided, That
47 notwithstanding any provision of this code to the contrary, any unencumbered special revenue
48 account that has had no activity either receiving or disbursing funds shall have twenty-five percent
49 of those funds forfeited and reverted to the General Revenue Fund: *Provided, however, That any*
50 unencumbered special revenue account that has had no activity either receiving or disbursing
51 funds for over one year, but less than two years, shall have fifty percent of those funds forfeited
52 and reverted to the General Revenue Fund: *Provided further, That any unencumbered special*
53 revenue account that has had no activity either receiving or disbursing funds for over two years
54 shall have one hundred percent of those funds forfeited and reverted to the General Revenue
55 Fund. Officials and employees of the state authorized by statute to accept moneys on behalf of
56 the State of West Virginia that are designated for special revenue accounts may not disburse
57 funds from these special revenue accounts pending the forfeiture and repayment to the General
58 Revenue Fund required by this subdivision.

59 (c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection
60 (b) of this section, shall be paid into the State Treasury in the same manner as collections not
61 excepted and recorded in separate accounts for receipt and expenditure for the purposes for
62 which the moneys are authorized to be collected by law: *Provided, That* amounts collected
63 pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from
64 time to time, to exceed funds needed for the purposes set forth in general law may be transferred
65 to other accounts or funds and redesignated for other purposes by appropriation of the

66 Legislature. The gross amount collected in all cases shall be paid into the State Treasury.
67 Commissions, costs and expenses, including, without limitation, amounts charged for use of bank,
68 charge, credit or debit cards, incurred in the collection process shall be paid from the gross
69 amount collected in the same manner as other payments are made from the State Treasury.

70 (d) The State Treasurer may establish an imprest fund or funds in the office of any state
71 spending unit upon receipt of a proper application. To implement this authority, the State
72 Treasurer shall propose rules for legislative approval in accordance with the provisions of article
73 three, chapter twenty-nine-a of this code. The State Treasurer or his or her designee shall
74 annually audit all imprest funds and prepare a list of the funds showing the location and amount
75 as of fiscal year end, retaining the list as a permanent record of the State Treasurer until the
76 Legislative Auditor has completed an audit of the imprest funds of all agencies and institutions
77 involved.

78 (e) The State Treasurer may develop and implement a centralized receipts processing
79 center. The State Treasurer may request the transfer of equipment and personnel from
80 appropriate state agencies to the centralized receipts processing center in order to implement the
81 provisions of this section: *Provided*, That the Governor or appropriate Constitutional officer has
82 authority to authorize the transfer of equipment or personnel to the centralized receipts processing
83 center from the respective agency.

NOTE: The purpose of this bill is to provide for the forfeiture of unencumbered funds in special revenue accounts and repayment of certain percentages of the special revenue accounts to the General Revenue Fund, if these accounts have been inactive for designated periods. The bill also prohibits expenditures from these accounts pending the forfeiture of the funds.

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