

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2014**

BY DELEGATES KIMES, FAST, PRITT, FERRELL, BRIDGES,

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STORCH

[Originating in the Committee on Finance; February

11, 2021]



1 A BILL to amend and reenact §4-11-1, §4-11-2, §4-11-3, §4-11-4, §4-11-5, §4-11-6 and §4-11-7  
2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-1A-1 of said  
3 code; to amend and reenact §11B-1-1 and §11B-1-4 of said code; to amend and reenact  
4 §11B-2-11, §11B-2-21 and §11B-2-23 of said code; to amend and reenact §12-2-2 of said  
5 code; to amend and reenact §12-3-12 and §12-3-17 of said code; to amend and reenact  
6 §12-4-2 and §12-4-3 of said code; and to amend and reenact §15-5-6 of said code, all  
7 relating to disposition of moneys received by the state generally; specifying the role of the  
8 Legislature in appropriating federal funds; updating references to types of federal funds;  
9 providing for appropriation of federal funds in accordance with the state constitution;  
10 updating and clarifying statutory cross-references; limiting gubernatorial authority to spend  
11 federal funds without appropriation of the Legislature; continuing and limiting spending of  
12 certain emergency funds for natural disasters without additional enactment; requiring  
13 reports to the Legislature on proposed and actual spending of those funds; removing  
14 certain emergency federal fund exclusion language from the provisions governing  
15 appropriations of federal funds; establishing controlling provisions in case of conflict of  
16 law; clarifying statutes applicable to preparation of state budget; clarifying meaning of  
17 certain terms; conditioning the Secretary of Revenue's receipt and expenditure of federal  
18 funds; providing copy of certain reports to the Legislature; enlarging matters to be reported  
19 to the Legislature regarding revenue estimates, collections and appropriations; requiring  
20 any budget reductions be made before end of fiscal year; enlarging matters to be reported  
21 in the annual Consolidated Federal Funds report; authorizing funds to be reappropriated  
22 from one fiscal year to the next, and providing circumstances under which those funds  
23 expire to the general revenue fund instead of being reappropriated; modifying certain  
24 terms; updating references to public officers; and prohibiting the suspension of any statute  
25 governing the appropriation or expenditure of public funds by the exercise of gubernatorial  
26 emergency powers.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 4. THE LEGISLATURE.**

### **ARTICLE 11. LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS.**

#### **§4-11-1. Legislative findings and purpose.**

1           The Legislature finds and declares that in order to carry out its responsibility for the  
2 enactment of all appropriations needed for the operation of state government, the Legislature  
3 needs continuous and accurate accounts of the amounts and purposes of all federal funds being  
4 requested, received or expended by the various agencies and departments of the state. The  
5 Legislature further finds and declares that the increased availability of and reliance on federal  
6 financial assistance has a substantial impact upon the programs, priorities and fiscal affairs of the  
7 state. "It is the purpose of this article to clarify and specify the role of the Legislature in  
8 appropriating federal funds received by the state in all events, including public emergencies, and  
9 in prescribing, by general law, the required form and detail of the itemization and classification of  
10 proposed appropriations to assure that state purposes are served and legislative priorities are  
11 adhered to by the acceptance and use of such funds.

#### **§4-11-2. Definitions.**

1           As used in this article:

2           ~~(1)~~ "Federal funds" means any financial assistance made to a spending unit by the United  
3 States government, whether a loan, grant, block grant, subsidy, augmentation, reimbursement or  
4 any other form of such assistance, including "federal-matching funds";

5           ~~(2)~~ "Federal-matching funds" means federal funds of a specified amount or proportion for  
6 which a specified outlay of state contributions, including funds, property or services, are required  
7 as a condition for receipt or expenditure;

8           ~~(3)~~ "Spending unit" means the State of West Virginia and all agencies, offices,  
9 departments, divisions, boards, commissions, councils, committees or other entities of the state

10 government for which an appropriation is requested or to which an appropriation is made by the  
11 Legislature. "Spending unit" does not mean any county, city, township, public service district or  
12 other political subdivision of the state; and

13 (4) "State-matching funds" means state contributions, including funds, property or services  
14 that are required by the federal government, by law or regulation, as a condition for receipt or  
15 expenditure of federal funds.

**§4-11-3. Receipt of federal funds and required deposit in state treasury.**

1 Unless contrary to federal law, all federal funds received by a spending unit shall be  
2 deposited in and credited to special fund accounts as provided by ~~section two, article two, chapter~~  
3 ~~twelve~~ §12-2-2 of this code and shall be available for appropriation by the Legislature as part of  
4 the state budget in accordance with Article X of the Constitution of this state.

**§4-11-4. Inclusion of federal funds in state budget and the budget bill.**

1 Pursuant to ~~article one-a, chapter five~~ §5-1A-1 et seq., and ~~chapter five-a~~ §11B-2-1 et seq.  
2 of this code, the Governor shall itemize in the state budget and in the budget bill, on a line-item  
3 basis, separately, for each spending unit, the amount and purpose of all federal funds received  
4 or anticipated for expenditure, with a reference to the account number, line item and amount of  
5 any state funds required for such purpose: *Provided*, That all federal ~~revenue sharing~~ block grant  
6 funds shall be so itemized in a separate section of the state budget and the budget bill devoted  
7 exclusively to proposed appropriations from the ~~revenue sharing trust fund~~ block grant funds.

**§4-11-5. Legislative appropriation authority.**

1 (a) No spending unit may make expenditures of any federal funds, whether such funds  
2 are advanced prior to expenditure or as reimbursement, unless such expenditures are made  
3 pursuant to specific appropriations by the Legislature, except as may be hereinafter provided.

4 (b) To the extent not precluded by the terms and conditions under which federal funds are  
5 made available to the spending unit by the United States government, the spending unit shall use  
6 federal funds in accordance with any purposes, policies or priorities the Legislature may have

7 established for the activity being assisted or for the use of state, federal and other fiscal resources  
8 in a particular fiscal year.

9 (c) If the federal funds received by a spending unit for a specific purpose are greater than  
10 the amount of such funds contained in the appropriation by the Legislature for such purpose, the  
11 total appropriation of federal funds and any state matching funds for such purpose shall remain  
12 at the level appropriated, except as hereinafter provided.

13 (d) If federal funds become available to the spending unit for expenditure while the  
14 Legislature is not in session and the availability of such funds could not reasonably have been  
15 anticipated and included in the budget approved by the Legislature for the next fiscal year, the  
16 treasurer may accept such funds on behalf of the spending unit and the Governor may authorize,  
17 in writing, the expenditure of such funds by the spending unit during that fiscal year as authorized  
18 by federal law and pursuant to the provisions of ~~article two, chapter five a of the code~~ §11B-2-1  
19 et seq. of this code and, which permits expenditure of amounts in excess of the appropriation  
20 upon the filing of a proper expenditure schedule: *Provided*, That the Governor may not authorize  
21 the expenditure of such funds received for the creation of a new program or for a significant  
22 alteration of an existing program. For purposes of this article, a mere new source of funding of  
23 federal moneys for a program which has been prior approved by legislative appropriation ~~will not~~  
24 ~~be deemed to be~~ is not a “new program” or a “significant alteration of an existing program” and  
25 the Governor may authorize the expenditure of such funds as herein provided, subject to the  
26 limitations under subsection (e) of this section. Should a question arise concerning whether such  
27 expenditures would constitute a new program or significant alteration of an existing program, while  
28 the Legislature is not in session, the Governor shall seek the recommendation of the council of  
29 finance and administration, as created and existing pursuant to the provisions of ~~section three,~~  
30 ~~article one, chapter five a of the code~~ §5A-1-4 of this code. Upon application to the federal  
31 government for such funds and upon receipt of such funds, the Governor shall submit to the  
32 Legislative Auditor two copies of a statement:

33 (1) Describing the proposed expenditure of such funds in the same manner as it would be  
34 described in the state budget; and

35 (2) Explaining why the availability of such federal funds and why the necessity of their  
36 expenditure could not have been anticipated in time for such expenditures to have been approved  
37 as part of the adopted budget for that particular fiscal year.

38 (e) Notwithstanding the provisions of subsection (d) of this section, no amount of such  
39 unanticipated federal funds for an existing program made available to the state for costs and  
40 damages resulting from flooding, forest fires, earthquakes, storms or similar natural disasters that  
41 occur and are received while the Legislature is not in session and that are declared by the  
42 Governor as a state of emergency in excess of \$150 million for any part or the whole of the  
43 declared emergency may be expended without appropriation by the Legislature enacted following  
44 receipt of the funds: *Provided*, That the Governor is not authorized to expend any amount of any  
45 unanticipated federal funds received for an existing program, for a significant alteration of an  
46 existing program, or for the creation of a new program that are made available to the state for  
47 costs and damages resulting from civil disobedience, human-caused disasters, infectious disease  
48 outbreaks, or similar public health or safety emergencies that occur and are received while the  
49 Legislature is not in session and that are declared by the Governor as a state of emergency  
50 without appropriation by the Legislature enacted following receipt of the funds. No provision of  
51 this code or any appropriations act in effect upon the receipt of unanticipated federal funds made  
52 available to the state for costs and damages resulting from civil disobedience, human-caused  
53 disasters, infectious disease outbreaks, or similar public health or safety emergencies that occur  
54 and are received while the Legislature is not in session and that are declared by the Governor as  
55 a state of emergency may be construed to authorize the appropriation of those funds.

56 (f)(1) If federal funds become available to a spending unit and the funds were not included  
57 in the budget approved by the Legislature for the next fiscal year but are authorized to be  
58 expended while the Legislature is not in session under subsection (d) of this section, the Governor

59 shall submit reports in writing to the President of the Senate, the Speaker of the House of  
60 Delegates, the chairs of the respective committees on finance of the two houses of the  
61 Legislature, and the Legislative Auditor as follows:

62 (A) On or before the first day of each month following the receipt of the funds until the  
63 funds are expended in their entirety, the reports shall include the following:

64 (i) The purposes for which funds were made available, the identification of any federal and  
65 state laws governing the expenditure of the funds and a general itemization of the Governor's  
66 plan of expenditure for the whole of the funds;

67 (ii) A detailed schedule setting forth the Governor's proposed expenditures of the funds  
68 for the month, including, but not limited to, as to each proposed expenditure, the amount and  
69 purpose of the expenditure; the spending unit responsible for making the expenditure; and the  
70 anticipated recipient or recipients of the expenditure; and

71 (iii) An explanation of any changes made from the prior month's general itemization of the  
72 Governor's plan of expenditure for the whole of the funds and of any changes the prior month's  
73 schedule of proposed expenditures made by the actual expenditures made during that month;

74 (B) On or before the 15th day of the month following month in which the funds were  
75 expended in their entirety, the report shall set forth a complete itemized report of each expenditure  
76 of the funds; and

77 (C) The Governor shall also include in each report such additional information as may be  
78 requested the Legislative Auditor.

79 (2) The Legislative Auditor shall provide a copy of each report to the Joint Committee on  
80 Government and Finance.

**§4-11-6. Exclusions.**

1 The following are excluded from the provisions of this article:



2 (1) Federal funds received by state institutions of higher education or by students or faculty  
3 members of such institutions for instructional or research purposes and federal funds received for  
4 student scholarships or grants-in-aid;

5 (2) Federal nondiscretionary pass-through funds which are earmarked in specified  
6 amounts or proportions for transmittal to local political subdivisions or to designated classes of  
7 organizations and individuals which do not require state-matching funds and do not permit  
8 discretion in their distribution by the receiving state spending unit;

9 ~~(3) Federal funds made available to the state for costs and damages resulting from natural~~  
10 ~~disasters, civil disobedience or other occurrences declared by the Governor as a state of~~  
11 ~~emergency; and~~

12 ~~(4)~~(3) All federal funds received by the West Virginia department of highways or the West  
13 Virginia commissioner of highways.

**§4-11-7. Conflict with other statutory provisions.**

1 If there is any conflict between the provisions of this article and any other provision of law,  
2 including this code, relating to receiving or expending federal funds, the provisions of this article  
3 shall govern and control.

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 1A. ITEMIZATION OF PROPOSED APPROPRIATIONS IN BUDGET BILL  
SUBMITTED BY GOVERNOR TO LEGISLATURE.**

**§5-1A-1. Legislative findings and purposes.**

1 The Legislature finds and declares that section fifty-one, article six of the Constitution,  
2 known as the “modern budget amendment,” authorizes the Legislature to prescribe by law the

3 form and detail of the itemization and classification of the proposed appropriations of the budget  
4 bill submitted to it by the Governor, and that said section further authorizes the Legislature to  
5 enact such laws, not inconsistent with said section, as may be necessary and proper to carry out  
6 its provisions. The Legislature further finds and declares that said section makes the Legislature  
7 solely responsible for enacting all appropriations needed for the operation of state government,  
8 and that in carrying out such responsibility, the Legislature requires a continuous and timely flow  
9 of accurate information relative to the financial condition of the state, the needs and operations of  
10 the various agencies and departments of the state, and the amounts and purposes of all funds,  
11 including federal funds, being requested, received or expended by such agencies and  
12 departments from sources other than the revenues of the state.

13 Therefore, it is the purpose of this article to implement the aforementioned provisions of  
14 the Constitution, to enable the Legislature to carry out its Constitutional responsibility by  
15 prescribing the form and detail of the itemization and classification of the proposed appropriations  
16 of the budget bill submitted to the Legislature by the Governor, and in conjunction with the  
17 ~~provisions of this act amending certain sections of articles one and two, chapter five a, §5-1A-1~~  
18 ~~et seq. and §11B-2-1 et seq. of this code and section three, article four, chapter twelve §12-4-3~~  
19 ~~of this code~~, to ensure that the Legislature will be furnished the information needed to discharge  
20 such responsibility.

## CHAPTER 11B. DEPARTMENT OF REVENUE.

### ARTICLE 1. DEPARTMENT OF REVENUE.

**§11B-1-1. ~~Department of tax and revenue renamed~~ Department of Revenue; ~~office of~~  
~~secretary of tax and revenue renamed~~ Office of Secretary of Revenue; Director of  
Budget; federal funds.**

1 (a) ~~The Department of Tax and Revenue and the office of secretary of tax and revenue~~  
2 ~~are hereby renamed, respectively, the~~ The Department of Revenue and the office of secretary of

3 revenue ~~and~~ are continued in the executive branch of state government. Wherever in this code  
4 the words “office of secretary of tax and revenue” or “secretary of tax and revenue” are used, such  
5 words shall ~~now~~ mean the office of secretary of revenue or the secretary of revenue. Wherever in  
6 this code the words “department of tax and revenue” are used, such words shall mean the  
7 Department of Revenue.

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

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

14 (d) The secretary shall serve at the will and pleasure of the Governor. The annual  
15 compensation of the secretary shall be as specified in ~~section two-a, article seven, chapter six~~  
16 §6-7-2a of this code.

**§11B-1-4. Reports by secretary.**

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

**ARTICLE 2. STATE BUDGET OFFICE.**

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

1 (a) Prior to the beginning of each fiscal year, the secretary shall estimate the revenue to  
2 be collected month by month by each classification of tax for that fiscal year as it relates to the  
3 official estimate of revenue for each tax for that fiscal year and the secretary shall certify this

4 estimate to the Governor and the Legislative Auditor and the West Virginia Investment  
5 Management Board by July 1, for that fiscal year.

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

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

25 (b) Prior to July 1, of each fiscal year, the secretary shall estimate daily revenue flows for  
26 the General Revenue Fund for the next fiscal year as it relates to the official estimate of revenue.  
27 Subsequent to the end of each fiscal year, the secretary shall compare the projected daily revenue  
28 flows with the actual daily revenue flows from the previous year. The secretary may for any month  
29 or months, at his or her discretion, revise the annual projections of the daily revenue flows. The

30 secretary shall certify to the Governor, the Legislative Auditor and the Investment Management  
31 Board, as soon as possible after the close of each month and not later than the 15th day of each  
32 month, and at other times as the Governor, the Legislative Auditor or the Investment Management  
33 Board may request, the condition of the General Revenue Fund and the comparison of the  
34 projected daily revenue flows with the actual daily revenue flows. If the secretary fails to certify to  
35 the Governor, the Legislative Auditor and the Investment Management Board the information  
36 required by this subsection within the time specified herein, the Legislative Auditor shall notify the  
37 Auditor and treasurer of the failure and thereafter no funds appropriated to the Department of  
38 Revenue may be expended until the secretary has certified the information required by this  
39 subsection.

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

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

**§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; ~~and consolidated report of federal funds;~~ central agency for receipt of federal funds; unlawful acts.**

1 (a) Every agency of the state government when making requests or preparing budgets to  
2 be submitted to the federal government for funds, equipment, material or services, the grant or  
3 allocation of which is conditioned upon the use of state matching funds, shall have the request or  
4 budget approved in writing by the secretary before submitting it to the proper federal authority.  
5 When the federal authority has approved the request or budget, the agency of the state

6 government shall resubmit it to the secretary for recording before any allotment or encumbrance  
7 of the federal funds can be made. Whenever any agency of the state government receives from  
8 any agency of the federal government a grant or allocation of funds which do not require state  
9 matching, the state agency shall report to the secretary the amount of the federal funds granted  
10 or allocated.

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

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

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

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

27 (3) A brief description of the purpose of every grant or other distribution, with the name of  
28 the federal agency, bureau or department making the grant or distribution: *Provided*, That it is not  
29 necessary to include in the report an itemization of federal ~~revenue sharing funds deposited in~~  
30 ~~and appropriated from the revenue sharing trust fund~~ block grants, or federal funds received for  
31 the benefit of the Division of Highways of the Department of Transportation.

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

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

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **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~~ §29A-3-1 et  
12 seq. of this code governing the procedure for deposits. The official or employee making deposits  
13 with the State Treasurer shall prepare deposit lists in the manner and upon report forms  
14 prescribed by the State Treasurer in the state accounting system. The State Treasurer shall  
15 review the deposits in the state accounting system and forward the information to the State Auditor  
16 and to the Secretary of 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 only upon appropriation of the Legislature  
20 in accordance with the provisions of ~~article eleven, chapter four~~ §4-11-1 et seq. of this code. All  
21 moneys, other than federal funds, defined in ~~section two, article eleven, chapter four~~ §4-11-2 of  
22 this code, shall be credited to the state fund and treated by the State Auditor and State Treasurer  
23 as part of the general revenue of the state except the following funds which shall be recorded in  
24 separate accounts:

25 (1) All funds excluded by the provisions of ~~section six, article eleven, chapter four~~ §4-11-  
26 6 of this code;

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

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

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

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



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

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

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

39 (9) All moneys collected and belonging to the capitol building fund, state road fund, state  
40 road sinking fund, general school fund, school fund, state fund (moneys belonging to counties,  
41 districts and municipalities), state interest and sinking funds, state compensation funds, the fund  
42 maintained by the Public Service Commission for the investigation and supervision of applications  
43 and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt,  
44 trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and  
45 granted by the federal government for fish and wildlife conservation; and

46 (10) All moneys collected or received under any act of the Legislature providing that funds  
47 collected or received under the act shall be used for specific purposes.

48 (c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection  
49 (b) of this section, shall be paid into the State Treasury in the same manner as collections not  
50 excepted and recorded in separate accounts for receipt and expenditure for the purposes for  
51 which the moneys are authorized to be collected by law: *Provided*, That amounts collected  
52 pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from  
53 time to time, to exceed funds needed for the purposes set forth in general law may be transferred  
54 to other accounts or funds and redesignated for other purposes by appropriation of the  
55 Legislature. The gross amount collected in all cases shall be paid into the State Treasury.  
56 Commissions, costs and expenses, including, without limitation, amounts charged for use of bank,  
57 charge, credit or debit cards, incurred in the collection process shall be paid from the gross  
58 amount collected in the same manner as other payments are made from the State Treasury.

59 (d) The State Treasurer may establish an imprest fund or funds in the office of any state  
60 spending unit upon receipt of a proper application. To implement this authority, the State  
61 Treasurer shall propose rules for legislative approval in accordance with the provisions of ~~article~~  
62 ~~three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code. The State Treasurer or his or her  
63 designee shall annually audit all imprest funds and prepare a list of the funds showing the location  
64 and amount as of fiscal year end, retaining the list as a permanent record of the State Treasurer  
65 until the Legislative Auditor has completed an audit of the imprest funds of all agencies and  
66 institutions involved.

67 (e) The State Treasurer may develop and implement a centralized receipts processing  
68 center. The State Treasurer may request the transfer of equipment and personnel from  
69 appropriate state agencies to the centralized receipts processing center in order to implement the  
70 provisions of this section: *Provided*, That the Governor or appropriate constitutional officer has  
71 authority to authorize the transfer of equipment or personnel to the centralized receipts processing  
72 center from the respective agency.

## CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

### ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

#### §12-3-12. Expiration of unexpended appropriations; reappropriations.

1 (a) ~~Every~~ Except as provided in subsection (b) of this section, every appropriation ~~which~~  
2 that is payable out of the general revenue, or so much thereof as may remain undrawn at the end  
3 of the year for which made, shall be deemed to have expired at the end of the year for which it is  
4 made, and no warrant shall thereafter be issued upon it: *Provided*, That warrants may be drawn  
5 through the 31st day of July after the end of the year for which the appropriation is made if the  
6 warrants are in payment of bills for such year and have been encumbered by the budget office  
7 prior to July first: ~~but appropriations for buildings and land or capital outlay shall remain in effect,~~  
8 ~~and shall not be deemed to have expired until the end of three years after the passage of the act~~

9 ~~by which such appropriations are made~~ *Provided, however,* That if such 31st day of July is on  
10 Saturday, then warrants may only be drawn through the Friday immediately preceding such  
11 Saturday, but if such 31st day of July is on Sunday, the warrants may be drawn through the  
12 Monday immediately following such Sunday.

13 (b) Notwithstanding any provision of subsection (a) of this section to the contrary:

14 (1) Appropriations that are payable out of the general revenue, or so much thereof as may  
15 remain undrawn at the end of the year for which made, for buildings and land or capital outlay  
16 shall remain in effect, and shall not be deemed to have expired until the end of three years after  
17 the passage of the act by which such appropriations are made; and

18 (2) Appropriations that are payable out of the general revenue, or so much thereof as may  
19 remain undrawn at the end of the fiscal year for which made, that are reappropriated by the budget  
20 act for the ensuing fiscal year shall not be deemed to have expired unless, at the end of the fiscal  
21 year just ended, the total general revenue collections for the fiscal year just ended did not equal  
22 or exceed total general revenue appropriations for that fiscal year. If the total general revenue  
23 collections for the fiscal year just ended did not equal or exceed total general revenue  
24 appropriations for that fiscal year, all such reappropriations shall be deemed to have expired at  
25 the end of the fiscal year as provided in subsection (a) of this section.

26 (c) The Legislature may expire or provide for the expiration of any appropriation prior to  
27 the end of the fiscal year for which it is made.

**§12-3-17. Liabilities incurred by state boards, commissions, officers or employees which cannot be paid out of current appropriations.**

1 Except as provided in this section, it shall be unlawful for any state board, commission,  
2 officer or employee: (1) To incur any liability during any fiscal year which cannot be paid out of  
3 the then current appropriation for such year or out of funds received from an emergency  
4 appropriation; or (2) to authorize or to pay any account or bill incurred during any fiscal year out

5 of the appropriation for the following year: *Provided*, That nothing contained herein shall prohibit  
6 entering into a contract or lease for buildings, land and space, the cost of which exceeds the  
7 current year's appropriation, even though the amount is not available during the then current year,  
8 if the aggregate cost does not exceed the amount then authorized by the Legislature. Nothing  
9 contained herein shall ~~repeat~~ abrogate the provisions of the general law relating to the expiration  
10 of appropriations for buildings and land.

11 Any member of a state board or commission or any officer or employee violating any  
12 provision of this section shall be personally liable for any debt unlawfully incurred or for any  
13 payment unlawfully made.

#### **ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

##### **§12-4-2. Accounts of Treasurer and Auditor; Auditor to certify condition of revenues and funds of the state.**

1 The Treasurer shall keep in his or her office separate accounts with each depository, and  
2 also a summary account for the state, and when money is paid into the treasury, it shall be  
3 charged to the proper depository and credited to a summary account. The Auditor shall keep in  
4 his or her office separate accounts of the particular heads or sources of revenue, and a summary  
5 account with the Treasurer, beside such individual accounts with officers and persons as may be  
6 necessary, and shall charge every sum of money received for the state as aforesaid to the  
7 Treasurer's account, and credit it under the particular head of revenue to which it properly  
8 belongs, distinguishing especially in distinct accounts the receipts on account of the capital of the  
9 school fund and those on account of the income of said fund subject to annual distribution. The  
10 Auditor shall certify annually to the ~~commissioner of finance and administration~~ Secretary of  
11 Revenue the condition of the state revenues and the several funds of the state. The certification  
12 shall be used by the ~~commissioner~~ Secretary in the preparation of a tentative state budget as

13 required of him or her by ~~article two, chapter five-a~~ §5-1A-1 et seq., and §11B-2-1 et seq. of this  
14 code.

**§12-4-3. Accounts of appropriations.**

1 The Auditor and Secretary of ~~administration~~ Revenue shall each keep an account of every  
2 appropriation made by law, and of the several sums drawn thereon, so that the accounts may  
3 show at all times the balance undrawn on each appropriation. The account so kept shall be  
4 compared every month and errors, if any, corrected.

**CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

**§15-5-6. Emergency powers of Governor.**

1 (a) The provisions of this section are operative only during the existence of a state of  
2 emergency or state of preparedness. The existence of a state of emergency or state of  
3 preparedness may be proclaimed by the Governor or by concurrent resolution of the Legislature  
4 if the Governor in the proclamation, or the Legislature in the resolution, finds that an attack upon  
5 the United States has occurred or is anticipated in the immediate future, or that a natural or man-  
6 made disaster of major proportions has actually occurred or is imminent within the state, or that  
7 an emergency exists or may be imminent due to a large-scale threat beyond local control, and  
8 that the safety and welfare of the inhabitants of this state require an invocation of the provisions  
9 of this section.

10 (b) Any state of emergency or state of preparedness, whether proclaimed by the Governor  
11 or by the Legislature, terminates upon the proclamation of the termination by the Governor, or the  
12 passage by the Legislature of a concurrent resolution terminating the state of emergency or state  
13 of preparedness: *Provided*, That in no case shall a state of preparedness last longer than 30 days.

14 (c) So long as a state of emergency or state of preparedness exists, the Governor has  
15 and may exercise the following additional emergency powers:

16 (1) To enforce all laws and rules relating to the provision of emergency services and to  
17 assume direct operational control of any or all emergency service forces and helpers in the state;

18 (2) To sell, lend, lease, give, transfer or deliver materials or perform functions relating to  
19 emergency services on terms and conditions he or she prescribes and without regard to the  
20 limitations of any existing law and to account to the State Treasurer for any funds received for the  
21 property;

22 (3) To procure materials and facilities for emergency services by purchase, condemnation  
23 under the provisions of chapter fifty-four of this code or seizure pending institution of  
24 condemnation proceedings within thirty days from the seizing thereof and to construct, lease,  
25 transport, store, maintain, renovate or distribute the materials and facilities. Compensation for  
26 property so procured shall be made in the manner provided in ~~chapter fifty-four~~ §54-1-1 et seq.  
27 of this code;

28 (4) To obtain the services of necessary personnel, required during the emergency, and to  
29 compensate them for their services from his or her contingent funds or other funds available to  
30 him or her;

31 (5) To provide and compel the evacuation of all or part of the population from any stricken  
32 or threatened area within the state and to take steps that are necessary for the receipt and care  
33 of the evacuees;

34 (6) To control ingress and egress to and from a disaster area or an area where large-scale  
35 threat exists, the movement of persons within the area and the occupancy of premises therein;

36 (7) To suspend the provisions of any regulatory statute prescribing the procedures for  
37 conduct of state business or the orders, rules of any state agency, if strict compliance therewith  
38 would in any way prevent, hinder or delay necessary action in coping with the emergency:  
39 Provided, That no statute governing the appropriation or expenditure of public funds from any  
40 source may be suspended;

41           (8) To use available resources of the state and of its political subdivisions that are  
42 reasonably necessary to cope with the emergency;

43           (9) To suspend or limit the sale, dispensing or transportation of alcoholic beverages,  
44 explosives and combustibles;

45           (10) To make provision for the availability and use of temporary emergency housing; and

46           (11) To perform and exercise other functions, powers and duties that are necessary to  
47 promote and secure the safety and protection of the civilian population.

48           (d) The declaration of a state of preparedness has the same effect as a declaration of a  
49 state of emergency for the purposes of the Emergency Management Assistance Compact  
50 established in ~~section twenty-two of this article~~ §15-5-22 of this code and the Statewide Mutual  
51 Aid Systems set forth in ~~section twenty-eight of this article~~ §15-5-28 of this code.

52           (e) The powers granted under this section do not authorize any action that would violate  
53 the prohibitions of ~~section nineteen-a of this article~~ §15-5-19a of this code.