

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 885

By Senators Willis and Rose

[Introduced March 24, 2025; referred
to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §11-29-1, §11-29-2, §11-29-3, §11-29-4, §11-29-5, §11-29-6, §11-29-7, §11-29-8, and §11-29-9, relating to creating the Tax and Expenditure Limitation Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. TAX AND EXPENDITURE LIMITATION ACT.

§11-29-1. Short title.

This article shall be known as the "Tax and Expenditure Limitation Act".

§11-29-2. Provisions.

For any fiscal year that commences on or after December 31, 2025, state and local government districts must have voter approval in advance for any new tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, any markup on products sold through state-controlled enterprises, or a tax policy change directly causing a net tax revenue gain to any district. Voter approval is also required for creation of any multi-fiscal year direct or indirect district debt or other financial obligation without adequate present cash reserves pledged irrevocably and held for payments in all future years, except for refinancing district bonded debt at a lower interest rate or adding new employees to existing district pension plans. Voter approval is also required for suspension of the spending limits imposed by this Act.

§11-29-3. Definitions.

(a) "Inflation" means the Consumer Price Index (all items) for the United States of America, or any comparable index, as computed by the Bureau of Labor Statistics.

(b) "Population" means the number of people residing in the state, excluding armed forces stationed overseas, as determined by the United States Bureau of Census.

(c) "The rate of growth of personal income" means the personal income growth rate as computed by the Bureau of Economic Analysis.

(d) "The rate of growth of gross state product" means the gross state product growth rate

8 as computed by the Bureau of Economic Analysis.

9 (e) "Fiscal year spending" means the total amount of monies appropriated by the state or
10 local government district except:

11 (1) Appropriations funded monies received from the federal government;

12 (2) Principal and interest on bonded indebtedness;

13 (3) Appropriations funded by unemployment and disability insurance funds;

14 (4) Appropriations funded by discretionary user charges to the extent that such charges do
15 not exceed the cost of the goods or services and its purchase by the user is discretionary;

16 (5) Appropriations funded from permanent endowment, trust funds, or pension funds;

17 (6) Proceeds of gifts or bequests made for purposes specified by the donor; or

18 (7) Monies appropriated for tax relief.

19 (f) "Fiscal year" means any accounting period consisting of 12 consecutive months.

20 (g) "Per capita expenditures" mean the quotient derived from dividing expenditures of the
21 state for a fiscal year by its population on the first day of that fiscal year.

22 (h) "Emergency" means an extraordinary event or occurrence that could not have been
23 reasonably foreseen or prevented and that requires immediate expenditure to preserve the health,
24 safety, and general welfare of the people.

25 (i) "Total state revenues" means all monies derived from the state's own revenue sources.

26 (j) "Local government district" means any local governmental jurisdiction, including cities,
27 municipalities, counties, school districts, and special districts.

28 (k) "Local growth" for a non-school district means a net percentage change in actual value
29 of all real property in a district from construction of taxable real property improvements, minus
30 destruction of similar improvements, and additions to, minus deletions from, taxable real property.
31 For a school district, it means the percentage change in student enrollment.

32 (l) "Bonds means any form of multi-fiscal year indebtedness, including non-recourse,
33 limited tax general obligation bonds, or limited liability bonds.

(m) Voter approval means approval by a majority of eligible voters participating in an election.

§11-29-4. Spending limits.

(a) For any fiscal year that commences on or after December 31, 2025, the maximum annual percentage change in state fiscal year spending equals the lesser of the following rates, calculated for the average of the two fiscal years immediately preceding the regular legislative session:

(1) A rate equal to the sum of:

(A) The rate of growth of this state's population; and

(B) The rate of price inflation;

(2) The rate of growth of personal income of this state's residents; or

(3) The rate of growth of gross state product for this state, adjusted for revenue changes approved by voters as required in §11-29-2. Population shall be determined by annual federal census estimates and such number shall be adjusted every decade to match the federal census.

(b) The maximum annual percentage change in each local government district's fiscal year spending equals inflation in the prior calendar year plus annual "local growth".

§11-29-5. Revenue limits.

(a) If the amount of total state revenue for the prior fiscal year exceeds the amount of total state revenue for the next preceding fiscal year, the maximum amount of total state revenues shall be the lesser of the amount of total state revenue for the prior state fiscal year or the amount of total state revenues limit for the average of the prior two fiscal years plus the product of the applicable amount and the lesser of:

(1) A rate equal to the sum of:

(A) The rate of growth of this state's population; and

(B) The rate of price inflation;

(2) The rate of growth of personal income of this state's residents; or

(3) The rate of growth of gross state product for this state, in the prior calendar year.

(b) If the amount of total state revenues for the prior fiscal year is less than the amount of total state revenues for the next preceding fiscal year, the maximum amount of the total state revenues shall be the amount of total state revenues limit for the most recent year for which the amount of total state revenues exceeded the amount of total state revenues for the preceding fiscal year.

(c) The maximum annual percentage change in each local government district's property tax revenue equals inflation in the prior calendar year plus annual "local growth," adjusted for property tax revenue changes approved by voters.

§11-29-6. Emergency reserve fund.

(a) For any state fiscal year that commences on or after December 31, 2025 and before making any transfers to the budget stabilization fund or any refunds as required by §11-29-7 of this code, the state treasurer shall transfer revenues in excess of the total state revenues limit determined pursuant to §11-29-5. of this article, to the emergency reserve cash fund, which fund is hereby created, to the extent necessary to ensure that the balance of the fund at the end of the fiscal year is an amount equal to two and one-half percent of the total state revenue limit. The state shall not be required to transfer any moneys other than revenue in excess of the total state revenues limit to the fund. Unused revenues apply to the next state fiscal year's emergency reserve fund. The emergency reserve cash fund shall be in addition to, and shall not be used to meet, any other reserve requirement of this constitution or of law.

(b) Monies in the state emergency reserve cash fund may be expended for declared emergencies only. 'Emergency' means an extraordinary event or occurrence that could not have been reasonably for-seen or prevented and that requires immediate expenditures to preserve the health, safety, and general welfare of the people. 'Emergency' does not mean a revenue shortfall or budget shortfall. Appropriation from the fund can only occur upon a two-thirds vote of all elected members of each house of the Legislature concurring therein. Interest or other income earned on

the emergency reserve fund shall accrue to the fund.

(c) Each local government district shall transfer revenue in excess of the spending limit in an emergency reserve cash fund, which fund is hereby created, to the extent necessary to ensure the balance in the fund at the end of the year is an amount equal to two and one-half percent of the spending limit. The emergency reserve cash fund can only be used for declared emergencies as defined in this Act. Unused emergency funds apply to the next years emergency cash reserve fund. Any excess reserves that remain after the local government district has made transfers to the emergency cash reserve fund shall be refunded during the next fiscal year through temporary property or sales tax rate reductions.

§11-29-7. Budget stabilization fund.

(a) For any state fiscal year that commences on or after December 31, 2025, if revenue from sources not excluded from total state revenues exceeds the limit on total state revenue calculated in accordance with §11-29-5 of this code, for that fiscal year the excess shall be reserved or refunded as follows:

(B) The state treasurer shall first transfer the excess to the emergency reserve cash fund to the extent necessary to ensure that the balance of the fund at the end of the fiscal year is an amount equal to two and one-half percent of the total state revenues limit for the fiscal year as required by §11-29-4 of this code. The state treasurer shall transfer additional excess to the budget stabilization fund which fund is hereby created, to the extent necessary to ensure that the balance of the fund at the end of the fiscal year is an amount equal to two and one-half percent of the total state revenue limit for the fiscal year. The state treasurer shall not transfer any monies other than the revenues in excess of the total state revenues limit to the fund. Interest or other income earned on the budget stabilization fund shall accrue to the fund.

(C) For any state fiscal year that commences on or after December 31, 2026, if the amount of the total state revenues is less than the amount of total state revenues for the prior fiscal year, the state treasurer shall transfer money from the budget stabilization fund to the general fund in an

amount equal to the difference between the amount of total state revenues for the prior fiscal year and the amount of total state revenues for the fiscal year. Under no other circumstances shall the state treasurer transfer moneys from the budget stabilization fund.

(D) Any excess that remains after the state treasurer has made the transfers required by paragraph (B) of this section shall be reserved in the current fiscal year and refunded during the next fiscal year through temporary income or sales tax rate reductions.

(E) On or after December 31, 2026 transfers of state cash fund principal from any state cash fund to the general fund, other than transfers from the emergency reserve fund or the budget stabilization fund to the general fund are prohibited. On or after December 31, 2027, state cash fund appropriations that either supplant any state general fund appropriation, or that, if not made would necessitate a state general fund appropriation are prohibited. For purposes of this paragraph, a state cash fund appropriation that is funded by user charges or fees imposed on goods or services that do not exceed the cost of the goods or services provided shall not be deemed to be an appropriation that supplants any general fund appropriation.

§11-29-8. Mandated and shifted costs.

The state shall not impose upon any local unit of government any part of the total costs of new programs or services, or increases in existing programs or services, unless a specific appropriation is made sufficient to pay the local unit of government for that purpose. The proportion of state revenue paid to all local units of government, taken as a group, shall not be reduced below that proportion in effect at the adoption of this article. Where costs are transferred from one unit of government to another unit of government, either by law or court order, the limitation imposed by §11-29-4 of this code shall be adjusted and transferred accordingly so that total costs are not increased as a result of such transfer.

§11-29-9. Severability.

If any expenditure category, or revenue source, shall, by a court of competent jurisdiction in a final order, be adjudged exempt from this article, the process of computing the expenditure

- 3 limitation shall be adjusted accordingly and remaining provisions shall be in full force and effect.

NOTE: The purpose of this bill is to create the Tax and Expenditure Limitation Act.

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