

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3240

By Delegate Criss

[By Request of the Department of Tax and Revenue]

[Introduced ; referred

to the Committee on]

1 A BILL to amend and reenact §11-13A-5b of the Code of West Virginia, 1931, as amended,
 2 relating to the West Virginia Future Fund; providing specific dates; and transferring any
 3 moneys in the fund to General Revenue.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-5b. Creation and cessation of West Virginia Future Fund; legislative intent; calculation of deposits from excess severance tax revenues; permissible uses of investment income and limitations on expenditures; definitions.

1 (a) There is hereby created in the State Treasury a special revenue account, designated
 2 the West Virginia Future Fund, which is an interest-bearing account and may be invested by the
 3 West Virginia Investment Management Board in the manner permitted by the provisions of article
 4 six, chapter twelve of this code, with the investment income to be credited to the fund and
 5 deposited in the special revenue account.

6 (b) The Legislature declares its intention to use the fund as a means of conserving a
 7 portion of the state's revenue derived from the increased revenue proceeds received by the state
 8 as a result of any mineral production as well as other funding sources as the Legislature may
 9 designate in order to meet future needs. The principal of the fund shall remain inviolate and no
 10 portion of the principal may be appropriated, expended or encumbered by the Legislature or any
 11 official of the state. Only the investment income of this fund may be appropriated and expended:
 12 *Provided*, That no more than the average net investment return for the immediately preceding five
 13 fiscal years may be appropriated or expended in any one fiscal year.

14 (c) Notwithstanding any provision of this code to the contrary, for the fiscal year beginning
 15 July 1, 2014, and each year thereafter, the secretary of revenue shall cause to be deposited in this
 16 fund three percent of the annual severance tax revenue which would otherwise be deposited into
 17 the General Revenue Fund which is attributable to the severance of coal, limestone, sandstone,
 18 natural gas and oil and collected and received pursuant to the provisions of sections three and

19 three-a, article thirteen-a, chapter eleven of this code: *Provided*, That these deposits shall only be
20 made during fiscal years within which the balance of the Revenue Shortfall Reserve Fund equals
21 or exceeds 13 percent of the state's General Revenue Fund budget for the fiscal year just ended
22 as determined within 60 days of the end of that prior fiscal year as provided by subsection (b),
23 section twenty, article two, chapter eleven-b of this code: *Provided, however*, That these deposits
24 shall not be made in any fiscal year in which the Governor's General Revenue Fund estimate relies
25 on transfers from the Revenue Shortfall Reserve Fund: *Provided further*, That these deposits shall
26 not be made in any fiscal year for which mid-year spending reductions, hiring freezes, mid-year
27 decreases in appropriations or transfers from the Revenue Shortfall Reserve Fund are
28 necessitated due to revenue shortfalls or would be necessitated if the deposits were to be made:
29 *And provided further*, That amounts that may be deposited into the fund in error or found later to be
30 subject to these limitations shall be redeposited into the General Revenue Fund. The Legislature
31 may, by general appropriation or by designation of other funding sources, deposit into the fund
32 additional moneys as it considers appropriate.

33 (d) In order to maximize the value of the fund, no money from the fund may be expended or
34 appropriated until fiscal year 2020 and thereafter the Legislature may appropriate, subject to the
35 limitations provided in this section, from the fund solely for enhancing education and workforce
36 development; economic development and diversification; infrastructure improvements; and tax
37 relief measures for the benefit of the citizens and businesses of the State of West Virginia.

38 (e) Cessation of the West Virginia Future Fund:--

39 (1) On July 1, 2023, the West Virginia Future Fund and any duties regarding its creation,
40 continuation, and expenditure shall be eliminated.

41 (2) Any funds held in the West Virginia Future Fund on July 1, 2023, shall be transferred
42 into the General Revenue Fund of this state.

43 ~~(e)~~(f) For purposes of this section:

44 (1) "Economic development and diversification" means fostering economic growth and

45 development in the state, including commercial, industrial, community, cultural or historical
46 improvements; or preservation or other proper purposes.

47 (2) "Infrastructure improvements" means fostering infrastructure improvements including,
48 but not limited to, post-mining land use, water or wastewater facilities or a part thereof, storm water
49 systems, steam, gas, telephone and telecommunications, broadband development, electric lines
50 and installations, roads, bridges, railroad spurs, drainage and flood control facilities, industrial park
51 development or buildings that promote job creation and retention.

52 (3) "Tax relief" means reducing the tax responsibility of citizens and businesses located in
53 the State of West Virginia, including, but not limited to, increasing the Homestead Exemption and
54 reducing or eliminating the ad valorem property tax on inventory and equipment held for
55 commercial or industrial use.

NOTE: The purpose of this bill is to eliminate the West Virginia Future Fund due to language in W. Va. Code §11B-2-20 that prevents its funding. Any money held in the Future Fund on July 1, 2023, will be transferred into the General Revenue Fund and the Future Fund will be closed.

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