

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

### **Originating**

## **House Bill 4625**

BY DELEGATES NELSON, AMBLER, BUTLER, ESPINOSA,  
FRICH, HOUSEHOLDER, C. MILLER, STORCH, WESTFALL  
AND HANSHAW

[Originating in the Committee on Finance;

Reported on February 19, 2018]

1 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating  
2 to allocating a portion of any general revenue surplus accruing after a fiscal year to the  
3 Public Employees Insurance Agency Financial Stability Fund; providing limit on balance  
4 of fund that suspends allocation; modifying portion allocated to revenue shortfall reserve  
5 fund; and terminating provisions.

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

**ARTICLE 2. STATE BUDGET OFFICE.**

**§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve  
Fund and permissible expenditures therefrom; allocation of surplus.**

1 (a) Notwithstanding any provision of this section, the Governor may reduce appropriations  
2 according to any of the methods set forth in sections twenty-one and twenty-two of this article.  
3 The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by  
4 the Legislature from the Revenue Shortfall Reserve Fund established in this section.

5 (b) (1) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The  
6 Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in  
7 accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the  
8 total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The  
9 Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus  
10 revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from  
11 time to time.

12 (2) Within sixty days of the end of each fiscal year, the secretary shall cause to be  
13 deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all  
14 surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may  
15 be necessary to bring the balance of the Revenue Shortfall Reserve Fund to thirteen percent of  
16 the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If  
17 at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal

18 to or exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year  
19 just ended, then there shall be no further deposit by the secretary under the provisions of this  
20 section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall  
21 Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund,  
22 General Revenue.

23 (3) Notwithstanding any other provision of this subsection to the contrary, within sixty days  
24 of the end of the fiscal year ending June 30, 2018, and within sixty days of the end of each fiscal  
25 year thereafter to and including the fiscal year ending June 30 2027, the secretary shall cause to  
26 be deposited into the Public Employees Insurance Agency Financial Stability Fund established in  
27 §11B-2-32 of this code such amount of the first twenty percent of all surplus revenues, if any,  
28 determined to have accrued during the fiscal year just ended as may be necessary to bring the  
29 balance of the Public Employees Insurance Agency Financial Stability Fund to \$75 million. If at  
30 the end of any fiscal year the Public Employees Insurance Agency Financial Stability Fund is  
31 funded at an amount equal to or exceeding \$75 million, then there shall be no further deposit  
32 therein by the secretary under the provisions of this subdivision of any surplus revenues as set  
33 forth in this subdivision until that time the Public Employees Insurance Agency Financial Stability  
34 Fund balance is less than \$75 million. After any deposit is made to the Public Employees  
35 Insurance Agency Financial Stability Fund under this subdivision, the secretary shall cause to be  
36 deposited into the Revenue Shortfall Reserve Fund such amount of the next forty percent of all  
37 surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may  
38 be necessary to bring the balance of the Revenue Shortfall Reserve Fund to thirteen percent of  
39 the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If  
40 at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal  
41 to or exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year  
42 just ended, then there shall be no further deposit by the secretary under the provisions of this

43 section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall  
44 Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund,  
45 General Revenue. The provisions of this subdivision shall terminate and be of no force and effect  
46 after the secretary administers the provisions of this subdivision following the end of the fiscal  
47 year ending June 30 2027.

48 (c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances  
49 are such as to otherwise trigger the authority of the Governor to reduce appropriations under this  
50 section or section twenty-one or twenty-two of this article, then in that event the Governor may  
51 notify the presiding officers of both houses of the Legislature in writing of his or her intention to  
52 convene the Legislature pursuant to section nineteen, article VI of the Constitution of West  
53 Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to  
54 request a supplementary appropriation bill at the next preceding regular session of the Legislature  
55 to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue  
56 shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall  
57 Reserve Fund during any special legislative session called for the purposes set forth in this section  
58 or during the next preceding regular session of the Legislature, then the Governor may proceed  
59 with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.  
60 Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation  
61 made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor  
62 may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-  
63 two of this article.

64 (d) Upon the creation of the fund, the Legislature is authorized and may make an  
65 appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency  
66 revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined  
67 solely by the Legislature.

68 (e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely  
69 payments of the state's obligations, the Governor may, by executive order, after first notifying the  
70 presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue  
71 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and  
72 subject to all other conditions, requirements and limitations set forth in this section, the Governor  
73 may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The  
74 amount of funds borrowed under this subsection shall not exceed one and one-half percent of the  
75 general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount  
76 the Governor determines is necessary to make timely payment of the state's obligations,  
77 whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without  
78 interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days  
79 of their withdrawal.

80 (f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury.  
81 The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West  
82 Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article  
83 eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco  
84 Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the  
85 provisions of article twenty-f, chapter thirty-three of this code and all interest and other return  
86 earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue  
87 Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection  
88 (d) of this section, subject to the following conditions:

89 (1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other  
90 return earned thereon may be expended for any purpose unless all moneys in the Revenue  
91 Shortfall Reserve Fund described in subsection (b) of this section have first been expended,  
92 except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund

93 – Part B may be expended as provided in subdivision (2) of this subsection;

94 (2) Notwithstanding any other provision of this section to the contrary, the Legislature may  
95 appropriate any interest and other return earned thereon that may accrue on the moneys in the  
96 Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes  
97 set forth in section three, article eleven-a, chapter four of this code; and

98 (3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made  
99 only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

100 (g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund  
101 – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the  
102 provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue  
103 Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to,  
104 but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue,  
105 for the fiscal year just ended.

106 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
107 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
108 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
109 Investments for management and investment of the moneys in accordance with the provisions of  
110 article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund  
111 shall be made available to the West Virginia Investment Management Board for management and  
112 investment of the moneys in accordance with the provisions of article six, chapter twelve of this  
113 code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other  
114 return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall  
115 remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

116 (2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made  
117 available to the West Virginia Investment Management Board for management and investment of

118 the moneys in accordance with the provisions of article six, chapter twelve of this code. Any  
119 balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other  
120 return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall  
121 remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.