

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 3080**

BY DELEGATES SKAFF, ROWE, HORNBUCKLE, BOGGS,  
ELLINGTON, SPONAUGLE, LONGSTRETH, WILLIAMS AND  
PYLES

[Introduced February 12, 2019; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating  
2 to redirecting a percentage of any surplus to state institutions of higher education to  
3 restore their state allocation funding levels to adjusted 2013 fiscal year appropriation  
4 levels.

*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.**

1 (a) Notwithstanding any provision of this section, the Governor may reduce appropriations  
2 according to any of the methods set forth in §11B-2-21 and §11B-2-22 of this code. The Governor  
3 may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature  
4 from the Revenue Shortfall Reserve Fund established in this section.

5 (b) 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 13 percent of the total  
8 appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue  
9 Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if  
10 any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

11 Within 60 days of the end of each fiscal year, the secretary shall cause to be deposited  
12 into the Revenue Shortfall Reserve Fund such amount of the first 50 percent of all surplus  
13 revenues, if any, determined to have accrued during the fiscal year just ended, as may be  
14 necessary to bring the balance of the Revenue Shortfall Reserve Fund to 13 percent of the total  
15 appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end  
16 of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or  
17 exceeding 13 percent of the state's General Revenue Fund budget for the fiscal year just ended,  
18 then there shall be no further deposit by the secretary under the provisions of this section of any

19 surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve  
20 Fund balance is less than 13 percent of the total appropriations from the State Fund, General  
21 Revenue: Provided, That to restore state institutions of higher education to the amounts each was  
22 funded in the 2013 fiscal year adjusted for inflation and increased costs, beginning with the fiscal  
23 year beginning on July 1, 2019, and continuing thereafter, the contribution of 50 percent of  
24 revenue into the Revenue Shortfall Reserve Fund shall be reduced by up to \$10 million each  
25 fiscal year to be proportionately distributed based on a percentage to each existing state institution  
26 of higher education that has yet to have funding restored to the amounts paid in the 2013 fiscal  
27 year. The Director of the Budget Office shall ascertain the 2013 fiscal year funding amount of  
28 each state institution of higher education and will adjust each level by two percent per year after  
29 the 2013 fiscal year to adjust for inflation and increased costs. Once the funding to any institution  
30 is restored to the adjusted 2013 fiscal year amount, the moneys herein provided shall be  
31 proportionately distributed to all other remaining institutions that have not then been restored to  
32 the adjusted 2013 fiscal year funding amount. After the funding amounts for all state institutions  
33 as adjusted for all higher education institutions funding are restored, no further allocations for this  
34 purpose shall be taken from the Revenue Shortfall Reserve Fund.

35 (c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances  
36 are such as to otherwise trigger the authority of the Governor to reduce appropriations under this  
37 section or §11B-2-21 and §11B-2-22 of this code, then in that event the Governor may notify the  
38 presiding officers of both houses of the Legislature in writing of his or her intention to convene the  
39 Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the  
40 purpose of requesting the introduction of a supplementary appropriation bill or to request a  
41 supplementary appropriation bill at the next preceding regular session of the Legislature to draw  
42 money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue  
43 shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall  
44 Reserve Fund during any special legislative session called for the purposes set forth in this section

45 or during the next preceding regular session of the Legislature, then the Governor may proceed  
46 with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code. Should any  
47 amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by  
48 the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also  
49 proceed with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code.

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

54 (e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely  
55 payments of the state's obligations, the Governor may, by executive order, after first notifying the  
56 presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue  
57 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and  
58 subject to all other conditions, requirements and limitations set forth in this section, the Governor  
59 may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The  
60 amount of funds borrowed under this subsection shall not exceed one and one-half percent of the  
61 general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount  
62 the Governor determines is necessary to make timely payment of the state's obligations,  
63 whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without  
64 interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within 90 days of  
65 their withdrawal.

66 (f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury.  
67 The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West  
68 Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of §4-11A-2 of this  
69 code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust  
70 Fund to the Physician's Mutual Insurance Company pursuant to the provisions of §33-20F-1 *et*

71 *seq.* of this code and all interest and other return earned on the moneys in the Revenue Shortfall  
72 Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be  
73 expended solely for the purposes set forth in subsection (d) of this section, subject to the following  
74 conditions:

75 (1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other  
76 return earned thereon may be expended for any purpose unless all moneys in the Revenue  
77 Shortfall Reserve Fund described in subsection (b) of this section have first been expended,  
78 except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund  
79 – Part B may be expended as provided in subdivision (2) of this subsection;

80 (2) Notwithstanding any other provision of this section to the contrary, the Legislature may  
81 appropriate any interest and other return earned thereon that may accrue on the moneys in the  
82 Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes  
83 set forth in §4-11A-3 of this code; and

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

86 (g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund  
87 – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the  
88 provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue  
89 Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to,  
90 but not exceeding 10 percent of the total appropriations from the State Fund, General Revenue,  
91 for the fiscal year just ended.

92 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
93 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
94 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
95 Investments for management and investment of the moneys in accordance with the provisions of  
96 article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund

97 shall be made available to the West Virginia Investment Management Board for management and  
98 investment of the moneys in accordance with the provisions of article six, chapter twelve of this  
99 code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other  
100 return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall  
101 remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

102 (2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made  
103 available to the West Virginia Investment Management Board for management and investment of  
104 the moneys in accordance with the provisions of article six, chapter twelve of this code. Any  
105 balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other  
106 return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall  
107 remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.

NOTE: The purpose of this bill is to redirect up to \$10 million per year of any surplus in the state budget away from the Revenue Shortfall Reserve Fund to state institutions of higher education to restore their funding up to adjusted 2013 fiscal year levels.

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