

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **Senate Bill 487**

BY SENATORS TARR, CLEMENTS, ROBERTS, AND

HAMILTON

[Introduced January 26, 2022; referred  
to the Committee on Finance]



1 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating  
2 to combining the totals of the Revenue Shortfall Reserve Fund and Revenue Shortfall  
3 Reserve Fund – Part B when determining surplus deposit eligibility; limiting the amount of  
4 surplus deposited into the Revenue Shortfall Reserve Fund; and providing for an effective  
5 date.

*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 Except as provided otherwise in this subsection, effective July 1, 2022, within 60 days of  
12 the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall  
13 Reserve Fund such amount of the first 50 percent of all surplus revenues, if any, determined to  
14 have accrued during the fiscal year just ended, as may be necessary to bring the balance of the  
15 Revenue Shortfall Reserve Fund to ~~thirteen percent of the total appropriations from the State~~  
16 ~~Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue~~  
17 ~~Shortfall Reserve Fund is funded at an amount equal to or exceeding thirteen percent of the~~

18 ~~state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further~~  
19 ~~deposit by the secretary under the provisions of this section of any surplus revenues as set forth~~  
20 ~~in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than thirteen~~  
21 ~~percent of the total appropriations from the State Fund, General Revenue when combined with~~  
22 ~~the Revenue Shortfall Reserve Fund – Part B as set forth in subsection (f) of this section is equal~~  
23 ~~to or is greater than 23 percent of a rolling average of the preceding seven fiscal years general~~  
24 ~~revenue appropriations in the enrolled and enacted version of the State's fiscal year budget.~~

25 (c) Not earlier than November 1 of each calendar year, if the State's fiscal circumstances  
26 are such as to otherwise trigger the authority of the Governor to reduce appropriations under this  
27 section or §11B-2-21 and §11B-2-22 of this code, then in that event the Governor may notify the  
28 presiding officers of both houses of the Legislature in writing of his or her intention to convene the  
29 Legislature pursuant to section 19, article VI of the Constitution of West Virginia for the purpose  
30 of requesting the introduction of a supplementary appropriation bill or to request a supplementary  
31 appropriation bill at the next preceding regular session of the Legislature to draw money from the  
32 surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the  
33 Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund  
34 during any special legislative session called for the purposes set forth in this section or during the  
35 next preceding regular session of the Legislature, then the Governor may proceed with a  
36 reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code. Should any  
37 amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by  
38 the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also  
39 proceed with a reduction of appropriations pursuant to §11B-2-21 and §11B-2-22 of this code.

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

44 (e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely  
45 payments of the state's obligations, the Governor may, by executive order, after first notifying the  
46 presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue  
47 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and  
48 subject to all other conditions, requirements and limitations set forth in this section, the Governor  
49 may borrow funds from the Revenue Shortfall Reserve Fund prior to ~~the first day of April 1~~. The  
50 amount of funds borrowed under this subsection shall may not exceed one and one-half percent  
51 of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the  
52 amount the Governor determines is necessary to make timely payment of the state's obligations,  
53 whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without  
54 interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within 90 days of  
55 their withdrawal.

56 (f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury.  
57 The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West  
58 Virginia Tobacco Settlement Medical Trust Fund pursuant to ~~the provisions of §4-11A-2 of this~~  
59 ~~code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust~~  
60 ~~Fund to the Physician's Mutual Insurance Company pursuant to the provisions of §33-20F-1 et~~  
61 ~~seq. of this code and all interest and other return earned on the moneys in the Revenue Shortfall~~  
62 Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be  
63 expended solely for the purposes set forth in subsection (d) of this section, subject to the following  
64 conditions:

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

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

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

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

82 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
83 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
84 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
85 Investments for management and investment of the moneys in accordance with ~~the provisions of~~  
86 §12-6C-1 *et seq.* of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be  
87 made available to the West Virginia Investment Management Board for management and  
88 investment of the moneys in accordance with ~~the provisions of~~ §12-6-1 *et seq.* of this code. Any  
89 balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return  
90 earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain  
91 in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

92 (2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made  
93 available to the West Virginia Investment Management Board for management and investment of  
94 the moneys in accordance with ~~the provisions of~~ §12-6-1 *et seq.* of this code. Any balance of the  
95 Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned

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- 96 thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the  
97 Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.