

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 487**

BY SENATORS TARR, CLEMENTS, ROBERTS, HAMILTON,

PLYMALE, AND JEFFRIES

[Originating in the Committee on Finance; reported on

February 3, 2022]



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 ~~Provided, That no general revenue supplemental appropriations appropriated from the State's~~  
26 ~~general revenue unappropriated balance or general revenue unappropriated surplus balance will~~  
27 ~~be included in the calculation of the state's general revenue appropriations.~~

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

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

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

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

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

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

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

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

85 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
86 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
87 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
88 Investments for management and investment of the moneys in accordance with ~~the provisions of~~  
89 §12-6C-1 *et seq.* of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be  
90 made available to the West Virginia Investment Management Board for management and  
91 investment of the moneys in accordance with ~~the provisions of~~ §12-6-1 *et seq.* of this code. Any  
92 balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return

93 earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain  
94 in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

95 (2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made  
96 available to the West Virginia Investment Management Board for management and investment of  
97 the moneys in accordance with ~~the provisions of~~ §12-6-1 *et seq.* of this code. Any balance of the  
98 Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned  
99 thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the  
100 Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.