

**WEST VIRGINIA LEGISLATURE**  
**2023 FIRST EXTRAORDINARY SESSION**

**Introduced**  
**House Bill 101**

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]

[Introduced August 6, 2023; 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 ~~Within 60 days of the end of each fiscal year, the secretary shall cause to be deposited into~~  
 12 ~~the Revenue Shortfall Reserve Fund such amount of the first 50 percent of all surplus revenues, if~~  
 13 ~~any, determined to have accrued during the fiscal year just ended, as may be necessary to bring~~  
 14 ~~the combined balance of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve~~  
 15 ~~Fund – Part B to 20 percent of the total appropriations from the State Fund, General Revenue, for~~  
 16 ~~the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund and~~  
 17 ~~the Revenue Shortfall Reserve Fund – Part B are funded at a combined amount equal to or~~

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

23 Except as provided otherwise in this subsection, effective July 1, 2023, within 60 days of  
24 the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall  
25 Reserve Fund such amount of the first 50 percent of all surplus revenues, if any, determined to  
26 have accrued during the fiscal year just ended, as may be necessary to bring the balance of the  
27 Revenue Shortfall Reserve Fund when combined with the Revenue Shortfall Reserve Fund – Part  
28 B as set forth in subsection (f) of this section to an amount that is equal to or is greater than 23  
29 percent of a rolling average of the preceding seven fiscal years general revenue appropriations in  
30 section one in the enrolled and enacted version of the State's fiscal year budget: *Provided, That no*  
31 general revenue supplemental appropriations appropriated from the State's general revenue  
32 unappropriated balance or general revenue unappropriated surplus balance will be included in the  
33 calculation of the state's general revenue appropriations.

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

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

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

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

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

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

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

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

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

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

91 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater  
92 amount as may be certified as necessary by the Director of the Budget Office for the purposes of  
93 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury  
94 Investments for management and investment of the moneys in accordance with the provisions of  
95 §12-6C-1 *et seq.* of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be

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

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

NOTE: The purpose of this bill is to combine the totals of the Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B when determining surplus deposit eligibility. The bill limits the amount of surplus deposited into the Revenue Shortfall Reserve Fund. Finally, the bill provides for an effective date.

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