

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 487

BY SENATORS TARR, CLEMENTS, ROBERTS, HAMILTON,
PLYMALE, AND JEFFRIES

[Passed March 12, 2022; in effect from passage]

1 AN ACT to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended,
2 relating to the threshold which the Secretary of the Department of Revenue is to annually
3 deposit up to the first 50 percent of all surplus revenues, if any, determined to have
4 accrued during the fiscal year just ended; raising the percentage of the threshold; and
5 combining the totals of the Revenue Shortfall Reserve Fund and the Revenue Shortfall
6 Reserve Fund – Part B Revenue for calculation of threshold.

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 combined balance of the Revenue Shortfall Reserve Fund and the
15 Revenue Shortfall Reserve Fund – Part B to 20 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 and the Revenue Shortfall Reserve Fund – Part B are funded at a

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

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

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

43 (e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely
44 payments of the state's obligations, the Governor may, by executive order, after first notifying the

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

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

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

69 (2) Notwithstanding any other provision of this section to the contrary, the Legislature may
70 appropriate any interest and other return earned thereon that may accrue on the moneys in the

71 Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes
72 set forth in §4-11A-3 of this code; and

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2022.

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Governor