

WEST VIRGINIA LEGISLATURE
2024 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 115

BY DELEGATES HANSHAW (MR. SPEAKER) AND

HORNBUCKLE

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 19, 2024; 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 the amount of surplus deposited into the Revenue Shortfall Reserve Fund and providing
3 for an effective 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, 2024, 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 combined
15 balance of the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part
16 B to 20 percent of the total appropriations from the State Fund, General Revenue, for the fiscal
17 year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund and the
18 Revenue Shortfall Reserve Fund – Part B are funded at a combined amount equal to or exceeding
19 20 percent of the state's General Revenue Fund budget for the fiscal year just ended, then there

20 ~~shall be no further deposit by the secretary under the provisions of this section of any surplus~~
21 ~~revenues as set forth in this subsection until the time that the combined balances of the Revenue~~
22 ~~Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund — Part B is less than 20 percent~~
23 ~~of the total appropriations from the State Fund, General Revenue. to an amount equal to or greater~~
24 ~~than 20 percent of a rolling average of the preceding three fiscal years general revenue~~
25 ~~appropriations in Title II, Section 1, providing for appropriations from general revenue, of the~~
26 ~~enrolled and enacted version of the State's fiscal year budget: *Provided*, That no general revenue~~
27 ~~supplemental appropriations appropriated from the State's general revenue unappropriated~~
28 ~~balance or general revenue unappropriated surplus balance will be included in the calculation of~~
29 ~~the State's general revenue appropriations.~~

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

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to amend the requirements for deposits to the Rainy Day Fund.

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