

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 393**

6 (By Senators Kessler (Mr. President) and M. Hall,

7 By Request of the Executive)

8 _____
9 [Originating in the Committee on Finance;

10 reported February 24, 2014.]

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12
13 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
14 1931, as amended, relating to the Revenue Shortfall Reserve
15 Fund; increasing the percentage of surplus revenue paid into
16 the fund for fiscal years 2014 and 2015; and changing the
17 October 31 deadline that the Governor may borrow money from
18 the fund to April 1 for a limited period.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §11B-2-20 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted to read as follows:

22 **ARTICLE 2. STATE BUDGET OFFICE.**

23 **§11B-2-20. Reduction of appropriations; powers of Governor;**

24 **Revenue Shortfall Reserve Fund and permissible**

1 **expenditures therefrom.**

2 (a) Notwithstanding any provision of this section, the
3 Governor may reduce appropriations according to any of the methods
4 set forth in sections twenty-one and twenty-two of this article.
5 The Governor may, in lieu of imposing a reduction in
6 appropriations, request an appropriation by the Legislature from
7 the Revenue Shortfall Reserve Fund established in this section.

8 (b) ~~A~~ The Revenue Shortfall Reserve Fund is ~~hereby~~ continued
9 within the State Treasury. The Revenue Shortfall Reserve Fund
10 shall be funded continuously and on a revolving basis in accordance
11 with subdivision one or two of this subsection up to an aggregate
12 amount not to exceed thirteen percent of the total appropriations
13 from the State Fund, General Revenue, for the fiscal year just
14 ended. The Revenue Shortfall Reserve Fund shall be funded as set
15 forth in subdivision one or two of this subsection from surplus
16 revenues, if any, in the State Fund, General Revenue, as the
17 surplus revenues may accrue from time to time.

18 (1) Within sixty days of the end of each fiscal year, the
19 secretary shall cause to be deposited into the Revenue Shortfall
20 Reserve Fund ~~such amount of~~ an amount equal to the first fifty
21 percent of all surplus revenues, if any, determined to have accrued
22 during the fiscal year just ended, as may be necessary to bring the
23 balance of the Revenue Shortfall Reserve Fund to thirteen percent
24 of the total appropriations from the State Fund, General Revenue,

1 for the fiscal year just ended. If at the end of any fiscal year
2 the Revenue Shortfall Reserve Fund is funded at an amount equal to
3 or exceeding thirteen percent of the state's General Revenue Fund
4 budget for the fiscal year just ended, then there shall be no
5 further deposit by the secretary under the provisions of this
6 section of any surplus revenues as set forth in this ~~subsection~~
7 section until that time the Revenue Shortfall Reserve Fund balance
8 is less than thirteen percent of the total appropriations from the
9 State Fund, General Revenue.

10 (2) Within sixty days of the end of fiscal years 2014 and
11 2015, the first eighty percent of all surplus revenues, if any,
12 determined to have accrued during each of those fiscal years just
13 ended, shall be deposited into the Revenue Shortfall Reserve Fund.

14 (c) Not earlier than November 1 of each calendar year, if the
15 state's fiscal circumstances are such as to otherwise trigger the
16 authority of the Governor to reduce appropriations under this
17 section or section twenty-one or twenty-two of this article, then
18 in that event the Governor may notify the presiding officers of
19 both houses of the Legislature in writing of his or her intention
20 to convene the Legislature pursuant to section nineteen, article VI
21 of the Constitution of West Virginia for the purpose of requesting
22 the introduction of a supplementary appropriation bill or to
23 request a supplementary appropriation bill at the next preceding
24 regular session of the Legislature to draw money from the surplus

1 Revenue Shortfall Reserve Fund to meet any anticipated revenue
2 shortfall. If the Legislature fails to enact a supplementary
3 appropriation from the Revenue Shortfall Reserve Fund during any
4 special legislative session called for the purposes set forth in
5 this section or during the next preceding regular session of the
6 Legislature, then the Governor may proceed with a reduction of
7 appropriations pursuant to sections twenty-one and twenty-two of
8 this article. Should any amount drawn from the Revenue Shortfall
9 Reserve Fund pursuant to an appropriation made by the Legislature
10 prove insufficient to address any anticipated shortfall, then the
11 Governor may also proceed with a reduction of appropriations
12 pursuant to sections twenty-one and twenty-two of this article.

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

18 (e) Prior to October 31 in any fiscal year in which revenues
19 are inadequate to make timely payments of the state's obligations,
20 the Governor may, by executive order, after first notifying the
21 presiding officers of both houses of the Legislature in writing,
22 borrow funds from the Revenue Shortfall Reserve Fund: Provided,
23 That for the fiscal year 2014, pursuant to this subsection and
24 subject to all other conditions, requirements and limitations set

1 forth in this section, the Governor may borrow funds from the
2 Revenue Shortfall Reserve Fund prior to the first day of April.
3 The amount of funds borrowed under this subsection shall not exceed
4 one and one-half percent of the general revenue estimate for the
5 fiscal year in which the funds are to be borrowed, or the amount
6 the Governor determines is necessary to make timely payment of the
7 state's obligations, whichever is less. Any funds borrowed
8 pursuant to this subsection shall be repaid, without interest, and
9 redeposited to the credit of the Revenue Shortfall Reserve Fund
10 within ninety days of their withdrawal.

11 (f) ~~There is hereby created in the State Treasury~~ The Revenue
12 Shortfall Reserve Fund - Part B created in the State Treasury is
13 continued. The Revenue Shortfall Reserve Fund - Part B ~~shall~~
14 ~~consist~~ consists of moneys transferred from the West Virginia
15 Tobacco Settlement Medical Trust Fund pursuant to the provisions of
16 section two, article eleven-a, chapter four of this code,
17 repayments made of the loan from the West Virginia Tobacco
18 Settlement Medical Trust Fund to the Physician's Mutual Insurance
19 Company pursuant to the provisions of article twenty-f, chapter
20 thirty-three of this code and all interest and other return earned
21 on the moneys in the Revenue Shortfall Reserve Fund - Part B.
22 Moneys in the Revenue Shortfall Reserve Fund - Part B may be
23 expended solely for the purposes set forth in subsection (d) of
24 this section, subject to the following conditions:

1 (1) No moneys in the Revenue Shortfall Reserve Fund - Part B
2 nor any interest or other return earned thereon may be expended for
3 any purpose unless all moneys in the Revenue Shortfall Reserve Fund
4 described in subsection (b) of this section have first been
5 expended, except that the interest or other return earned on moneys
6 in the Revenue Shortfall Reserve Fund - Part B may be expended as
7 provided in subdivision (2) of this subsection; ~~and~~

8 (2) Notwithstanding any other provision of this section to the
9 contrary, the Legislature may appropriate any interest and other
10 return earned thereon that may accrue on the moneys in the Revenue
11 Shortfall Reserve Fund - Part B after June 30, 2025, for
12 expenditure for the purposes set forth in section three, article
13 eleven-a, chapter four of this code; and

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

17 (g) Subject to the conditions upon expenditures from the
18 Revenue Shortfall Reserve Fund - Part B prescribed in subsection
19 (f) of this section, in appropriating moneys pursuant to the
20 provisions of this section, the Legislature may in any fiscal year
21 appropriate from the Revenue Shortfall Reserve Fund and the Revenue
22 Shortfall Reserve Fund - Part B a total amount up to, but not
23 exceeding, ten percent of the total appropriations from the State
24 Fund, General Revenue, for the fiscal year just ended.

1 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
2 \$100 million, or ~~such~~ a greater amount as may be certified as
3 necessary by the Director of the Budget for the purposes of
4 subsection (e) of this section, shall be made available to the West
5 Virginia Board of Treasury Investments for management and
6 investment of the moneys in accordance with the provisions of
7 article six-c, chapter twelve of this code. All other moneys in
8 the Revenue Shortfall Reserve Fund shall be made available to the
9 West Virginia Investment Management Board for management and
10 investment of the moneys in accordance with the provisions of
11 article six, chapter twelve of this code. Any balance of the
12 Revenue Shortfall Reserve Fund, including accrued interest and
13 other return earned thereon at the end of any fiscal year, ~~shall~~
14 does not revert to the General Fund but shall remain in the Revenue
15 Shortfall Reserve Fund for the purposes set forth in this section.

16 (2) All of the moneys in the Revenue Shortfall Reserve Fund -
17 Part B shall be made available to the West Virginia Investment
18 Management Board for management and investment of the moneys in
19 accordance with the provisions of article six, chapter twelve of
20 this code. Any balance of the Revenue Shortfall Reserve Fund -
21 Part B, including accrued interest and other return earned thereon
22 at the end of any fiscal year, ~~shall~~ does not revert to the General
23 Fund but shall remain in the Revenue Shortfall Reserve Fund - Part
24 B for the purposes set forth in this section.