

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 191**

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

5 By Request of the Executive)

6 \_\_\_\_\_  
7 [Originating in the Committee on Finance;

8 reported March 27, 2013.]  
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11  
12 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,  
13 1931, as amended; to amend said code by adding thereto a new  
14 section, designated §11B-2-20a; to amend and reenact §17-3-1  
15 of said code; and to amend and reenact §31-15A-9 of said code,  
16 all relating to the Revenue Shortfall Reserve Fund, the  
17 Revenue Shortfall Reserve Fund - Part B and the creation of a  
18 West Virginia Infrastructure Modernization and Development  
19 Special Revenue Fund; specifying maximum aggregate funding  
20 amount for the Revenue Shortfall Reserve Fund; providing that  
21 interest and other earnings on Revenue Shortfall Reserve Fund  
22 - Part B be dedicated to and expended for and in support of  
23 the federal-state Medicaid program authorized by the  
24 Legislature or mandated by the federal government; providing

1 that no interest or other return may be distributed from the  
2 Revenue Shortfall Reserve Fund - Part B if such distribution  
3 would cause the net asset value of the Revenue Shortfall  
4 Reserve Fund - Part B to fall below its value as of July 1,  
5 2013, and providing process for restoration of value;  
6 providing that, in commencing and executing the provisions of  
7 this subdivision, the West Virginia Investment Management  
8 Board is not and shall not be obligated to sell any  
9 investments at a loss or otherwise take any action not in  
10 furtherance of its fiduciary duties and obligations in respect  
11 of funds and investments under its management and supervision;  
12 creating the West Virginia Infrastructure Modernization and  
13 Development Special Revenue Fund in the State Treasury;  
14 specifying the funding source for the West Virginia  
15 Infrastructure Modernization and Development Special Revenue  
16 Fund; specifying use of funds in the West Virginia  
17 Infrastructure Modernization and Development Special Revenue  
18 Fund; providing limitation on use of funds transferred from  
19 the West Virginia Infrastructure Modernization and Development  
20 Special Revenue Fund into the State Road Fund; providing  
21 ability of State Road Fund to accept and expend funds  
22 transferred from the West Virginia Infrastructure  
23 Modernization and Development Special Revenue Fund; and  
24 providing ability of West Virginia Infrastructure Fund to

1 accept and expend funds transferred from the West Virginia  
2 Infrastructure Modernization and Development Special Revenue  
3 Fund.

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

5 That §11B-2-20 of the Code of West Virginia, 1931, as amended,  
6 be amended and reenacted; that said code be amended by adding  
7 thereto a new section, designated §11B-2-20a; that §17-3-1 of said  
8 code be amended and reenacted; and that §31-15A-9 of said code be  
9 amended and reenacted, all to read as follows:

10 **CHAPTER 11B. DEPARTMENT OF REVENUE.**

11 **ARTICLE 2. STATE BUDGET OFFICE.**

12 **§11B-2-20. Reduction of appropriations; powers of Governor;**  
13 **Revenue Shortfall Reserve Fund and permissible**  
14 **expenditures therefrom.**

15 (a) Notwithstanding any provision of this section, the  
16 Governor may reduce appropriations according to any of the methods  
17 set forth in sections twenty-one and twenty-two of this article.  
18 The Governor may, in lieu of imposing a reduction in  
19 appropriations, request an appropriation by the Legislature from  
20 the Revenue Shortfall Reserve Fund established in this section.

21 (b) A Revenue Shortfall Reserve Fund is ~~hereby~~ continued  
22 within the State Treasury. The Revenue Shortfall Reserve Fund  
23 shall be funded continuously and on a revolving basis in accordance  
24 with this subsection up to an aggregate amount not to exceed

1 ~~thirteen~~ fifteen percent of the total appropriations from the State  
2 Fund, General Revenue, for the fiscal year just ended. The Revenue  
3 Shortfall Reserve Fund shall be funded as set forth in this  
4 subsection from surplus revenues, if any, in the State Fund,  
5 General Revenue, as the surplus revenues may accrue from time to  
6 time. Within sixty days of the end of each fiscal year, the  
7 secretary shall cause to be deposited into the Revenue Shortfall  
8 Reserve Fund such amount of the first fifty percent of all surplus  
9 revenues, if any, determined to have accrued during the fiscal year  
10 just ended, as may be necessary to bring the balance of the Revenue  
11 Shortfall Reserve Fund to ~~thirteen~~ fifteen percent of the total  
12 appropriations from the State Fund, General Revenue, for the fiscal  
13 year just ended. If at the end of any fiscal year the Revenue  
14 Shortfall Reserve Fund is funded at an amount equal to or exceeding  
15 ~~thirteen~~ fifteen percent of the state's General Revenue Fund budget  
16 for the fiscal year just ended, then there shall be no further  
17 deposit by the secretary under the provisions of this section of  
18 any surplus revenues as set forth in this subsection until that  
19 time the Revenue Shortfall Reserve Fund balance is less than  
20 ~~thirteen~~ fifteen percent of the total appropriations from the State  
21 Fund, General Revenue.

22 (c) Not earlier than November 1 of each calendar year, if the  
23 state's fiscal circumstances are such as to otherwise trigger the  
24 authority of the Governor to reduce appropriations under this

1 section or section twenty-one or twenty-two of this article, then  
2 in that event the Governor may notify the presiding officers of  
3 both houses of the Legislature in writing of his or her intention  
4 to convene the Legislature pursuant to section nineteen, article VI  
5 of the Constitution of West Virginia for the purpose of requesting  
6 the introduction of a supplementary appropriation bill or to  
7 request a supplementary appropriation bill at the next preceding  
8 regular session of the Legislature to draw money from the surplus  
9 Revenue Shortfall Reserve Fund to meet any anticipated revenue  
10 shortfall. If the Legislature fails to enact a supplementary  
11 appropriation from the Revenue Shortfall Reserve Fund during any  
12 special legislative session called for the purposes set forth in  
13 this section or during the next preceding regular session of the  
14 Legislature, then the Governor may proceed with a reduction of  
15 appropriations pursuant to sections twenty-one and twenty-two of  
16 this article. Should any amount drawn from the Revenue Shortfall  
17 Reserve Fund pursuant to an appropriation made by the Legislature  
18 prove insufficient to address any anticipated shortfall, then the  
19 Governor may also proceed with a reduction of appropriations  
20 pursuant to sections twenty-one and twenty-two of this article.

21 (d) Upon the creation of the fund, the Legislature is  
22 authorized and may make an appropriation from the Revenue Shortfall  
23 Reserve Fund for revenue shortfalls, for emergency revenue needs  
24 caused by acts of God or natural disasters or for other fiscal

1 needs as determined solely by the Legislature.

2 (e) Prior to October 31, in any fiscal year in which revenues  
3 are inadequate to make timely payments of the state's obligations,  
4 the Governor may by executive order, after first notifying the  
5 presiding officers of both houses of the Legislature in writing,  
6 borrow funds from the Revenue Shortfall Reserve Fund. The amount  
7 of funds borrowed under this subsection ~~shall~~ may not exceed one  
8 and one-half percent of the general revenue estimate for the fiscal  
9 year in which the funds are to be borrowed, or the amount the  
10 Governor determines is necessary to make timely payment of the  
11 state's obligations, whichever is less. Any funds borrowed  
12 pursuant to this subsection shall be repaid, without interest, and  
13 redeposited to the credit of the Revenue Shortfall Reserve Fund  
14 within ninety days of their withdrawal.

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

1 Shortfall Reserve Fund - Part B. Moneys in the Revenue Shortfall  
2 Reserve Fund - Part B may be expended solely for the purposes set  
3 forth in subsection (d) of this section, subject to the following  
4 conditions:

5 (1) From July 1, 2013, until June 30, 2025, any and all  
6 interest and other return that may accrue on the moneys in the  
7 Revenue Shortfall Reserve Fund - Part B shall be dedicated to and  
8 expended for and in support of the federal-state Medicaid program  
9 authorized by the Legislature or mandated by the federal  
10 government: *Provided*, that in no event shall interest or other  
11 return be distributed from the Revenue Shortfall Reserve Fund -  
12 Part B if or when the effect of such distribution would be to cause  
13 the net asset value of Revenue Shortfall Reserve Fund - Part B to  
14 fall below the net asset value of Revenue Shortfall Reserve Fund -  
15 Part B as of July 1, 2013: *Provided, however*, That if and in the  
16 event the net asset value of Revenue Shortfall Reserve Fund - Part  
17 B should fall below the net asset value of Revenue Shortfall  
18 Reserve Fund - Part B as of July 1, 2013, whether from losses,  
19 depreciation of assets or for any other reason, any and all  
20 interest or other return that may accrue on the assets in the  
21 Revenue Shortfall Reserve Fund - Part B shall be used first to  
22 restore the net asset value of Revenue Shortfall Reserve Fund -  
23 Part B to the net asset value of the Revenue Shortfall Reserve Fund  
24 - Part B as of July 1, 2013, before such interest or other return

1 may be used for the purposes set forth in this subsection. In  
2 commencing and executing the provisions of this subdivision, the  
3 West Virginia Investment Management Board (a) shall be vested with  
4 full and complete authority and discretion regarding the process,  
5 procedures and policies whereby such interest and other return that  
6 may accrue on the assets in the Revenue Shortfall Reserve Fund -  
7 Part B are calculated, aggregates and transferred in support of the  
8 federal-state Medicaid program, and (b) is not and shall not be  
9 obligated to sell any investments at a loss or otherwise take any  
10 action not in furtherance of its fiduciary duties and obligations  
11 in respect of funds and investments under its management and  
12 supervision;

13       ~~(1)~~ (2) No moneys in the Revenue Shortfall Reserve Fund - Part  
14 B nor any interest or other return earned thereon may be expended  
15 for any purpose unless all moneys in the Revenue Shortfall Reserve  
16 Fund described in subsection (b) of this section have first been  
17 expended, except that the interest or other return earned on moneys  
18 in the Revenue Shortfall Reserve Fund - Part B may be expended as  
19 provided in subdivisions ~~(2)~~ (1) and (3) of this subsection; ~~and~~

20       ~~(2)~~ (3) Notwithstanding any other provision of this section to  
21 the contrary, the Legislature may appropriate any interest and  
22 other return earned thereon that may accrue on the moneys in the  
23 Revenue Shortfall Reserve Fund - Part B after June 30, 2025, for  
24 expenditure for the purposes set forth in section three, article

1 eleven-a, chapter four of this code; and

2       ~~(3)~~ (4) Any appropriation made from Revenue Shortfall Reserve  
3 Fund - Part B shall be made only in instances of revenue shortfalls  
4 or fiscal emergencies of an extraordinary nature.

5       (g) Subject to the conditions upon expenditures from the  
6 Revenue Shortfall Reserve Fund - Part B prescribed in subsection  
7 (f) of this section, in appropriating moneys pursuant to the  
8 provisions of this section, the Legislature may in any fiscal year  
9 appropriate from the Revenue Shortfall Reserve Fund and the Revenue  
10 Shortfall Reserve Fund - Part B a total amount up to, but not  
11 exceeding, ten percent of the total appropriations from the State  
12 Fund, General Revenue, for the fiscal year just ended.

13       (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,  
14 \$100 million, or such greater amount as may be certified as  
15 necessary by the director of the budget for the purposes of  
16 subsection (e) of this section, shall be made available to the West  
17 Virginia Board of Treasury Investments for management and  
18 investment of the moneys in accordance with the provisions of  
19 article six-c, chapter twelve of this code. All other moneys in  
20 the Revenue Shortfall Reserve Fund shall be made available to the  
21 West Virginia Investment Management Board for management and  
22 investment of the moneys in accordance with the provisions of  
23 article six, chapter twelve of this code. Any balance of the  
24 Revenue Shortfall Reserve Fund including accrued interest and other

1 return earned thereon at the end of any fiscal year ~~shall~~ do not  
2 revert to the general fund but shall remain in the Revenue  
3 Shortfall Reserve Fund for the purposes set forth in this section.

4 (2) All of the moneys in the Revenue Shortfall Reserve Fund -  
5 Part B shall be made available to the West Virginia Investment  
6 Management Board for management and investment of the moneys in  
7 accordance with the provisions of article six, chapter twelve of  
8 this code. Any balance of the Revenue Shortfall Reserve Fund -  
9 Part B, including accrued interest and other return earned thereon  
10 at the end of any fiscal year, ~~shall~~ do not revert to the general  
11 fund but shall remain in the Revenue Shortfall Reserve Fund - Part  
12 B for the purposes set forth in this section.

13 **§11B-2-20a. West Virginia Infrastructure Modernization and**  
14 **Development Special Revenue Fund and permissible**  
15 **expenditures therefrom.**

16 (a) There is created in the State Treasury the West Virginia  
17 Infrastructure Modernization and Development Special Revenue Fund.  
18 The West Virginia Infrastructure Modernization and Development  
19 Special Revenue Fund shall be funded on a revolving basis in  
20 accordance with this subsection from surplus revenues, if any, in  
21 the State Fund, General Revenue, as the surplus revenues may accrue  
22 from time to time, subject to the requirements of section twenty of  
23 this article. If at the end of any fiscal year there exists  
24 surplus revenues in the State Fund, General Revenue, that accrued

1 during the fiscal year just ended, then the secretary shall first  
2 cause funds to be deposited into the Revenue Shortfall Reserve Fund  
3 pursuant to section twenty of this article. If at the end of any  
4 fiscal year the Revenue Shortfall Reserve Fund is funded at an  
5 amount equal to or exceeding fifteen percent of the state's General  
6 Revenue Fund budget for the fiscal year just ended, then the  
7 secretary shall, within sixty days of the end of such fiscal year,  
8 cause to be deposited into the West Virginia Infrastructure  
9 Modernization and Development Special Revenue Fund the first fifty  
10 percent of all surplus revenues, if any, in the State Fund, General  
11 Revenue, determined to have accrued during the fiscal year just  
12 ended.

13 (b) On October 1 in the fiscal year beginning July 1, 2013,  
14 and on October 1 in each subsequent fiscal year thereafter, the  
15 secretary shall transfer: (1) Fifty percent of the balance, if any,  
16 of the West Virginia Infrastructure Modernization and Development  
17 Special Revenue Fund into the West Virginia Infrastructure Fund  
18 created in section nine, article fifteen-a, chapter thirty-one of  
19 this code to be expended in accordance with the provisions of said  
20 article; and (2) fifty percent of the balance, if any, of the West  
21 Virginia Infrastructure Modernization and Development Special  
22 Revenue Fund into the State Road Fund created in section one,  
23 article three, chapter seventeen of this code to be expended in  
24 accordance with the provisions of that chapter: *Provided*, That no

1 moneys transferred from the West Virginia Infrastructure  
2 Modernization and Development Special Revenue Fund into the State  
3 Road Fund pursuant to this section may be expended to pay the costs  
4 of services of consultants or preparing studies.

5 **CHAPTER 17. ROADS AND HIGHWAYS.**

6 **ARTICLE 3. STATE ROAD FUND.**

7 **§17-3-1. What constitutes fund; payments into fund; use of money**  
8 **in fund.**

9 There shall be a State Road Fund, which shall consist of the  
10 proceeds of all state license taxes imposed upon automobiles or  
11 other motor or steam driven vehicles; the registration fees imposed  
12 upon all owners, chauffeurs, operators and dealers in automobiles  
13 or other motor driven vehicles; all sums of money which may be  
14 donated to such fund; all proceeds derived from the sale of state  
15 bonds issued pursuant to any resolution or act of the Legislature  
16 carrying into effect the Better Roads Amendment to the Constitution  
17 of this state, adopted in the month of November, 1964, except that  
18 the proceeds from the sale of these bonds shall be kept in a  
19 separate and distinct account in the State Road Fund; all proceeds  
20 from the sale of state bonds issued pursuant to any resolution or  
21 act of the Legislature carrying into effect the Safe Roads  
22 Amendment of 1996 to the Constitution of this state, adopted in the  
23 month of November, 1996, except that the proceeds from the sale of  
24 these bonds shall be kept in a separate and distinct account in the

1 State Road Fund; all moneys and funds appropriated to it by the  
2 Legislature; and all moneys allotted or appropriated by the federal  
3 government to this state for road construction and maintenance  
4 pursuant to any act of the Congress of the United States; the  
5 proceeds of all taxes imposed upon and collected from any person,  
6 firm or corporation and of all taxes or charges imposed upon and  
7 collected from any county, district or municipality for the benefit  
8 of the fund; the proceeds of all judgments, decrees or awards  
9 recovered and collected from any person, firm or corporation for  
10 damages done to, or sustained by, any of the state roads or parts  
11 thereof; all moneys recovered or received by reason of the  
12 violation of any contract respecting the building, construction or  
13 maintenance of any state road; all penalties and forfeitures  
14 imposed, recovered or received by reason thereof; all funds  
15 transferred in accordance with section twenty-a, article two,  
16 chapter eleven-b of this code; and any and all other moneys and  
17 funds appropriated to, imposed and collected for the benefit of  
18 such fund, or collected by virtue of any statute and payable to  
19 such fund: *Provided*, That notwithstanding any provisions of this  
20 code to the contrary, fifty cents of every license fee paid  
21 pursuant to the provisions of subdivision (2), subsection (a),  
22 section eight, article two, chapter seventeen-b of this code shall  
23 be paid to the special fund established pursuant to the provisions  
24 of subsection (a), section twelve, article two, chapter three of

1 this code.

2       When any money is collected from any of the sources aforesaid,  
3 it shall be paid into the State Treasury by the officer whose duty  
4 it is to collect and account for the same, and credited to the  
5 State Road Fund, and ~~shall~~ may be used only for the purposes named  
6 in this chapter, which are: (a) To pay the principal and interest  
7 due on all state bonds issued for the benefit of said fund, and set  
8 aside and appropriated for that purpose; (b) to pay the expenses of  
9 the administration of the road department; and (c) to pay the cost  
10 of maintenance, construction, reconstruction and improvement of all  
11 state roads.

12                                   **CHAPTER 31. CORPORATIONS.**

13 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**  
14                                   **COUNCIL.**

15 **§31-15A-9. Infrastructure fund; deposits in fund; disbursements**  
16                                   **to provide loans, loan guarantees, grants and other**  
17                                   **assistance; loans, loan guarantees, grants and**  
18                                   **other assistance shall be subject to assistance**  
19                                   **agreements; West Virginia Infrastructure Lottery**  
20                                   **Revenue Debt Service Fund; use of funds for**  
21                                   **projects.**

22       (a) The Water Development Authority shall create and establish  
23 a special revolving fund of moneys made available by appropriation,  
24 grant, contribution or loan to be known as the West Virginia

1 Infrastructure Fund. This fund shall be governed, administered and  
2 accounted for by the directors, officers and managerial staff of  
3 the Water Development Authority as a special purpose account  
4 separate and distinct from any other moneys, funds or funds owned  
5 and managed by the Water Development Authority. The Infrastructure  
6 Fund shall consist of subaccounts, as deemed necessary by the  
7 council or the Water Development Authority, for the deposit of: (1)  
8 Infrastructure revenues; (2) any appropriations, grants, gifts,  
9 contributions, loan proceeds or other revenues received by the  
10 Infrastructure Fund from any source, public or private; (3) amounts  
11 received as payments on any loans made by the Water Development  
12 Authority to pay for the cost of a project or infrastructure  
13 project; (4) insurance proceeds payable to the Water Development  
14 Authority or the Infrastructure Fund in connection with any  
15 infrastructure project or project; (5) all income earned on moneys  
16 held in the Infrastructure Fund; (6) all funds deposited in  
17 accordance with section four of article fifteen-b; ~~and~~ (7) all  
18 proceeds derived from the sale of bonds issued pursuant to article  
19 fifteen-b of this chapter; and (8) all funds transferred in  
20 accordance with section twenty-a, article two, chapter eleven-b of  
21 this code.

22 Any money collected pursuant to this section shall be paid  
23 into the West Virginia Infrastructure Fund by the state agent or  
24 entity charged with the collection of the same, credited to the

1 Infrastructure Fund, and used only for purposes set forth in this  
2 article or article fifteen-b.

3       Amounts in the Infrastructure Fund shall be segregated and  
4 administered by the Water Development Authority separate and apart  
5 from its other assets and programs. Amounts in the Infrastructure  
6 Fund may not be transferred to any other fund or account or used,  
7 other than indirectly, for the purposes of any other program of the  
8 Water Development Authority, except that the Water Development  
9 Authority may use funds in the Infrastructure Fund to reimburse  
10 itself for any administrative costs incurred by it and approved by  
11 the council in connection with any loan, loan guarantee, grant or  
12 other funding assistance made by the Water Development Authority  
13 pursuant to this article.

14       (b) Notwithstanding any provision of this code to the  
15 contrary, amounts in the Infrastructure Fund shall be deposited by  
16 the Water Development Authority in one or more banking  
17 institutions: *Provided*, That any moneys so deposited shall be  
18 deposited in a banking institution located in this state. The  
19 banking institution shall be selected by the Water Development  
20 Authority by competitive bid. Pending the disbursement of any money  
21 from the Infrastructure Fund as authorized under this section, the  
22 Water Development Authority shall invest and reinvest the moneys  
23 subject to the limitations set forth in article eighteen, chapter  
24 thirty-one of this code.

1 (c) To further accomplish the purposes and intent of this  
2 article and article fifteen-b of this chapter, the Water  
3 Development Authority may pledge infrastructure revenues and from  
4 time to time establish one or more restricted accounts within the  
5 Infrastructure Fund for the purpose of providing funds to guarantee  
6 loans for infrastructure projects or projects: *Provided*, That for  
7 any fiscal year the Water Development Authority may not deposit  
8 into the restricted accounts more than twenty percent of the  
9 aggregate amount of infrastructure revenues deposited into the  
10 Infrastructure Fund during the fiscal year. No loan guarantee ~~shall~~  
11 may be made pursuant to this article unless recourse under the loan  
12 guarantee is limited solely to amounts in the restricted account or  
13 accounts. No person shall have any recourse to any restricted  
14 accounts established pursuant to this subsection other than those  
15 persons to whom the loan guarantee or guarantees have been made.

16 (d) Each loan, loan guarantee, grant or other assistance made  
17 or provided by the Water Development Authority shall be evidenced  
18 by a loan, loan guarantee, grant or assistance agreement between  
19 the Water Development Authority and the project sponsor to which  
20 the loan, loan guarantee, grant or assistance shall be made or  
21 provided, which agreement shall include, without limitation and to  
22 the extent applicable, the following provisions:

23 (1) The estimated cost of the infrastructure project or  
24 project, the amount of the loan, loan guarantee or grant or the

1 nature of the assistance and in the case of a loan or loan  
2 guarantee, the terms of repayment and the security therefor, if  
3 any;

4 (2) The specific purposes for which the loan or grant proceed  
5 shall be expended or the benefits to accrue from the loan guarantee  
6 or other assistance, and the conditions and procedure for  
7 disbursing loan or grant proceeds;

8 (3) The duties and obligations imposed regarding the  
9 acquisition, construction, improvement or operation of the project  
10 or infrastructure project; and

11 (4) The agreement of the governmental agency to comply with  
12 all applicable federal and state laws, and all rules and  
13 regulations issued or imposed by the Water Development Authority or  
14 other state, federal or local bodies regarding the acquisition,  
15 construction, improvement or operation of the infrastructure  
16 project or project and granting the Water Development Authority the  
17 right to appoint a receiver for the project or infrastructure if  
18 the project sponsor should default on any terms of the agreement.

19 (e) Any resolution of the Water Development Authority  
20 approving loan, loan guarantee, grant or other assistance shall  
21 include a finding and determination that the requirements of this  
22 section have been met.

23 (f) The interest rate on any loan to governmental, quasi-  
24 governmental or not-for-profit project sponsors for projects made

1 pursuant to this article ~~shall~~ may not exceed three percent per  
2 annum. Due to the limited availability of funds available for loans  
3 for projects, it is the public policy of this state to prioritize  
4 funding needs to first meet the needs of governmental, quasi-  
5 governmental and not-for-profit project sponsors and to require  
6 that loans made to for-profit entities shall bear interest at the  
7 current market rates. Therefore, no loan may be made by the council  
8 to a for-profit entity at an interest rate which is less than the  
9 current market rate at the time of the loan agreement.

10 (g) The Water Development Authority shall cause an annual  
11 audit to be made by an independent certified public accountant of  
12 its books, accounts and records, with respect to the receipts,  
13 disbursements, contracts, leases, assignments, loans, grants and  
14 all other matters relating to the financial operation of the  
15 Infrastructure Fund, including the operating of any subaccount  
16 within the Infrastructure Fund. The person performing such audit  
17 shall furnish copies of the audit report to the commissioner of  
18 finance and administration, where they shall be placed on file and  
19 made available for inspection by the general public. The person  
20 performing ~~such~~ the audit shall also furnish copies of the audit  
21 report to the Legislature's Joint Committee on Government and  
22 Finance.

23 (h) There is ~~hereby created~~ continued in the Water Development  
24 Authority a separate, special account which shall be designated and

1 known as the West Virginia Infrastructure Lottery Revenue Debt  
2 Service Fund, into which shall be deposited annually for the fiscal  
3 year beginning July 1, 2011, and each fiscal year thereafter, the  
4 first \$6 million transferred pursuant to section eighteen-d,  
5 article twenty-two, chapter twenty-nine of this code and any other  
6 funds provided therefor: *Provided, That ~~such~~ the* deposits and  
7 transfers are not subject to the reservations of funds or  
8 requirements for distributions of funds established by sections ten  
9 and eleven of this article. Moneys in the West Virginia  
10 Infrastructure Lottery Revenue Debt Service Fund shall be used to  
11 pay debt service on bonds or notes issued by the Water Development  
12 Authority for watershed compliance projects as provided in section  
13 seventeen-b of this article, and to the extent not needed to pay  
14 debt service, for the design or construction of improvements for  
15 watershed compliance projects. Moneys in the West Virginia  
16 Infrastructure Lottery Revenue Debt Service Fund not expended at  
17 the close of the fiscal year do not lapse or revert to the general  
18 fund but are carried forward to the next fiscal year.

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(NOTE: The purpose of this bill is to increase the maximum aggregate funding amount from thirteen percent to fifteen percent for the Revenue Shortfall Reserve Fund; dedicate all interest and other earnings on moneys in Revenue Shortfall Reserve Fund - Part B to the state's Medicaid program; create the West Virginia

Infrastructure Modernization and Development Special Revenue Fund in the State Treasury; specify the funding source for the West Virginia Infrastructure Modernization and Development Special Revenue Fund; specify the use of funds in the West Virginia Infrastructure Modernization and Development Special Revenue Fund; provide ability of State Road Fund to accept and expend funds transferred from the West Virginia Infrastructure Modernization and Development Special Revenue Fund; and provide ability of West Virginia Infrastructure Fund to accept and expend funds transferred from the West Virginia Modernization and Development Special Revenue Fund.

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

§11B-2-20a is new; therefore, strike-throughs and underscoring have been omitted.)