

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2916**

4 (By Delegates E. Nelson, Ashley, Anderson, Boggs, Williams,  
5 H. White, Storch, Gearheart, Bates, Espinosa and O'Neal)

6 (Originating in the Committee on Finance)

7 [February 27, 2015]

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9  
10 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating  
11 to providing limited authority to the Governor to borrow amounts from the Revenue Shortfall  
12 Reserve Fund for the completion of renovations to Capitol Complex Building 3.

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

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

16 **ARTICLE 2. STATE BUDGET OFFICE.**

17 **§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve**  
18 **Fund and permissible expenditures therefrom.**

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

23 (b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The  
24 Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance

1 with this subsection up to an aggregate amount not to exceed thirteen percent of the total  
2 appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue  
3 Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any,  
4 in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

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

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

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

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

12 (e) (1) Prior to October 31, in any fiscal year in which revenues are inadequate to make  
13 timely payments of the state's obligations, the Governor may, by executive order, after first notifying  
14 the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue  
15 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this ~~subsection~~  
16 subdivision and subject to all other conditions, requirements and limitations set forth in this section,  
17 the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to April 1. The  
18 amount of funds borrowed under this ~~subsection~~ subdivision shall not exceed one and one-half  
19 percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or  
20 the amount the Governor determines is necessary to make timely payment of the state's obligations,  
21 whichever is less. Any funds borrowed pursuant to this ~~subsection~~ subdivision shall be repaid,  
22 without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety  
23 days of their withdrawal.

1           (2) Subject to the provisions of this subdivision and to all other conditions, requirements and  
2 limitations set forth in this section, prior to July 1, 2016, the Governor may borrow funds from the  
3 Revenue Shortfall Reserve Fund in an amount not to exceed \$20 million to be expended solely for  
4 the purpose of the renovation of State Capitol Complex Building 3 to provide for its use as state  
5 office space, upon the following conditions:

6           (A) The amount of funds borrowed under this subdivision shall be repaid to the credit of the  
7 Revenue Shortfall Reserve Fund in accordance with paragraph (B) of this subdivision.

8           (B) Unless sooner repaid pursuant to the enactment of legislation providing appropriations  
9 to repay the amount borrowed, at the end of any fiscal year in which the secretary deposits into the  
10 Revenue Shortfall Reserve Fund a portion of the surplus revenues, if any, determined to have  
11 accrued during the fiscal year just ended pursuant to subsection (b) of this section, the secretary shall  
12 also deposit into the Revenue Shortfall Reserve Fund an additional amount equal to twenty percent  
13 of those surplus revenues. The additional amount shall be credited toward the repayment of the  
14 amount borrowed under this subdivision until the full amount is repaid.

15           (C) No funds may be borrowed under this subdivision until the Governor has given written  
16 notice to the President of the Senate and the Speaker of the House of Delegates of his or her intention  
17 to borrow funds under this subdivision, and thereafter has issued an executive order directing the  
18 transfer of the funds borrowed under this subdivision. The notice and the executive order shall, at  
19 a minimum, set forth the amount intended to be borrowed; the specific purposes for which the funds  
20 will be used; and the source of any other payments the Governor may propose to dedicate to the  
21 repayment of the amount borrowed.

22           (f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The  
23 Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia

1 Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a,  
2 chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement  
3 Medical Trust Fund to the Physician’s Mutual Insurance Company pursuant to the provisions of  
4 article twenty-f, chapter thirty-three of this code and all interest and other return earned on the  
5 moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve  
6 Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section,  
7 subject to the following conditions:

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

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

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

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

1 fiscal year just ended.

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

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