

Senate Bill No. 536

(By Senators Hall and K. Facemyer)

[Introduced February 17, 2011; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

**FISCAL
NOTE**

11 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
12 1931, as amended, relating to the State Budget Office;
13 permissible expenditures from the Revenue Shortfall Reserve
14 Fund; and requiring the first \$80 million of the current
15 fiscal year's surplus be submitted to the Division of Highways
16 and used for the sole purpose of completing Route 35.

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

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

20 **ARTICLE 2. STATE BUDGET OFFICE.**

21 **§11B-2-20. Reduction of appropriations; powers of Governor;**
22 **Revenue Shortfall Reserve Fund and permissible**
23 **expenditures therefrom.**

24 (a) Notwithstanding any provision of this section, the

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

6 (b) A Revenue Shortfall Reserve Fund is hereby continued
7 within the State Treasury. The Revenue Shortfall Reserve Fund
8 shall be funded as set forth in this subsection from surplus
9 revenues, if any, in the State Fund, general revenue, as the
10 surplus revenues may accrue from time to time. Within sixty days
11 of the end of each fiscal year, the secretary shall cause to be
12 deposited into the Revenue Shortfall Reserve Fund the first fifty
13 percent of all surplus revenues, if any, determined to have accrued
14 during the fiscal year just ended. The Revenue Shortfall Reserve
15 Fund shall be funded continuously and on a revolving basis in
16 accordance with this subsection up to an aggregate amount not to
17 exceed ten percent of the total appropriations from the State Fund,
18 general revenue, for the fiscal year just ended. If at the end of
19 any fiscal year the Revenue Shortfall Reserve Fund is funded at an
20 amount equal to or exceeding ten percent of the state's General
21 Revenue Fund budget for the fiscal year just ended, then there
22 shall be no further obligation of the secretary under the
23 provisions of this section to apply any surplus revenues as set
24 forth in this subsection until that time the Revenue Shortfall

1 Reserve Fund balance is less than ten percent of the total
2 appropriations from the State Fund, general revenue.

3 (c) Not earlier than November 1, of each calendar year, if the
4 state's fiscal circumstances are such as to otherwise trigger the
5 authority of the Governor to reduce appropriations under this
6 section or section twenty-one or section twenty-two of this
7 article, then in that event the Governor may notify the presiding
8 officers of both houses of the Legislature in writing of his or her
9 intention to convene the Legislature pursuant to section nineteen,
10 article VI of the Constitution of West Virginia for the purpose of
11 requesting the introduction of a supplementary appropriation bill
12 or to request a supplementary appropriation bill at the next
13 preceding regular session of the Legislature to draw money from the
14 surplus Revenue Shortfall Reserve Fund to meet any anticipated
15 revenue shortfall. If the Legislature fails to enact a
16 supplementary appropriation from the Revenue Shortfall Reserve Fund
17 during any special legislative session called for the purposes set
18 forth in this section or during the next preceding regular session
19 of the Legislature, then the Governor may proceed with a reduction
20 of appropriations pursuant to sections twenty-one and twenty-two of
21 this article. Should any amount drawn from the Revenue Shortfall
22 Reserve Fund pursuant to an appropriation made by the Legislature
23 prove insufficient to address any anticipated shortfall, then the
24 Governor may also proceed with a reduction of appropriations

1 pursuant to sections twenty-one and twenty-two of this article.

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

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

20 (f) There is hereby created in the State Treasury the "Revenue
21 Shortfall Reserve Fund - Part B." The Revenue Shortfall Reserve
22 Fund - Part B shall consist of moneys transferred from the West
23 Virginia Tobacco Settlement Medical Trust Fund pursuant to the
24 provisions of section two, article eleven-a, chapter four of this

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

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

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

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

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

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

24 (2) All of the moneys in the Revenue Shortfall Reserve Fund -

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

9 (i) Notwithstanding any other subsection contained within this
10 section to the contrary, the first \$80 million of the current
11 fiscal year's surplus that would otherwise be directed to the funds
12 referenced in this section shall be submitted to the Division of
13 Highways and used for the sole purpose of completing Route 35.

NOTE: The purpose of this bill is to require the first \$80 million of the current fiscal year's budget surplus be submitted to the Division of Highways and used for the sole purpose of completing Route 35.

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