

**Senate Bill No. 393**

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

By Request of the Executive)

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[Introduced January 21, 2014; referred to the Committee on  
Government Organization; and then to the Committee on Finance.]

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A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,  
1931, as amended, relating to levels of funding to the Revenue  
Shortfall Reserve Fund; and specifying date by which the  
Governor may borrow from the Revenue Shortfall Reserve Fund.

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

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

**ARTICLE 2. STATE BUDGET OFFICE.**

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

(a) Notwithstanding any provision of this section, the  
Governor may reduce appropriations according to any of the methods

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

5 (b) (1) A Revenue Shortfall Reserve Fund is ~~hereby~~ continued  
6 within the State Treasury. The Revenue Shortfall Reserve Fund  
7 shall be funded continuously and on a revolving basis in accordance  
8 with this subsection up to an aggregate amount not to exceed  
9 thirteen percent of the total appropriations from the State Fund,  
10 General Revenue, for the fiscal year just ended. The Revenue  
11 Shortfall Reserve Fund shall be funded as set forth in this  
12 subsection from surplus revenues, if any, in the State Fund,  
13 General Revenue, as the surplus revenues may accrue from time to  
14 time. Within sixty days of the end of each fiscal year, the  
15 secretary shall cause to be deposited into the Revenue Shortfall  
16 Reserve Fund ~~such amount of~~ an amount equal to the first fifty  
17 percent of all surplus revenues, if any, determined to have accrued  
18 during the fiscal year just ended, as may be necessary to bring the  
19 balance of the Revenue Shortfall Reserve Fund to thirteen percent  
20 of the total appropriations from the State Fund, General Revenue,  
21 for the fiscal year just ended. If at the end of any fiscal year  
22 the Revenue Shortfall Reserve Fund is funded at an amount equal to

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

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

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

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

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

19 (e) Prior to ~~the thirty-first day of October~~ April 1 in any  
20 fiscal year in which revenues are inadequate to make timely  
21 payments of the state's obligations, the Governor may by executive  
22 order, after first notifying the presiding officers of both houses

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

1 expended solely for the purposes set forth in subsection (d) of  
2 this section, subject to the following conditions:

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

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

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

19       (g) Subject to the conditions upon expenditures from the  
20 Revenue Shortfall Reserve Fund - Part B prescribed in subsection  
21 (f) of this section, in appropriating moneys pursuant to the  
22 provisions of this section, the Legislature may in any fiscal year

1 appropriate from the Revenue Shortfall Reserve Fund and the Revenue  
2 Shortfall Reserve Fund - Part B a total amount up to, but not  
3 exceeding, ten percent of the total appropriations from the State  
4 Fund, General Revenue, for the fiscal year just ended.

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

20 (2) All of the moneys in the Revenue Shortfall Reserve Fund -  
21 Part B shall be made available to the West Virginia Investment  
22 Management Board for management and investment of the moneys in

1 accordance with the provisions of article six, chapter twelve of  
2 this code. Any balance of the Revenue Shortfall Reserve Fund -  
3 Part B, including accrued interest and other return earned thereon  
4 at the end of any fiscal year, ~~shall~~ do not revert to the General  
5 Fund but shall remain in the Revenue Shortfall Reserve Fund - Part  
6 B for the purposes set forth in this section.

NOTE: The purpose of this bill is to amend from fifty to  
eighty percent the percent of all surplus revenues deposited into  
the Revenue Shortfall Reserve Fund within sixty days of end of  
fiscal years 2014 and 2015 and to amend the date by which the  
Governor can borrow funds from the Revenue Shortfall Reserve Fund.

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