WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2009

ENROLLED

House Bill No. 104

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

Passed June 2, 2009
In Effect from Passage
(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed June 2, 2009; in effect from passage.]

AN ACT to amend and reenact §11-14C-48 of the Code of West Virginia, 1931, as amended, all relating to the Motor Fuel Excise Tax Shortfall Reserve Fund; providing for continuation of the Motor Fuel Excise Tax Shortfall Reserve Fund; specifying termination of the Motor Fuel Excise Tax Shortfall Reserve Fund in 2013; and requiring the Commissioner of Highways to submit reports to the Joint Committee on Government and Finance for a specified time at specified intervals.

Be it enacted by the Legislature of West Virginia:

That §11-14C-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

(a) There is hereby created in the State Treasury a special fund to be known and designated as the "Motor Fuel Excise Tax Shortfall Reserve Fund" to be administered by the Tax Commissioner for the purposes provided by this section. The fund shall consist of moneys transferred to the General Revenue Fund pursuant to appropriation of the Legislature. At the end of each fiscal year, during the fund's existence, the moneys in the fund shall not expire to the general fund, but shall remain available for expenditure during the ensuing fiscal year. The fund shall terminate on August 1, 2013. Any moneys remaining in the fund on that termination date shall be transferred to the General Revenue Fund. No provision of this section may be construed to require funding for the purposes of this section in excess of amounts transferred to the fund pursuant to appropriation of the Legislature.

(b) Monthly shortfalls for fiscal years beginning on July 1, 2008, 2009, 2010, 2011 and 2012. -- Beginning on July 31 of each fiscal year beginning in 2008, 2009, 2010, 2011 and 2012, and on the last day of each month of each specified fiscal year until, and including, June 30, 2013, or as soon after the last day of each month as is practicable, the Tax Commissioner shall determine the amount of the monthly motor fuel excise tax revenue shortfall that occurred for each month. No such determination shall be made for any month ending after June 30, 2013.

(1) Transfer for monthly shortfall. -- Within thirty days after making the determination of the monthly motor fuel excise tax revenue shortfall that occurred for each month, the Tax Commissioner shall transfer moneys in an amount equal to the amount of the motor fuel excise tax revenue shortfall that occurred for each month from the Motor Fuel Excise Tax Shortfall Reserve Fund to the State Road Fund: Provided, That the total amount of moneys transferred from the Motor
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35 Fuel Excise Tax Shortfall Reserve Fund to the State Road
36 Fund in each specified fiscal year through total aggregate
37 monthly transfers shall not exceed the balance remaining in
38 the Motor Fuel Excise Tax Shortfall Reserve Fund. No such
39 transfer shall be made that is attributable to any month
40 beginning after June 30, 2013: Provided, however, That
41 transfers attributable to the reconciliation for the period
42 beginning July 1, 2012, to June 30, 2013, mandated by
43 paragraph (2) of this subsection shall be made, if required.

44 (2) Annual reconciliation. -- On June 30 of each fiscal
46 soon thereafter as is practicable, the Tax Commissioner shall
47 determine the amount of the annual motor fuel excise tax
48 revenue shortfall that occurred for each of the specified fiscal
49 years.

50 (A) Transfer for annual reconciliation for the fiscal year.
51 -- The amount of the annual motor fuel excise tax revenue
52 shortfall that occurred for each specified fiscal year shall be
53 compared to the total amount of moneys transferred from the
54 Motor Fuel Excise Tax Shortfall Reserve Fund to the State
55 Road Fund over the same fiscal year through total aggregate
56 monthly transfers. The resulting difference is the
57 reconciliation amount.

58 (B) Net Shortfall. -- If the total amount of moneys
59 transferred from the Motor Fuel Excise Tax Shortfall Reserve
60 Fund to the State Road Fund for each specified fiscal year
61 through total aggregate monthly transfers is less than the
62 amount of the annual motor fuel excise tax revenue shortfall
63 that occurred over the same fiscal year, then on or before
64 August 1 next succeeding the end of each such specified
65 fiscal year, an amount of money equal to the reconciliation
66 amount shall be transferred by the Tax Commissioner from
67 the Motor Fuel Excise Tax Shortfall Reserve Fund to the
State Road Fund:  *Provided*, That the sum of the
reconciliation amount subject to transfer and the total amount
of moneys transferred from the Motor Fuel Excise Tax
Shortfall Reserve Fund to the State Road Fund in each such
fiscal year through total aggregate monthly transfers shall not
exceed the amount remaining in the Motor Fuel Excise Tax
Shortfall Reserve Fund.

(C) **Net Overage.** -- If the total amount of moneys
transferred from the Motor Fuel Excise Tax Shortfall Reserve
Fund to the State Road Fund for each specified fiscal year
through total aggregate monthly transfers is greater than the
amount of the annual motor fuel excise tax revenue shortfall
that occurred over the same fiscal year, then moneys equal to
the reconciliation amount shall be offset against amounts that
would have otherwise been transferred by the Tax
Commissioner from the Motor Fuel Excise Tax Shortfall
Reserve Fund to the State Road Fund under this section in the
next succeeding fiscal year, and moneys transferred shall
accordingly decrease.

(c) **Definitions.** --

(1) "Calendar year" means the year beginning on January
1 and ending on December 31.

(2) "Motor fuel excise tax revenue shortfall" means the
official West Virginia state revenue estimate for motor fuel
excise tax revenues for a designated period minus the amount
of motor fuel excise tax collected for the same period:
*Provided*, That if the motor fuel excise tax collected for the
designated period is greater than the official West Virginia
state revenue estimate for motor fuel excise tax revenues for
the same period, the motor fuel excise tax revenue shortfall
is zero for the period.
(d) Reporting. -- The Commissioner of Highways shall submit a report to the Joint Committee on Government and Finance not later than the last day of each month for the period of July 1, 2008 through June 30, 2013, providing an analysis of the financial status of the State Road Fund and funds for highway maintenance.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the ______ day of _______ 2009.