

HB 104

FILED

2009 JUN 17 PM 4: 32

OFFICE OF THE CLERK OF THE WEST VIRGINIA STATE SENATE
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

FILED
E N R O L L E D
2009 JUN 17 PM 4: 32

H. B. 104 OFFICE WEST VIRGINIA
SECRETARY OF STATE

(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.

§11-14C-48. Motor Fuel Excise Tax Shortfall State Road Fund support payment.

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

17 (b) *Monthly shortfalls for fiscal years beginning on July*
18 *1, 2008, 2009, 2010, 2011 and 2012.* -- Beginning on July 31
19 of each fiscal year beginning in 2008, 2009, 2010, 2011 and
20 2012, and on the last day of each month of each specified
21 fiscal year until, and including, June 30, 2013, or as soon
22 after the last day of each month as is practicable, the Tax
23 Commissioner shall determine the amount of the monthly
24 motor fuel excise tax revenue shortfall that occurred for each
25 month. No such determination shall be made for any month
26 ending after June 30, 2013.

27 (1) *Transfer for monthly shortfall.* -- Within thirty days
28 after making the determination of the monthly motor fuel
29 excise tax revenue shortfall that occurred for each month, the
30 Tax Commissioner shall transfer moneys in an amount equal
31 to the amount of the motor fuel excise tax revenue shortfall
32 that occurred for each month from the Motor Fuel Excise Tax
33 Shortfall Reserve Fund to the State Road Fund: *Provided,*
34 That the total amount of moneys transferred from the Motor

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
45 year beginning in 2008, 2009, 2010, 2011 and 2012, or as
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

68 State Road Fund: *Provided*, That the sum of the
69 reconciliation amount subject to transfer and the total amount
70 of moneys transferred from the Motor Fuel Excise Tax
71 Shortfall Reserve Fund to the State Road Fund in each such
72 fiscal year through total aggregate monthly transfers shall not
73 exceed the amount remaining in the Motor Fuel Excise Tax
74 Shortfall Reserve Fund.

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


87 (c) *Definitions*. --

88 (1) "Calendar year" means the year beginning on January
89 1 and ending on December 31.

90 (2) "Motor fuel excise tax revenue shortfall" means the
91 official West Virginia state revenue estimate for motor fuel
92 excise tax revenues for a designated period minus the amount
93 of motor fuel excise tax collected for the same period:
94 *Provided*, That if the motor fuel excise tax collected for the
95 designated period is greater than the official West Virginia
96 state revenue estimate for motor fuel excise tax revenues for
97 the same period, the motor fuel excise tax revenue shortfall
98 is zero for the period.

99 (d) *Reporting.* -- The Commissioner of Highways shall
100 submit a report to the Joint Committee on Government and
101 Finance not later than the last day of each month for the
102 period of July 1 2008 through June 30, 2013, providing an
103 analysis of the financial status of the State Road Fund and
104 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.

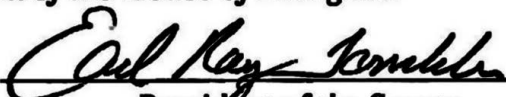
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within approved this the 17th
day of June, 2009.



Governor

PRESENTED TO THE
GOVERNOR

JUN 16 2009

Time 9:10 am