

Senate Bill No. 537

(By Senators Kessler (Mr. President), Unger, Foster, Browning
Jenkins, Stollings, Klempa, Plymale and Chafin)

[Introduced February 8, 2012; referred to the Committee on
Economic Development; and then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-13A-6a, relating
to the creation of a special revenue account known as the West
Virginia Sustainable Wealth Fund; providing that funding
consist of twenty-five percent of increased proceeds from oil
and natural gas severance taxes; authorizing West Virginia
Investment Management Board to invest the moneys in the fund;
requiring investment guidelines to be established within one
year; prohibiting encumbrance or use of the principal without
legislative approval; prohibiting use of the interest from the
fund prior to 2015; authorizing legislative appropriation of
certain interest on the fund for limited purposes; creating
the West Virginia Sustainable Wealth Fund Board of Trustees;

1 establishing membership of the board; setting forth duties of
2 the board; and requiring legislative rules governing
3 disbursement of the fund.

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

5 That the Code of West Virginia, 1931, as amended, be amended
6 by adding thereto a new section, designated §11-13A-6a, to read as
7 follows:

8 **ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

9 **§11-13A-6a. West Virginia Sustainable Wealth Fund.**

10 (a) The Legislature finds that mineral resources, including
11 natural gas and oil, have historically been a important source of
12 economic wealth and, once removed, are forever lost as an economic
13 asset to the state. The Legislature further finds that severance
14 taxes are intended to compensate the state for the permanent
15 depletion of its natural bounty and that without savings or
16 investments of severance tax revenue, the economic benefit from
17 natural resource extraction will decline along with the natural
18 resources themselves. Finally, the Legislature finds that, as a
19 matter of public policy, the state must seek to convert its
20 depleting natural resources into a source of wealth that is
21 sustainable and that will promote the general public welfare for
22 future generations.

23 (b) There is hereby created in the State Treasury a special

1 revenue account to be known as the "West Virginia Sustainable
2 Wealth Fund". The fund is an interest bearing account and the
3 interest may be invested in the manner permitted by the provisions
4 of article six, chapter twelve of this code, with the interest
5 income a proper credit to the fund. Notwithstanding any provision
6 of this code to the contrary, on and after the effective date of
7 this section, twenty-five percent of the increased proceeds from
8 horizontal drilling and hydraulic fracturing received as state
9 revenue pursuant to the provisions of section three-a, article
10 thirteen-a of this chapter shall be deposited in this fund.

11 (c) The revenue generated shall be disbursed in the manner
12 provided in this section for the purposes stated herein and shall
13 not be treated by the State Auditor and the State Treasurer as part
14 of the general revenue of the state.

15 (d) The West Virginia Investment Management Board shall
16 administer the fund for investment purposes and may assess
17 reasonable and necessary fees for the administration of the fund.
18 The Investment Management Board shall establish investment
19 guidelines for the fund no later than one-year after adoption of
20 this statute.

21 (e) The principal of the fund shall not be spent, encumbered,
22 promised or otherwise disturbed except upon approval of four-fifths
23 of both Houses of the Legislature.

1 (f) All investment earnings of the fund, including interest,
2 dividends and capital gains, shall be credited to the corpus of the
3 fund.

4 (g) Annual disbursements from the fund may begin in fiscal
5 year 2015. Yearly disbursements shall be one percent of the
6 investment earnings under subsection (f) and shall increase
7 incrementally by one-percent per year until such time as the annual
8 disbursements equal five percent of the average of the year-end
9 market values of the fund over the immediately preceding five
10 fiscal years. Thereafter, the targeted annual disbursement rate
11 shall be five percent of the average of the year-end market values
12 of the fund for the immediately preceding five fiscal years.

13 (h) The Legislature may appropriate moneys from the fund
14 beginning in fiscal year 2015 for economic diversification
15 projects, education, workforce development, federal matching grants
16 and higher education.

17 (i) (1) There is hereby created The West Virginia Sustainable
18 Wealth Fund Board of Trustees charged with disbursement of moneys
19 from the fund pursuant to this section. The board shall be
20 appointed by the Governor with the advice and consent of the Senate
21 and shall consist of thirteen members: One representative from the
22 oil and natural gas industry; one each from education, labor and
23 environmental interests; six members of the public at large; and,

1 by virtue of their office, the Governor, State Treasurer and
2 Auditor or their designees.

3 (2) The board shall submit yearly recommendations on
4 appropriations and policy issues that may need to be addressed, to
5 the Legislature no later than thirty days prior to commencement of
6 each legislative session. The board shall propose rules to
7 effectuate the provisions of this section for legislative approval
8 in accordance with the provisions of article three, chapter twenty-
9 nine-a of this code governing disbursement of the fund on or before
10 July 31, 2013.

11 (3) Except as otherwise provided by statute or by
12 constitutional immunity, the prudent investor rule found at article
13 six-c, chapter forty-four of this code, applies to all members of
14 the board.

NOTE: The purpose of this bill is to create a special revenue fund, the West Virginia Sustainable Wealth Fund, consisting of twenty-five percent of the increase in state revenue generated by the natural gas and oil industry. Beginning in 2015, the money in the fund may be appropriated by the Legislature for economic diversification projects, education, workforce developments, federal matching grants and higher education.

§11-13A-6a is new; therefore, strike-throughs and underscoring have been omitted.