

H. B. 4172

(By Delegates Staggers, Perry, Pino,  
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[Introduced January 14, 2014; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §11-13A-3f, relating  
to reallocating and dedicating the coal severance tax revenues  
annually to the coal-producing counties of origin and their  
respective municipalities; establishing state and local coal  
county reallocated severance tax funds and providing for  
distribution of the moneys to the county commissions and  
governing bodies of the municipalities by the State Treasurer;  
establishing amounts each coal-producing county and its  
respective municipalities are to receive; requiring the  
creation of local funds into which moneys are to be deposited;  
requiring moneys be expended solely for renovation and  
improvement projects; providing definitions; providing  
restrictions on the expenditure of moneys; providing duties of  
State Tax Commissioner; requiring report of expenditures to  
Joint Committee on Government and Finance; providing audits of  
distributed funds when authorized by the Joint Committee on

1 Government and Finance; providing an effective date; and  
2 authorizing legislative and emergency rules.

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

4 That the Code of West Virginia, 1931, as amended, be amended  
5 by adding thereto a new section, designated §11-13A-3f, to read as  
6 follows:

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

8 **§11-13A-3f. Reallocation and dedication of the coal severance tax**  
9 **for benefit of coal producing counties and their**  
10 **municipalities; permissible uses of distributed**  
11 **revenues; duties of State Treasurer and State Tax**  
12 **Commissioner; audits; rulemaking.**

13 (a) The purpose of this section is to provide for the  
14 reallocation and dedication of the tax attributable to the  
15 severance of coal imposed by section three-a of this article for  
16 the use and benefit of the various counties and their respective  
17 municipalities in which the coal was located at the time it was  
18 severed from the ground.

19 (b) Effective July 1, 2015, all of the tax attributable to the  
20 severance of coal imposed by section three-a of this article shall  
21 be transferred to the county commissions and the governing bodies  
22 of municipalities within the coal producing counties on a  
23 population pro rata basis as provided in this section.

1       (c) The amounts of the tax dedicated in subsection (b) of this  
2 section shall be deposited, from time to time, into a special fund  
3 known as the Coal County and Municipality Reallocated Severance Tax  
4 Fund, which is hereby established in the State Treasury, as the  
5 proceeds are received by the State Tax Commissioner.

6       (d) The net proceeds of the deposits made into the Coal County  
7 and Municipality Reallocated Severance Tax Fund shall be allocated  
8 among and distributed quarterly to the coal producing counties and  
9 their respective municipalities by the State Treasurer in the  
10 manner specified in this section. On or before each distribution  
11 date, the State Treasurer shall determine the total amount of  
12 moneys that will be available for distribution to the respective  
13 counties and municipalities entitled to the moneys on that  
14 distribution date. The amount to which a coal producing county or  
15 municipality is entitled from the Coal County and Municipality  
16 Reallocated Severance Tax Fund shall be determined in accordance  
17 with subsection (e) of this section. After determining the amount  
18 each coal producing county and municipality is entitled to receive  
19 from the fund, a warrant of the State Auditor for the sum due to  
20 each coal producing county and municipality shall be issued and a  
21 check drawn thereon making payment of that amount to the coal  
22 producing county and municipality by hand, mail commercial delivery  
23 or electronic transmission.

24       (e) The amount to which a coal producing county or

1 municipality is entitled from the Coal County and Municipality  
2 Reallocated Severance Tax Fund shall be determined by:

3 (1) Dividing the total amount of moneys in the fund then  
4 available for distribution by the total tonnage of coal mined in  
5 this state during the preceding quarter; and

6 (2) Multiplying the quotient thus obtained of each by the  
7 tonnage of coal mined in the county or municipality during the  
8 preceding quarter.

9 (f) (1) No distribution made to a county or municipality under  
10 this section may be deposited into the county's or municipality's  
11 General Revenue Fund. The county commission of each county and the  
12 governing body of each municipality receiving a distribution under  
13 this section shall establish a special account to be known as the  
14 "(Name of County or Municipality) Coal County (or Municipality)  
15 Reallocated Severance Tax Fund" into which all distributions made  
16 to that county or municipality under this section shall be  
17 deposited.

18 (2) Moneys in the county's and municipality's coal county  
19 reallocated severance tax fund shall be expended by the county  
20 commission and governing body of the municipality solely for  
21 renovation or improvement projects.

22 (3) A county commission or governing body of a municipality  
23 may not expend any of the funds available in its coal county and  
24 municipality reallocated severance tax fund for personal services,

1 for the costs of issuing bonds or for the payment of bond debt  
2 service. Total funds available shall be directed to project  
3 development which may include the costs of architectural and  
4 engineering plans, site assessments, site remediation,  
5 specifications and surveys and other expenses necessary or  
6 incidental to determining the feasibility or practicability of a  
7 renovation or improvement project.

8 (g) On or before December 31, 2016, and December 1 of each  
9 year thereafter, the county commission of each county and the  
10 governing body of each municipality receiving a distribution of  
11 funds under this section shall deliver to the Joint Committee on  
12 Government and Finance a written report setting forth the specific  
13 projects for which those funds were expended during the preceding  
14 fiscal year, a detailed account of those expenditures and a showing  
15 that the expenditures were made for the purposes required by this  
16 section.

17 (h) An audit of funds distributed under this section may be  
18 authorized at any time by the Joint Committee on Government and  
19 Finance to be conducted by the Legislative Auditor at no cost to  
20 the county commission audited.

21 (i) The State Tax Commissioner shall propose for legislative  
22 approval legislative rules pursuant to article three, chapter  
23 twenty-nine-a of this code for the administration of this section,  
24 and is authorized to promulgate emergency rules for those purposes

1 pursuant to that article.

NOTE: The purpose of this bill is to reallocate and dedicate the coal severance tax revenues annually to the coal producing counties of origin and their respective municipalities. The bill establishes state and local coal county reallocated severance tax funds and provides for distribution of the moneys to the county commissions and governing bodies of the municipalities by the State Treasurer. The bill establishes a procedure for determining the amounts each coal producing county and their respective municipalities are to receive and requires the creation of local funds into which moneys are to be deposited. The bill requires the funds to be used solely for renovation and improvement projects. The bill also provides restrictions on fund expenditures. The bill sets forth duties of State Tax Commissioner. The bill requires a report of expenditures to Joint Committee on Government and Finance. The bill also provides for audits of distributed funds when authorized by the Joint Committee on Government and Finance. The bill establishes a July 1, 2015 effective date. The bill authorizes legislative and emergency rules.

This section is new; therefore, it has been completely underscored.