

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 461

(SENATORS KESSLER (MR. PRESIDENT), WILLIAMS, TUCKER,
PLYMALE, STOLLINGS, SNYDER, COOKMAN, PALUMBO,
FITZSIMMONS, BEACH, YOST, MILLER, D. HALL, JENKINS,
McCABE, WELLS, EDGELL, BARNES, BLAIR, BOLEY, CANN,
CHAFIN, KIRKENDOLL, LAIRD, NOHE, PREZIOSO, SYPOLT, UNGER,
WALTERS, GREEN AND M. HALL, *ORIGINAL SPONSORS*)

[PASSED MARCH 8, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

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WALTERS, GREEN AND M. HALL, *original sponsors*)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-5b, relating to creation of a Future Fund for conserving a portion of proceeds from certain severance tax revenues for future expenditures; creating an interest-bearing special revenue account; authorizing the West Virginia Investment Management Board to invest moneys of the fund; providing that the principal of the fund be inviolate and that only the investment income may be expended; providing for contributions to the fund from a portion of revenues collected from certain severance taxes; prohibiting appropriation and expenditure from the fund until fiscal year 2020; limiting of amount of appropriation from the fund in certain circumstances; requiring moneys to be expended solely for enhancing education and workforce development; economic development and diversification; infrastructure improvements; tax relief

measures for the benefit of the citizens and businesses of the State of West Virginia; and defining certain terms.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-5b. Creation of West Virginia Future Fund; legislative intent; calculation of deposits from excess severance tax revenues; permissible uses of investment income and limitations on expenditures; definitions.

1 (a) There is hereby created in the State Treasury a special
2 revenue account, designated the West Virginia Future Fund,
3 which is an interest-bearing account and may be invested by
4 the West Virginia Investment Management Board in the
5 manner permitted by the provisions of article six, chapter
6 twelve of this code, with the investment income to be
7 credited to the fund and deposited in the special revenue
8 account.

9 (b) The Legislature declares its intention to use the fund
10 as a means of conserving a portion of the state's revenue
11 derived from the increased revenue proceeds received by the
12 state as a result of any mineral production as well as other
13 funding sources as the Legislature may designate in order to
14 meet future needs. The principal of the fund shall remain
15 inviolate and no portion of the principal may be appropriated,
16 expended or encumbered by the Legislature or any official of
17 the state. Only the investment income of this fund may be
18 appropriated and expended: *Provided*, That no more than the

19 average net investment return for the immediately preceding
20 five fiscal years may be appropriated or expended in any one
21 fiscal year.

22 (c) Notwithstanding any provision of this code to the
23 contrary, for the fiscal year beginning July 1, 2014, and each
24 year thereafter, the secretary of revenue shall cause to be
25 deposited in this fund three percent of the annual severance
26 tax revenue which would otherwise be deposited into the
27 General Revenue Fund which is attributable to the severance
28 of coal, limestone, sandstone, natural gas and oil and
29 collected and received pursuant to the provisions of sections
30 three and three-a, article thirteen-a, chapter eleven of this
31 code: *Provided*, That these deposits shall only be made
32 during fiscal years within which the balance of the Revenue
33 Shortfall Reserve Fund equals or exceeds thirteen percent of
34 the state's General Revenue Fund budget for the fiscal year
35 just ended as determined within sixty days of the end of that
36 prior fiscal year as provided by subsection (b), section
37 twenty, article two, chapter eleven-b of this code: *Provided*,
38 *however*, That these deposits shall not be made in any fiscal
39 year in which the Governor's General Revenue Fund estimate
40 relies on transfers from the Revenue Shortfall Reserve Fund:
41 *Provided further*, That these deposits shall not be made in
42 any fiscal year for which mid-year spending reductions,
43 hiring freezes, mid-year decreases in appropriations or
44 transfers from the Revenue Shortfall Reserve Fund are
45 necessitated due to revenue shortfalls or would be
46 necessitated if the deposits were to be made: *And provided*
47 *further*, That amounts that may be deposited into the fund in
48 error or found later to be subject to these limitations shall be
49 redeposited into the General Revenue Fund. The Legislature
50 may, by general appropriation or by designation of other
51 funding sources, deposit into the fund additional moneys as
52 it considers appropriate.

53 (d) In order to maximize the value of the fund, no money
54 from the fund may be expended or appropriated until fiscal
55 year 2020 and thereafter the Legislature may appropriate,
56 subject to the limitations provided in this section, from the
57 fund solely for enhancing education and workforce
58 development; economic development and diversification;
59 infrastructure improvements; and tax relief measures for the
60 benefit of the citizens and businesses of the State of West
61 Virginia.

62 (e) For purposes of this section:

63 (1) “Economic development and diversification” means
64 fostering economic growth and development in the state,
65 including commercial, industrial, community, cultural or
66 historical improvements; or preservation or other proper
67 purposes.

68 (2) “Infrastructure improvements” means fostering
69 infrastructure improvements including, but not limited to,
70 post-mining land use, water or wastewater facilities or a part
71 thereof, storm water systems, steam, gas, telephone and
72 telecommunications, broadband development, electric lines
73 and installations, roads, bridges, railroad spurs, drainage and
74 flood control facilities, industrial park development or
75 buildings that promote job creation and retention.

76 (3) “Tax relief” means reducing the tax responsibility of
77 citizens and businesses located in the State of West Virginia,
78 including but not limited to increasing the Homestead
79 Exemption and reducing or eliminating the ad valorem
80 property tax on inventory and equipment held for commercial
81 or industrial use.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this
the..... Day of, 2014.

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Governor