

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### Senate Bill 210

FISCAL  
NOTE

By Senators Phillips, Chapman, and Maynard

[Introduced January 13, 2023; referred  
to the Committee on Energy, Industry, and Mining;  
and then to the Committee on Finance]

1 A BILL to amend and reenact §11-13A-6a of the Code of West Virginia, 1931, as amended,  
 2 relating to providing that all coal severance tax shall be provided to the county that  
 3 produced the coal.

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

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

**§11-13A-6a. Reallocation and dedication of percentage of severance tax for benefit of coal-producing counties; phase-in period; permissible uses of distributed revenues; duties of State Treasurer and State Tax Commissioner; audits; rulemaking.**

1 (a) The purpose of this section is to provide for the reallocation and dedication of a portion  
 2 of the tax attributable to the severance of coal imposed by §11-13A-3 of this code for the use and  
 3 benefit of the various counties of this state in which the coal upon which that tax is imposed was  
 4 located at the time it was severed from the ground. Those counties are referred to in this section as  
 5 the "coal-producing counties" or, in the singular, as a "coal-producing county".

6 (b)(1) Effective July 1, 2012, one percent of the tax attributable to the severance of coal  
 7 imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of  
 8 the coal-producing counties as provided in this section. Effective July 1, 2013, two percent of the  
 9 tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall  
 10 be distributed for the use and benefit of the coal-producing counties as provided in this section.  
 11 Effective July 1, 2014, three percent of the tax attributable to the severance of coal imposed by  
 12 §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-  
 13 producing counties as provided in this section. Effective July 1, 2015, four percent of the tax  
 14 attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be  
 15 distributed for the use and benefit of the coal-producing counties as provided in this section.  
 16 Effective July 1, 2016, and thereafter, five percent of the tax attributable to the severance of coal  
 17 imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of  
 18 the coal-producing counties as provided in this section. Effective July 1, 2019, and thereafter, the

19 portion of the severance tax on coal imposed by §11-13A-3 of this code dedicated and to be  
20 distributed for the use and benefit of the coal-producing counties as provided in this subsection  
21 shall not be less than the amount distributed pursuant to this subsection for the fiscal year  
22 beginning July 1, 2018.

23 (2) In no fiscal year may the proceeds dedicated in subdivision (1) of this subsection  
24 exceed the sum of \$20 million.

25 (3) For purposes of this subsection, the tax attributable to the severance of coal imposed  
26 by §11-13A-3 of this code does not include the thirty-five one hundredths of one percent additional  
27 severance tax on coal imposed by the state for the benefit of counties and municipalities as  
28 provided in §11-13A-6 of this code.

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

33 (d) The net proceeds of the deposits made into the Coal County Reallocated Severance  
34 Tax Fund shall be allocated among and distributed quarterly to the coal-producing counties by the  
35 State Treasurer in the manner specified in this section. On or before each distribution date, the  
36 State Treasurer shall determine the total amount of moneys that will be available for distribution to  
37 the respective counties entitled to the moneys on that distribution date. The amount to which a  
38 coal-producing county is entitled from the Coal County Reallocated Severance Tax Fund shall be  
39 determined in accordance with subsection (e) of this section. After determining, as set forth in  
40 subsection (e) of this section, the amount each coal-producing county is entitled to receive from  
41 the fund, a warrant of the State Auditor for the sum due to each coal-producing county shall be  
42 issued and a check drawn thereon making payment of that amount shall thereafter be distributed  
43 to each such coal-producing county by hand, mail, commercial delivery, or electronic  
44 transmission.

45 (e) The amount to which a coal-producing county is entitled from the Coal County  
46 Reallocated Severance Tax Fund shall be determined by:

47 (1) Dividing the total amount of moneys in the fund then available for distribution by the  
48 total number of tons of coal mined in this state during the preceding quarter; and

49 (2) Multiplying the quotient thus obtained by the number of tons of coal removed from the  
50 ground in the county during the preceding quarter.

51 (f) (1) No distribution made to a county under this section may be deposited into the  
52 county's general revenue fund. The county commission of each county receiving a distribution  
53 under this section shall establish a special account to be known as the (Name of County) Coal  
54 County Reallocated Severance Tax Fund into which all distributions made to that county under this  
55 section shall be deposited.

56 (2) Moneys in the county's coal county reallocated severance tax fund shall be expended  
57 by the county commission solely for economic development projects and infrastructure projects.

58 (3) For purposes of this section:

59 (A) "Economic development project" means a project in the state which is likely to foster  
60 economic growth and development in the area in which the project is developed for commercial,  
61 industrial, community improvement or preservation, or other proper purposes.

62 (B) "Infrastructure project" means a project in the state which is likely to foster  
63 infrastructure improvements including, but not limited to, post-mining land use, any water or  
64 wastewater facilities or any part thereof, storm water systems, steam, gas, telephone and  
65 telecommunications, broadband development, electric lines and installations, roads, bridges,  
66 railroad spurs, drainage and flood control facilities, industrial park development or buildings that  
67 promote job creation and retention, or litter cleanup programs.

68 (4) A county commission may not expend any of the funds available in its coal county  
69 reallocated severance tax fund for personal services, for the costs of issuing bonds, or for the  
70 payment of bond debt service, and shall direct the total funds available in its coal county

71 reallocated severance tax fund to project development, which may include the costs of  
72 architectural and engineering plans, site assessments, site remediation, specifications and  
73 surveys, and any other expenses necessary or incidental to determining the feasibility or  
74 practicability of any economic development project or infrastructure project.

75 (5) On or before December 31, 2013, and December 1 of each year thereafter, the county  
76 commission of each county receiving a distribution of funds under this section shall deliver to the  
77 Joint Committee on Government and Finance a written report setting forth the specific projects for  
78 which those funds were expended during the next preceding fiscal year, a detailed account of  
79 those expenditures, and a showing that the expenditures were made for the purposes required by  
80 this section.

81 (g) An audit of any funds distributed under this section may be authorized at any time by  
82 the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no  
83 cost to the county commission or county commissions audited.

84 (h) The State Tax Commissioner shall propose for promulgation legislative rules pursuant  
85 to §29A-3-1 *et seq.* of this code for the administration of the provisions of this section, and is  
86 authorized to promulgate emergency rules for those purposes pursuant to that article.

87 (i) As of July 1, 2023, all coal severance tax proceeds shall be provided in an apportioned  
88 manner to the respective county that produced the coal.

NOTE: The purpose of this bill is to provide that the coal severance tax shall go to the  
respective county that produced the coal.

Strike-throughs indicate language that would be stricken from a heading or the present law  
and underscoring indicates new language that would be added.