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2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 1002**

5 (By Senators Kessler (Acting President) and Hall,

6 By Request of the Executive)

7 \_\_\_\_\_  
8 [Originating in the Committee on Economic Development;  
9 reported August 2, 2011.]  
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13 A BILL to amend the Code of West Virginia, 1931, as amended, by  
14 adding thereto a new section, designated §11-13A-6a, relating  
15 to reallocating and dedicating five percent of coal severance  
16 tax revenues up to \$20 million to the coal-producing counties  
17 of origin to be phased in over a five-year period after  
18 accounting for the revenues dedicated to other funds;  
19 establishing state and local coal county reallocated severance  
20 tax funds and providing for distribution of the moneys to the  
21 county commissions by the State Treasurer; establishing  
22 amounts each coal-producing county to receive; requiring the  
23 creation of local funds into which moneys to be deposited;  
24 requiring moneys be expended solely for economic development  
25 projects and infrastructure projects; providing definitions;  
26 providing restrictions on the expenditure of moneys; providing

1 duties of State Tax Commissioner; requiring report of  
2 expenditures to Joint Committee on Government and Finance;  
3 providing audits of distributed funds when authorized by the  
4 Joint Committee on Government and Finance; and authorizing  
5 legislative and emergency rules.

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

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

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

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

16 (a) The purpose of this section is to provide for the  
17 reallocation and dedication of a portion of the tax attributable to  
18 the severance of coal imposed by section three of this article for  
19 the use and benefit of the various counties of this state in which  
20 the coal upon which that tax is imposed was located at the time it  
21 was severed from the ground. Those counties are referred to in  
22 this section as the "coal-producing counties" or, in the singular,  
23 as a "coal-producing county."

24 (b) (1) Effective July 1, 2012, one percent of the tax  
25 attributable to the severance of coal imposed by section three of

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

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

21       (3) For purposes of this subsection, the tax attributable to  
22 the severance of coal imposed by section three of this article does  
23 not include the thirty-five one hundredths of one percent  
24 additional severance tax on coal imposed by the state for the  
25 benefit of counties and municipalities as provided in section six  
26 of this article.

1           © 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 Reallocated Severance Tax Fund," which is  
4 hereby established in the State Treasury, as the proceeds are  
5 received by the State Tax Commissioner.

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

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

26           (1) Dividing the total amount of moneys in the fund then

1 available for distribution by the total number of tons of coal  
2 mined in this state during the preceding quarter; and

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

6 (f) (1) No distribution made to a county under this section may  
7 be deposited into the county's general revenue fund. The county  
8 commission of each county receiving a distribution under this  
9 section shall establish a special account to be known as the "(Name  
10 of County) Coal County Reallocated Severance Tax Fund" into which  
11 all distributions made to that county under this section shall be  
12 deposited.

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

16 (3) For purposes of this section:

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

22 (B) "Infrastructure project" means a project in the state  
23 which is likely to foster infrastructure improvements including,  
24 but not limited to, post-mining land use, any water or wastewater  
25 facilities or any part thereof, storm water systems, steam, gas,  
26 telephone and telecommunications, broadband development, electric

1 lines and installations, roads, bridges, railroad spurs, drainage  
2 and flood control facilities, industrial park development or  
3 buildings that promote job creation and retention.

4 (4) A county commission may not expend any of the funds  
5 available in its coal county reallocated severance tax fund for  
6 personal services, and shall direct the total funds available in  
7 its coal county reallocated severance tax fund to project  
8 development, which may include the costs of architectural and  
9 engineering plans, site assessments, site remediation,  
10 specifications and surveys, and any other expenses necessary or  
11 incidental to determining the feasibility or practicability of any  
12 economic development project or infrastructure project.

13 (g) On or before December 31, 2013, and December 1 of each  
14 year thereafter, the county commission of each county receiving a  
15 distribution of funds under this section shall deliver to the Joint  
16 Committee on Government and Finance a written report setting forth  
17 the specific projects for which those funds were expended during  
18 the next preceding fiscal year, a detailed account of those  
19 expenditures, and a showing that the expenditures were made for the  
20 purposes required by this section.

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

25 (I) The State Tax Commissioner shall propose for promulgation  
26 legislative rules pursuant to article three, chapter twenty-nine-a

1 of this code for the administration of the provisions of this  
2 section, and is authorized to promulgate emergency rules for those  
3 purposes pursuant to that article.

NOTE: This is a new section; therefore, underscoring and  
strike-throughs have been omitted.