

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2953**

5 (By Delegate Mr. Speaker, Mr. Thompson)  
6 [By Request of the Executive]

7  
8 [Passed March 12, 2011; in effect from passage.]  
9

10 AN ACT to amend and reenact §11-13A-20a of the Code of West  
11 Virginia, 1931, as amended; and to amend and reenact  
12 §31-15A-16 of said code, all relating to dedication of coalbed  
13 methane severance tax proceeds; redirecting coalbed methane  
14 severance tax revenues from the Infrastructure Fund to county  
15 economic development authorities or county commissions;  
16 requiring moneys deposited in the Infrastructure Fund prior to  
17 July 1, 2011, be distributed to county economic development  
18 authorities or county commissions; removing requirement that  
19 the Tax Commissioner provide Infrastructure and Jobs  
20 Development Council a breakdown of coalbed methane severance  
21 taxes paid and amount of coalbed methane produced by each  
22 county; providing calculation methods and specifying a minimum  
23 share of coalbed methane severance tax revenue be distributed  
24 to producing counties in an amount at least equal to the share  
25 received by nonproducing counties; providing for portional  
26 adjustments and redesignation for counties deemed

1 nonproducing; providing that no distribution of moneys to  
2 exceed total amount of coalbed methane severance tax received  
3 in any fiscal year; setting forth the purposes for receiving  
4 and conditions of expending such funds by county economic  
5 development authorities and county commissions; requiring  
6 approval of respective county commissions and the Development  
7 Office prior to expending certain funds; prohibiting certain  
8 expenditures by counties or county economic development  
9 authorities; and authorizing and requiring the Development  
10 Office to promulgate legislative rules regarding use of  
11 certain funds, including emergency rules.

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

13 That §11-13A-20a of the Code of West Virginia, 1931, as  
14 amended, be amended and reenacted; and that §31-15A-16 of said code  
15 be amended and reenacted, all to read as follows:

16 **CHAPTER 11. TAXATION.**

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

18 **11-13A-20a. Dedication of tax; authorization of the development**  
19 **office to promulgate rules.**

20 (a) The amount of taxes collected under this article from  
21 providers of health care items or services, including any interest,  
22 additions to tax and penalties collected under article ten of this  
23 chapter, less the amount of allowable refunds and any interest  
24 payable with respect to such refunds, shall be deposited into the  
25 special revenue fund created in the State Treasurer's Office and

1 known as the Medicaid State Share Fund. Said fund shall have  
2 separate accounting for those health care providers as set forth in  
3 articles four-b and four-c, chapter nine of this code.

4 (b) Notwithstanding the provisions of subsection (a) of this  
5 section, for the remainder of fiscal year 1993 and for each  
6 succeeding fiscal year, no expenditures from taxes collected from  
7 providers of health care items or services are authorized except in  
8 accordance with appropriations by the Legislature.

9 (c) The amount of taxes on the privilege of severing timber  
10 collected under section three-b of this article, including any  
11 interest, additions to tax and penalties collected under article  
12 ten of this chapter, less the amount of allowable refunds and any  
13 interest payable with respect to such refunds, shall be paid into  
14 a special revenue account in the State Treasury to be appropriated  
15 by the Legislature for purposes of the Division of Forestry.

16 (d) Notwithstanding any other provision of this code to the  
17 contrary, beginning January 1, 2009, there is hereby dedicated an  
18 annual amount not to exceed \$4 million from annual collections of  
19 the tax imposed by section three-d of this article to be deposited  
20 into the West Virginia Infrastructure Fund, created in section  
21 nine, article fifteen-a, chapter thirty-one of this code.

22 (e) Beginning with the fiscal year ending June 30, 2009, and  
23 each fiscal year thereafter, the Tax Commissioner shall pay from  
24 the taxes imposed in section three-d of this article, on October 1,  
25 of each year, to the respective county economic development  
26 authorities or county commissions as provided in subsections (f)

1 through (h) of this section, an amount in the aggregate not to  
2 exceed \$4 million per fiscal year. Prior to making any such  
3 payment the commissioner shall deduct the amount of refunds  
4 lawfully paid and administrative costs authorized by this code.  
5 All moneys distributed to the West Virginia Infrastructure Fund  
6 pursuant to this section prior to July 1, 2011, shall be returned  
7 to the Tax Commissioner and distributed to the respective county  
8 economic development authorities or county commissions as provided  
9 in this section.

10 (f) Notwithstanding any provision of this article to the  
11 contrary, prior to the deposit of the proceeds of the tax on  
12 coalbed methane with each county economic development authority or  
13 county commission pursuant to subsection (e) of this section, the  
14 Tax Commissioner shall undertake the following calculations:

15 (1) Seventy-five percent of the moneys to be deposited shall  
16 be provisionally allocated for the various counties of this state  
17 in which the coalbed methane was produced; and

18 (2) The remaining twenty-five percent of the moneys to be  
19 deposited shall be provisionally allocated to the various counties  
20 of this state in which no coalbed methane was produced for projects  
21 in accordance with subsection (h) of this section.

22 (3) Moneys shall be provisionally allocated to each coalbed  
23 methane producing county in direct proportion to the amount of tax  
24 revenues derived from coalbed methane production in the county.

25 (4) Moneys shall be provisionally allocated to each coalbed  
26 methane nonproducing county equally.

1 (5) Portional adjustments.

2 (A) If, for any year, a coalbed methane producing county's  
3 share of money provisionally allocated to that county is computed  
4 to be an amount that is less than the amount provisionally  
5 allocated to each of the coalbed methane nonproducing counties,  
6 then for purposes of the computations set forth in this subsection,  
7 that coalbed methane producing county shall be redesignated a  
8 coalbed methane nonproducing county. The money that has been  
9 provisionally allocated to that coalbed methane producing county  
10 out of the seventy-five percent portion specified in subdivision  
11 (1) of this subsection shall be subtracted out of the seventy-five  
12 percent portion specified in that subdivision and added to the  
13 twenty-five percent portion specified in subdivision (2) of this  
14 subsection.

15 (B) When the adjustment specified in paragraph (A),  
16 subdivision (4) of this subsection has been made for each coalbed  
17 methane producing county that has been redesignated as a coalbed  
18 methane nonproducing county, then the Tax Department shall finalize  
19 the calculations of the amounts to be made available for  
20 distribution to the respective county development authority or  
21 county commission of the coalbed methane producing counties that  
22 have not been redesignated as coalbed methane nonproducing counties  
23 under subdivision (4) of this subsection as follows: The amount  
24 remaining in the provisional seventy-five percent portion specified  
25 in subdivision (1) of this subsection, as adjusted in accordance  
26 with paragraph (A), subdivision (4) of this subsection, shall be

1 allocated, in direct proportion to the amount that tax revenues  
2 derived from coalbed methane production in each such county not  
3 redesignated as a coalbed methane nonproducing county bears to the  
4 total amount of tax revenues derived from coalbed methane  
5 production in all coalbed methane producing counties that have not  
6 been redesignated as a coalbed methane nonproducing county.

7 (C) The Tax Commissioner shall then finalize the calculation  
8 of the total amount in the twenty-five percent portion specified in  
9 subdivision (2) of this subsection, as adjusted in accordance with  
10 paragraph (A), subdivision (4) of this subsection equally among the  
11 coalbed methane nonproducing counties.

12 (g) In no case may the total amount distributed in any fiscal  
13 year to the aggregate of all coalbed methane producing counties and  
14 all coalbed methane nonproducing counties calculated by the Tax  
15 Commissioner exceed the total amount of tax on coalbed methane  
16 authorized to be remitted to the county economic development  
17 authority or county commission pursuant to subsection (e) of this  
18 section.

19 (h) Distribution of coalbed methane severance tax to county  
20 economic development authorities or county commissions is subject  
21 to the following:

22 (1) If the amount determined pursuant to subsections (f) and  
23 (g) of this section for a county is more than ten thousand dollars,  
24 the Tax Commissioner shall distribute the amount determined for  
25 that county to the economic development authority of that county  
26 created pursuant to article twelve, chapter seven of this code for

1 the purposes of encouraging economic development in the county.

2 (2) Each county economic development authority shall use such  
3 funds for the following upon a finding by the county economic  
4 development authority that the cost of such projects are reasonably  
5 anticipated to lead to further economic development of the county:

6 (i) The cost of preparation of land sites for any public or  
7 private facility; or

8 (ii) The cost of design or construction of water, sewer and  
9 stormwater infrastructure.

10 (3) Prior to expending any coalbed methane severance tax  
11 moneys, each county economic development authority must obtain the  
12 approval of its respective county commission in writing for the  
13 purpose of such expenditure.

14 (4) Prior to expending any coalbed methane severance tax  
15 moneys, each county economic development authority must obtain the  
16 approval of the development office in writing for the purpose of  
17 such expenditure. The Development Office shall approve all plans  
18 for use of the moneys if such plans are within the required uses  
19 provided in subdivision (2) of this subsection. The Director of  
20 the State Development Office shall promulgate legislative rules in  
21 accordance with article three, chapter twenty-nine-a of this code  
22 in order to set forth the required documentation to be submitted to  
23 the Development Office from the county economic development  
24 authorities to ensure that such funds are utilized as intended by  
25 the Legislature. The Director of the Development Office is  
26 authorized to promulgate emergency rules to implement the

1 provisions of this section.

2 (5) A county or county economic development authority may not  
3 use such funds for the purposes of paying wages to any employee of  
4 the county or any employee of a county economic development  
5 authority.

6 (6) If the amount determined pursuant to subsections (f) and  
7 (g) of this section for a county is ten thousand dollars or less,  
8 the Tax Commissioner shall distribute the amount determined for  
9 that county to the county commission. The county commission may  
10 then use the funds to offset its regional jail costs, costs of any  
11 community corrections programs in which it participates, expenses  
12 of a volunteer fire department that provides service within its  
13 county or expenses of any library that provides services within its  
14 county.

15 **CHAPTER 31. CORPORATIONS.**

16 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**  
17 **ACT.**

18 **§31-15A-16. Dedication of severance tax proceeds.**

19 (a) There shall be dedicated an annual amount from the  
20 collections of the tax collected pursuant to article thirteen-a,  
21 chapter eleven of this code for the construction, extension,  
22 expansion, rehabilitation, repair and improvement of water supply  
23 and sewage treatment systems and for the acquisition, preparation,  
24 construction and improvement of sites for economic development in  
25 this state as provided in this article.



1 (b) Notwithstanding any other provision of this code to the  
2 contrary, beginning on July 1, 1995, the first \$16 million of the  
3 tax collected pursuant to article thirteen-a, chapter eleven of  
4 this code shall be deposited to the credit of the West Virginia  
5 Infrastructure General Obligation Debt Service Fund created  
6 pursuant to section three, article fifteen-b of this chapter:  
7 *Provided*, That beginning on July 1, 1998, the first \$24 million of  
8 the tax annually collected pursuant to article thirteen-a of this  
9 code shall be deposited to the credit of the West Virginia  
10 Infrastructure General Obligation Debt Service Fund created  
11 pursuant to section three, article fifteen-b of this chapter.

12 (c) Notwithstanding any provision of subsection (b) of this  
13 section to the contrary: (1) None of the collections from the tax  
14 imposed pursuant to section six, article thirteen-a, chapter eleven  
15 of this code shall be so dedicated or deposited; and (2) the  
16 portion of the tax imposed by article thirteen-a, chapter eleven  
17 and dedicated for purposes of Medicaid and the Division of Forestry  
18 pursuant to section twenty-a of said article thirteen-a shall  
19 remain dedicated for the purposes set forth in that section  
20 twenty-a.

21 (d) On or before May 1 of each year, commencing May 1, 1995,  
22 the council, by resolution, shall certify to the Treasurer and the  
23 Water Development Authority the principal and interest coverage  
24 ratio and amount for the following fiscal year on any  
25 infrastructure general obligation bonds issued pursuant to the  
26 provisions of article fifteen-b of this chapter.

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