

1 **H. B. 3090**

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3 (By Delegates Martin and D. Poling)
4 [Introduced February 10, 2011; referred to the
5 Committee on Roads and Transportation then Finance.]
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §11-13A-5b; and to
12 amend said code by adding thereto a new article, designated
13 §17C-17C-1 and §17C-17C-2, all relating to oversight, care and
14 maintenance of certain highways used in natural gas and oil
15 production, and protection of highway users, dedicating a
16 portion of the oil and gas severance tax for highway
17 maintenance on certain roads, and the development of
18 legislative rules.

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

20 That the Code of West Virginia, 1931, as amended, be amended
21 by adding thereto a new section, designated §11-13A-5b; and that
22 said code be amended by adding thereto a new article, designated
23 §17C-17C-1 and §17C-17C-2, all to read as follows:

24 **CHAPTER 11. TAXATION.**

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

2 **§11-13A-5b. Distribution of oil and gas severance tax for**
3 **maintenance of highways.**

4 For any fiscal year ending after June 30, 2011, when the tax
5 collected under the authority of section three-a of this article
6 on the privilege of severing natural gas or oil for sale, profit or
7 commercial use is in excess of \$58.4 million, net of refunds and
8 distributions authorized by section five-a of this article, the
9 State Tax Commissioner shall deposit fifty percent of the excess in
10 the State Road Fund created by article three, chapter seventeen of
11 this code and the remainder of the excess shall be deposited in the
12 General Revenue Fund: *Provided*, That this section shall have no
13 force or effect for any fiscal year beginning on or after July 1,
14 2017.

15 **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

16 **ARTICLE 17C. REGULATION OF COMMERCIAL VEHICLES USED IN THE**

17 **DEVELOPMENT OF DRILL SITES FOR OIL AND GAS.**

18 **§17C-17C-1. Legislative findings and creation of program.**

19 The Legislature finds and declares that:

20 (1) The industry recognizes that the development of oil and
21 natural gas well sites is affecting the people and communities of
22 this state.

23 (2) The increase in oil and natural gas well drilling has

1 resulted in an increased usage of public highways designed mainly
2 as two-lane rural roads and highways of varying grades and
3 conditions. The daily presence of large commercial motor vehicles
4 on these roads and highways causes significant impact to local
5 communities and the local transportation infrastructure.

6 (3) The excessive weights of these vehicles have also resulted
7 in the rapid deterioration of state roads and bridges, creating
8 significant costs to the state of millions of dollars in lost road
9 and bridge use and life.

10 (4) The oil and natural gas industry has worked diligently and
11 responsibly to assist in developing a policy to protect the state
12 roads and bridges and to abate the concerns of the citizens who
13 share the roads with that industry.

14 (5) To address the increased use of rural roads and highways
15 by large commercial vehicles in conjunction with oil and natural
16 gas well drilling activity, it is necessary to grant the
17 Commissioner of Highways the express authority to enter into
18 agreements or permits, as required, with developers of oil and
19 natural gas well sites and other persons for the purposes provided
20 in this article, and such further powers as are necessary and
21 convenient to carry out the provisions of this article.

22 **§17C-17C-2. Authority of the Commissioner of Highways generally.**

23 (a) In addition to all other powers provided to the
24 Commissioner of Highways in section eight, article two-a, chapter

1 seventeen, he or she may enter into agreements or permits, as
2 required, with developers of oil and natural gas well sites in this
3 state, or with any other persons, for the purpose of replacing,
4 repairing, widening, reconstructing, altering, improving or
5 maintaining public highways. These agreements shall contain
6 necessary criteria, including bonding, to assure any damages
7 created by the development of the oil and natural gas well site are
8 ameliorated.

9 (b) All moneys collected by the commissioner pursuant to such
10 agreements shall be deposited into the State Road Fund and shall be
11 expended solely on construction or repairing secondary highways
12 affected by increased oil and natural well gas drilling activity.

13 (c) Notwithstanding any provision of this code to the
14 contrary, the Division of Highways may propose emergency rules for
15 legislative approval pertaining to the provisions of this article.

NOTE: The purpose of this bill is to require the annual equal distribution of annual proceeds of natural gas and oil severance tax in excess of a \$58.4 million, between the General Revenue Fund and the State Road Fund for a period of five fiscal years. The bill also mandates that the Division of Highways to enter into agreements or permits to protect the state road system and its users, and authorizes the Division of Highways to develop legislative rules for the article.

§11-13A-5b is new; therefore, it has been completely underscored.

§17C-17C-1 and §17C-17C-2 are new; therefore, it has been completely underscored.

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