

**H. B. 4129**

(By Delegates Storch, Ferns, Ferro, Varner,  
Pethtel, Givens, Jones, Miley,  
Swartzmiller, Pasdon and Romine)

[Introduced January 19, 2012; referred to the

Committee on Energy, Industry and Labor, Economic Development and  
Small Business then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §11-13A-5b, relating  
to reallocating and dedicating three percent of oil and gas  
severance tax revenues up to \$20 million annually to the oil  
and gas producing counties of origin and their respective  
municipalities; establishing state and local oil and gas  
county reallocated severance tax funds and providing for  
distribution of the moneys to the county commissions and  
governing bodies of the municipalities by the State Treasurer;  
establishing amounts each oil and gas producing county and  
their respective municipalities are to receive; requiring the  
creation of local funds into which moneys are to be deposited;  
requiring moneys be expended solely for economic development  
projects and infrastructure projects; providing definitions;  
providing restrictions on the expenditure of moneys; providing  
duties of State Tax Commissioner; requiring report of

1 expenditures to Joint Committee on Government and Finance;  
2 providing audits of distributed funds when authorized by the  
3 Joint Committee on Government and Finance; and authorizing  
4 legislative and emergency rules.

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

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

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

10 **§11-13A-5b. Reallocation and dedication of percentage of**  
11 **severance tax for benefit of oil and gas**  
12 **producing counties and their municipalities;**  
13 **permissible uses of distributed revenues; duties**  
14 **of State Treasurer and State Tax Commissioner;**  
15 **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 oil and gas imposed by section three-a of this  
19 article for the use and benefit of the various counties and their  
20 respective municipalities in which the oil and gas upon which that  
21 tax is imposed was located at the time it was severed from the  
22 ground.

23 (b) (1) Effective July 1, 2013, one percent of the tax

1 attributable to the severance of oil and gas imposed by section  
2 three-a of this article shall be transferred to the county  
3 commissions of the oil and gas producing counties as provided in  
4 this section.

5 (2) Effective July 1, 2013, two percent of the tax  
6 attributable to the severance of oil and gas imposed by section  
7 three-a of this article shall be transferred to the governing  
8 bodies of municipalities within the oil and gas producing counties  
9 as provided in this section on a population pro rata basis.

10 (3) In no fiscal year may the proceeds dedicated in  
11 subdivisions (1) and (2) of this subsection exceed the sum of \$20  
12 million.

13 © The amounts of the tax dedicated in subsection (b) of this  
14 section shall be deposited, from time to time, into a special fund  
15 known as the Oil and Gas County and Municipality Reallocated  
16 Severance Tax Fund, which is hereby established in the State  
17 Treasury, as the proceeds are received by the State Tax  
18 Commissioner.

19 (d) The net proceeds of the deposits made into the Oil and Gas  
20 County and Municipality Reallocated Severance Tax Fund shall be  
21 allocated among and distributed quarterly to the oil and gas  
22 producing counties and their respective municipalities by the State  
23 Treasurer in the manner specified in this section. On or before  
24 each distribution date, the State Treasurer shall determine the

1 total amount of moneys that will be available for distribution to  
2 the respective counties and municipalities entitled to the moneys  
3 on that distribution date. The amount to which an oil and gas  
4 producing county or municipality is entitled from the Oil and Gas  
5 County and Municipality Reallocated Severance Tax Fund shall be  
6 determined in accordance with subsection (e) of this section. After  
7 determining as set forth in subsection (e) of this section the  
8 amount each oil and gas producing county and municipality are  
9 entitled to receive from the fund, a warrant of the State Auditor  
10 for the sum due to each oil and gas producing county and  
11 municipality shall be issued and a check drawn thereon making  
12 payment of that amount shall thereafter be distributed to each such  
13 oil and gas producing county and municipality by hand, mail  
14 commercial delivery or electronic transmission.

15 (e) The amount to which an oil and gas producing county or  
16 municipality is entitled from the Oil and Gas County and  
17 Municipality Reallocated Severance Tax Fund shall be determined by:

18 (1) Dividing the total amount of moneys in the fund then  
19 available for distribution by the total number of barrels of oil  
20 and total number of cubic feet of gas produced in this state during  
21 the preceding quarter; and

22 (2) Multiplying the quotient thus obtained of each by number  
23 of barrels of oil and number of cubic feet of gas produced in the  
24 county during the preceding quarter.

1       (f) (1) No distribution made to a county or municipality under  
2 this section may be deposited into the county's or municipality's  
3 General Revenue Fund. The county commission of each county and the  
4 governing body of each municipality receiving a distribution under  
5 this section shall establish a special account to be known as the  
6 "(Name of County or Municipality) Oil and Gas County (or  
7 Municipality) Reallocated Severance Tax Fund" into which all  
8 distributions made to that county or municipality under this  
9 section shall be deposited.

10       (2) Moneys in the county's and municipality's oil and gas  
11 county reallocated severance tax fund shall be expended by the  
12 county commission and governing body of the municipality solely for  
13 economic development projects and infrastructure projects.

14       (3) For purposes of this section:

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

20       (B) "Infrastructure project" means a project in the state  
21 which is likely to foster infrastructure improvements including,  
22 but not limited to, post-mining land use, any water or wastewater  
23 facilities or any part thereof, storm water systems, steam, gas,  
24 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 or governing body of a municipality  
5 may not expend any of the funds available in its oil and gas county  
6 and municipality reallocated severance tax fund for personal  
7 services, for the costs of issuing bonds, or for the payment of  
8 bond debt service, and shall direct the total funds available in  
9 its oil and gas county and municipality reallocated severance tax  
10 funds to project development, which may include the costs of  
11 architectural and engineering plans, site assessments, site  
12 remediation, specifications and surveys, and any other expenses  
13 necessary or incidental to determining the feasibility or  
14 practicability of any economic development project or  
15 infrastructure project.

16       (g) On or before December 31, 2014, and December 1 of each  
17 year thereafter, the county commission of each county and governing  
18 body of each municipality receiving a distribution of funds under  
19 this section shall deliver to the Joint Committee on Government and  
20 Finance a written report setting forth the specific projects for  
21 which those funds were expended during the next preceding fiscal  
22 year, a detailed account of those expenditures, and a showing that  
23 the expenditures were made for the purposes required by this  
24 section.

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

5       (I) The State Tax Commissioner shall propose for promulgation  
6 legislative rules pursuant to article three, chapter twenty-nine-a  
7 of this code for the administration of the provisions of this  
8 section, and is authorized to promulgate emergency rules for those  
9 purposes pursuant to that article.

NOTE: The purpose of this bill is to reallocate and dedicate three percent of oil and gas severance tax revenues up to \$20 million annually to the oil and gas producing counties of origin and their respective municipalities. The bill establishes state and local oil and gas county reallocated severance tax funds and provides for distribution of the moneys to the county commissions and governing bodies of the municipalities by the State Treasurer. The bill establishes amounts each oil and gas producing county and their respective municipalities are to receive and requires the creation of local funds into which moneys are to be deposited. The bill requires the funds to be used solely for economic development projects and infrastructure projects. The bill also provides restrictions on fund expenditures. The bill sets forth duties of State Tax Commissioner. The bill requires a report of expenditures to Joint Committee on Government and Finance. The bill also provides for audits of distributed funds when authorized by the Joint Committee on Government and Finance. The bill authorizes legislative and emergency rules.

This section is new; therefore, it has been completely underscored.