

1 **H. B. 4473**

2
3 (By Delegates Armstead, Lane, Householder,
4 Ellem, O'Neal, Walters, Canterbury, C. Miller,
5 Sumner, Kump and Romine)

6 [Introduced February 9, 2012; referred to the
7 Committee on Finance.]

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9
10 A BILL to amend and reenact §11-13A-20a of the Code of West
11 Virginia, 1931, as amended, relating to dedicating a portion
12 of natural gas severance tax proceeds; creating the Surplus
13 Natural Gas Severance Tax Fund; redirecting a portion of
14 natural gas severance tax revenues from the Surplus Natural
15 Gas Severance Tax Fund to county assessors of each county;
16 setting forth amounts of deposits and distributions; and
17 requiring moneys redirected to county assessors to be applied
18 to reduce the personal property tax rate applied to certain
19 personal property held or used for commercial use.

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

21 That §11-13A-20a of the Code of West Virginia, 1931, as
22 amended, be amended and reenacted to read as follows:

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

24 **§11-13A-20a. Dedication of tax; authorization of the development**

1 **office to promulgate rules.**

2 (a) The amount of taxes collected under this article from
3 providers of health care items or services, including any interest,
4 additions to tax and penalties collected under article ten of this
5 chapter, less the amount of allowable refunds and any interest
6 payable with respect to such refunds, shall be deposited into the
7 special revenue fund created in the State Treasurer's office and
8 known as the Medicaid State Share Fund. Said fund shall have
9 separate accounting for those health care providers as set forth in
10 articles four-b and four-c, chapter nine of this code.

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

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

23 (d) Notwithstanding any other provision of this code to the
24 contrary, beginning January 1, 2009, there is hereby dedicated an

1 annual amount not to exceed \$4 million from annual collections of
2 the tax imposed by section three-d of this article to be deposited
3 into the West Virginia Infrastructure Fund, created in section
4 nine, article fifteen-a, chapter thirty-one of this code.

5 (e) Beginning with the fiscal year ending June 30, 2009, and
6 each fiscal year thereafter, the Tax Commissioner shall pay from
7 the taxes imposed in section three-d of this article, on October 1,
8 of each year, to the respective county economic development
9 authorities or county commissions as provided in subsections (f)
10 through (h) of this section, an amount in the aggregate not to
11 exceed \$4 million per fiscal year. Prior to making any such
12 payment the commissioner shall deduct the amount of refunds
13 lawfully paid and administrative costs authorized by this code.
14 All moneys distributed to the West Virginia Infrastructure Fund
15 pursuant to this section prior to July 1, 2011, shall be returned
16 to the Tax Commissioner and distributed to the respective county
17 economic development authorities or county commissions as provided
18 in this section.

19 (f) Notwithstanding any provision of this article to the
20 contrary, prior to the deposit of the proceeds of the tax on
21 coalbed methane with each county economic development authority or
22 county commission pursuant to subsection (e) of this section, the
23 Tax Commissioner shall undertake the following calculations:

24 (1) Seventy-five percent of the moneys to be deposited shall

1 be provisionally allocated for the various counties of this state
2 in which the coalbed methane was produced; and

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

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

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

12 (5) Portional adjustments.

13 (A) If, for any year, a coalbed methane producing county's
14 share of money provisionally allocated to that county is computed
15 to be an amount that is less than the amount provisionally
16 allocated to each of the coalbed methane nonproducing counties,
17 then for purposes of the computations set forth in this subsection,
18 that coalbed methane producing county shall be redesignated a
19 coalbed methane nonproducing county. The money that has been
20 provisionally allocated to that coalbed methane producing county
21 out of the seventy-five percent portion specified in subdivision
22 (1) of this subsection shall be subtracted out of the seventy-five
23 percent portion specified in that subdivision and added to the
24 twenty-five percent portion specified in subdivision (2) of this

1 subsection.

2 (B) When the adjustment specified in paragraph (A),
3 subdivision (4) of this subsection has been made for each coalbed
4 methane producing county that has been redesignated as a coalbed
5 methane nonproducing county, then the tax department shall finalize
6 the calculations of the amounts to be made available for
7 distribution to the respective county development authority or
8 county commission of the coalbed methane producing counties that
9 have not been redesignated as coalbed methane nonproducing counties
10 under subdivision (4) of this subsection as follows: The amount
11 remaining in the provisional seventy-five percent portion specified
12 in subdivision (1) of this subsection, as adjusted in accordance
13 with paragraph (A), subdivision (4) of this subsection, shall be
14 allocated, in direct proportion to the amount that tax revenues
15 derived from coalbed methane production in each such county not
16 redesignated as a coalbed methane nonproducing county bears to the
17 total amount of tax revenues derived from coalbed methane
18 production in all coalbed methane producing counties that have not
19 been redesignated as a coalbed methane nonproducing county.

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

1 (g) In no case may the total amount distributed in any fiscal
2 year to the aggregate of all coalbed methane producing counties and
3 all coalbed methane nonproducing counties calculated by the Tax
4 Commissioner exceed the total amount of tax on coalbed methane
5 authorized to be remitted to the county economic development
6 authority or county commission pursuant to subsection (e) of this
7 section.

8 (h) Distribution of coalbed methane severance tax to county
9 economic development authorities or county commissions is subject
10 to the following:

11 (1) If the amount determined pursuant to subsections (f) and
12 (g) of this section for a county is more than \$10,000, the Tax
13 Commissioner shall distribute the amount determined for that county
14 to the economic development authority of that county created
15 pursuant to article twelve, chapter seven of this code for the
16 purposes of encouraging economic development in the county.

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

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

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

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

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

19 (5) A county or county economic development authority may not
20 use such funds for the purposes of paying wages to any employee of
21 the county or any employee of a county economic development
22 authority.

23 (6) If the amount determined pursuant to subsections (f) and
24 (g) of this section for a county is \$10,000 or less, the Tax

1 Commissioner shall distribute the amount determined for that county
2 to the county commission. The county commission may then use the
3 funds to offset its regional jail costs, costs of any community
4 corrections programs in which it participates, expenses of a
5 volunteer fire department that provides service within its county
6 or expenses of any library that provides services within its
7 county.

8 (i) Notwithstanding any other provision of this code to the
9 contrary, beginning July 1, 2013, and in each succeeding fiscal
10 year on July 1, there is hereby dedicated from the total annual
11 collections for the privilege of engaging in or continuing within
12 this state in the business of severing natural gas for sale, profit
13 or commercial use the extraction of natural gas, including any
14 interest, additions to tax and penalties collected under article
15 ten of this chapter, less the amount of allowable refunds and any
16 interest payable with respect to those refunds, an amount equal to
17 the excess of the total annual collections over \$60 million, which
18 excess shall be deposited into a special revenue fund created in
19 the State Treasurer's office and known as the Surplus Natural Gas
20 Severance Tax Fund. Other moneys may be appropriated to this fund
21 from time to time from any sources as the Legislature may direct.

22 (j) Distribution of the Surplus Natural Gas Severance Tax Fund
23 is subject to the following:

24 (1) Beginning July 1, 2014, and for each succeeding fiscal

1 year until the fiscal year, if any, in which a Constitutional
2 Amendment is approved eliminating the personal property tax on
3 inventory and equipment held for commercial use, the distributions
4 from the Surplus Natural Gas Severance Tax Fund shall be made as
5 appropriated by the Legislature for the purpose of tax reduction
6 for the benefit of the citizens of the State of West Virginia as it
7 deems appropriate: *Provided*, That no more than fifty percent of
8 each fiscal year's annual increase in the Surplus Natural Gas
9 Severance Tax Fund may be so appropriated; and

10 (2) Contingent upon the passage of a Constitutional Amendment
11 which approves eliminating the personal property tax on inventory
12 and equipment held for commercial use, within sixty days of July 1
13 in the first fiscal year following the effective date of that
14 amendment, the treasurer shall distribute from the balance of the
15 Surplus Natural Gas Severance Tax Fund on a proportionate basis to
16 the respective county commissions an amount of moneys which shall
17 be apportioned among the levying units of the state in proportion
18 to the levy laid upon the Class III and Class IV personal property
19 held for ongoing commercial use within each levying unit as
20 reported on the certificate of valuation filed by each county with
21 the Department of Tax and Revenue for the preceding year: *Provided*,
22 That, the distribution to a county may occur only if that county
23 has had an increase of less than twenty five percent in the total
24 assessed value of the Class III and Class IV personal property held

1 for commercial use as compared to the value of these categories as
2 reported in the preceding year's certificate of valuation.

NOTE: The purpose of this bill is to dedicate a portion of natural gas severance tax proceeds. The bill redirects a portion of natural gas severance tax revenues from the Surplus Natural Gas Severance Tax Fund to county assessors of each county. The bill sets forth amounts of deposits and distributions. The bill requires funds redirected to county assessors to be applied to reduce the personal property tax rate applied to certain personal property held or used for commercial use

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