

1 **H. B. 2913**

2
3 (By Delegates White and Marcum)

4 (By Request of the Department of Revenue)

5 [Introduced March 12, 2013; referred to the
6 Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

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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 §11-10-26, relating
12 to correction of certain erroneous distributions, transfers,
13 allocations, overpayments or underpayments; specifying
14 immunity of agencies, subdivisions and instrumentalities of
15 this state from any fine, penalty, assessment or imposition as
16 a result of, or attributable to the erroneous distribution,
17 transfer, allocation, overpayment or underpayment of moneys.

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

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new section, designated §11-10-26, to read as
21 follows:

22 **ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

23 **§11-10-26. Adjustment for correction of erroneous distribution of**

1 funds, limitation period, immunity of agencies,
2 subdivisions, and instrumentalities of this state.

3 (a) An erroneous distribution, transfer, allocation,
4 overpayment or underpayment dedicated, distributed or directed to
5 a state or local governmental subdivision or a fund, entity, agency
6 or instrumentality, under the provisions of this code administered
7 under this article, or under the provisions of article twenty-two,
8 twenty-two-a, twenty-two-b, twenty-two-c or twenty-five, chapter
9 twenty-nine of this code, or any other provision of this code, or
10 any combination thereof, caused by clerical error or mistake, or a
11 computational, informational or other mistake or error, may be
12 corrected by an adjustment to a distribution, transfer, allocation
13 or payment to the subdivision, entity, agency, instrumentality or
14 fund and by transfer of moneys from the subdivision, entity,
15 agency, instrumentality or fund until the amount of the erroneous
16 distribution, transfer, allocation, overpayment or underpayment has
17 been corrected: *Provided*, That no correction or adjustment may be
18 made for an erroneous distribution, transfer, allocation,
19 overpayment or underpayment of moneys that is first discovered more
20 than three years after the erroneous distribution, transfer,
21 allocation, overpayment or underpayment of moneys was made, and no
22 action lies for collection, correction or remediation of the late
23 discovered erroneous distribution, transfer, allocation,
24 overpayment or underpayment of the moneys.

1 (b) An agency, governmental subdivision or instrumentality of
2 this state is not subject to a fine, penalty, assessment or
3 imposition as a result of, or attributable to, an erroneous
4 distribution, transfer, allocation, overpayment or underpayment of
5 moneys.

NOTE: The purpose of this bill is to specify procedures for adjusting payments and transferring moneys to correct for an erroneous distribution, transfer, allocation, overpayment or underpayment of moneys dedicated, distributed or directed to a state or local governmental subdivision or to a fund, entity, agency or instrumentality, under the tax code or the lottery code.

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