

**H. B. 3047**

(By Delegates Armstead, E. Nelson, White,  
D. Evans, Lane, Butler, Canterbury,  
Householder, Espinosa, Shott and Ireland)

[Introduced March 22, 2013; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-13A-20a of the Code of West Virginia, 1931, as amended, relating to establishing the Tax Reduction Fund in the State Treasury; directing a portion of annual revenue attributable to the severance tax on natural gas be deposited into the Tax Reduction Fund; providing for appropriation and distribution of funds in the Tax Reduction Fund contingent upon the adoption of a constitutional amendment of the Constitution of the State of West Virginia permitting the elimination or reduction of personal property tax on inventory and equipment held for commercial or industrial use; setting forth the use of funds for the purpose of tax reduction; setting forth the distribution of funds to each county; requiring moneys directed to counties to be applied to reduce the personal property tax rate applied to certain personal property held or used for commercial or industrial use.

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

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

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

5 **§11-13A-20a. Dedication of tax.**

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

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

20       (c) The amount of taxes on the privilege of severing timber  
21 collected under section three-b of this article, including any  
22 interest, additions to tax and penalties collected under article  
23 ten of this chapter, less the amount of allowable refunds and any  
24 interest payable with respect to such refunds, shall be paid into

1 a special revenue account in the State Treasury to be appropriated  
2 by the Legislature for purposes of the Division of Forestry.

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

9 (e) Beginning with the fiscal year ending June 30, 2009, and  
10 each fiscal year thereafter, the Tax Commissioner shall pay from  
11 the taxes imposed in section three-d of this article, on October 1,  
12 of each year, to the county economic development entities, as this  
13 term is defined in this subsection, or county commissions as  
14 provided in subsections (f) through (h) of this section, an amount  
15 in the aggregate not to exceed \$4 million per fiscal year:  
16 *Provided*, That on July 1, 2012, the Tax Commissioner shall deposit  
17 the taxes imposed in section three-d of this article into a special  
18 revenue fund, which is hereby created in the State Treasurer's  
19 office and known as the Coalbed Methane Gas Distribution Fund:  
20 *Provided, however*, That such deposit of taxes shall not exceed in  
21 the aggregate \$4 million per fiscal year and moneys therein shall  
22 be distributed by the State Treasurer pursuant to this section.  
23 Prior to making any such payment the commissioner shall deduct the  
24 amount of refunds lawfully paid and administrative costs authorized

1 by this code. All moneys distributed to the West Virginia  
2 Infrastructure Fund pursuant to this section prior to July 1, 2011,  
3 shall be returned to the Tax Commissioner and distributed to the  
4 county economic development entities, as this term is defined in  
5 this subsection, or county commissions as provided in this section.  
6 For purposes of this section, the term "county economic development  
7 entity" refers to a county economic development authority  
8 established pursuant to article twelve, chapter seven of this code  
9 or if a county does not have a county economic development  
10 authority established pursuant to article twelve, chapter seven of  
11 this code, an entity designated by resolution of the county  
12 commission of the county as the lead entity for economic  
13 development activities for the purpose of encouraging economic  
14 development in the county which entity may be, but is not limited  
15 to being, redevelopment authorities created pursuant to article  
16 eighteen, chapter sixteen of this code; county economic development  
17 corporations; regional economic development councils, corporations  
18 or partnerships.

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

1           (D) The Tax Commissioner, upon completing the calculation of  
2 the total amount of tax to be distributed to all coalbed methane  
3 producing counties and to all coalbed methane nonproducing  
4 counties, shall deposit an amount equal to the amount so calculated  
5 in the Coalbed Methane Gas Distribution Fund, subject to the  
6 limitations set forth in this section.

7           (g) In no case may the total amount distributed in any fiscal  
8 year to the aggregate of all coalbed methane producing counties and  
9 all coalbed methane nonproducing counties calculated by the Tax  
10 Commissioner exceed the total amount of tax on coalbed methane  
11 authorized to be remitted to the county economic development  
12 entities and county commissions pursuant to subsection (e) of this  
13 section.

14           (h) Distribution of coalbed methane severance tax to county  
15 economic development entities or county commissions is subject to  
16 the following:

17           (1) If the amount determined pursuant to subsections (f) and  
18 (g) of this section for a county is more than \$10,000, the State  
19 Treasurer shall distribute the amount determined for that county to  
20 the county economic development entity. The State Treasurer is  
21 hereby authorized to distribute accumulated but undistributed  
22 moneys from fiscal years 2009, 2010, 2011 and 2012 to each county  
23 economic development entity.

24           (2) Each county economic development entity shall use such

1 funds for economic development projects and infrastructure  
2 projects.

3 (3) For purposes of this section:

4 (A) "Economic development project" means a project in the  
5 state which is likely to foster economic growth and development in  
6 the area in which the project is developed for commercial,  
7 industrial, community improvement or preservation or other proper  
8 purposes.

9 (B) "Infrastructure project" means a project in the state  
10 which is likely to foster infrastructure improvements and covers  
11 post mining land use, water or wastewater facilities, stormwater  
12 systems, steam, gas, telephone and telecommunications, broadband  
13 development, electric lines and installations, roads, bridges,  
14 railroad spurs, drainage and flood control facilities, industrial  
15 park development, road or buildings that promote job creation and  
16 retention.

17 (4) Prior to expending any coalbed methane severance tax  
18 moneys, each county economic development entity must obtain the  
19 approval of its respective county commission, or the county  
20 commission or commissions representing the county or counties where  
21 the economic development or infrastructure project will be situate  
22 if the county economic development entity is regional and  
23 encompasses more than one county, in writing for the purpose of  
24 such expenditure.



1           (5) A county commission or county economic development entity  
2 may not use funds distributed to it pursuant to subsections (e),  
3 (f), (g) and (h) of this section for the purposes of paying wages  
4 to any employee of the county or any employee of a county economic  
5 development entity.

6           (6) If the amount determined pursuant to subsections (f) and  
7 (g) of this section for a county is \$10,000 or less, the State  
8 Treasurer shall distribute the amount determined for that county to  
9 the county commission. The county commission may then use the  
10 funds to offset its regional jail costs, costs of any community  
11 corrections programs in which it participates, expenses of a  
12 volunteer fire department that provides service within its county  
13 or expenses of any library that provides services within its  
14 county.

15           (i) On or before December 1, 2013, and December 1 of each year  
16 thereafter, the county economic development entity as defined in  
17 this section or county commission receiving a distribution of funds  
18 under this section shall deliver to the Joint Committee on  
19 Government and Finance a written report setting forth the specific  
20 projects for which those funds were expended during the next  
21 preceding fiscal year, a detailed account of those expenditures and  
22 a showing that the expenditures were made for the purposes required  
23 by this section.

24           (j) An audit of any funds distributed under this section may

1 be authorized at any time by the Joint Committee on Government and  
2 Finance to be conducted by the Legislative Auditor at no cost to  
3 the county economic development entity or county commission  
4 audited.

5 (k) (1) Notwithstanding any other provision of this code to the  
6 contrary, beginning July 1, 2014, and in each succeeding fiscal  
7 year, the revenue received during the fiscal year attributable to  
8 the tax imposed on the severance of natural gas in section three-a  
9 of this article in excess of \$60 million and which is not dedicated  
10 for the specific purposes as provided in section five-a of this  
11 article, shall be deposited into a special fund known as the Tax  
12 Reduction Fund, which is hereby established in the State Treasury.  
13 Other funds may be deposited in the fund from any other source,  
14 including funds appropriated by the Legislature.

15 (2) Funds in the Tax Reduction Fund are hereby dedicated to be  
16 appropriated or distributed as follows:

17 (A) Beginning with the fiscal year after June 30, 2015, and  
18 for each succeeding fiscal year until the fiscal year, if any, in  
19 which an amendment to the Constitution of the State of West  
20 Virginia is ratified which permits elimination or reduction of the  
21 ad valorem personal property tax on inventory and equipment held  
22 for commercial or industrial use, the distributions from the fund  
23 shall be made as appropriated by the Legislature for the purpose of  
24 tax reduction for the benefit of the citizens of the State of West

1 Virginia as it deems appropriate: *Provided*, That no more than fifty  
2 percent of each fiscal year's revenue deposited in the Tax  
3 Reduction Fund may be so appropriated.

1 (B) Within sixty days of the beginning of the first fiscal  
2 year following the ratification of an amendment to the  
3 Constitution of the State of West Virginia which permits the  
4 elimination or reduction of the ad valorem personal property tax on  
5 inventory and equipment held for commercial or industrial use, and  
6 in each fiscal year thereafter, the State Treasurer shall annually  
7 distribute from the balance of the Tax Reduction Fund on a  
8 proportionate basis to each county of the state an amount of moneys  
9 which shall be apportioned among the levying units of the state in  
10 proportion to the levy laid upon the Class III and Class IV  
11 personal property held for ongoing commercial use within each  
12 levying unit as reported on the certificate of valuation filed by  
13 each county with the Department of Revenue for the preceding year.

NOTE: The purpose of this bill is to dedicate a portion of natural gas severance tax proceeds into the newly created Tax Reduction Fund. The bill permits up to fifty percent of moneys from that fund to be distributed for the purpose of tax reduction for the benefit of the citizens of West Virginia as the Legislature deems appropriate. The bill provides that, upon the ratification of a Constitutional Amendment that permits the elimination or reduction of the personal property tax on inventory and equipment held for commercial or industrial use, the fund then be annually distributed to counties on a proportionate basis. The bill further sets forth how any moneys would be distributed to the counties.

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