

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2110

FISCAL  
NOTE

BY DELEGATE CANESTRARO, PETHTEL, FLUHARTY,  
DISERIO, WILLIAMS, FLEISCHAUER AND CAPUTO

[Introduced January 9, 2019; Referred  
to the Committee on Energy then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new  
2 section, designated §11-13A-3f, relating to reallocating and dedicating up to \$30  
3 million of the natural gas and oil severance tax revenues annually to the natural  
4 gas and oil-producing counties of origin; providing for distribution of the moneys to  
5 the districts of the Division of Highways by the State Treasurer; establishing  
6 amounts each natural gas and oil-producing Division of Highways district and  
7 counties within a district are to receive; requiring moneys be used solely for the  
8 secondary roads; providing duties of State Tax Commissioner and Division of  
9 Highways; requiring reports of expenditures to Joint Committee on Government  
10 and Finance; providing audits of distributed funds when authorized by the Joint  
11 Committee on Government and Finance; providing an effective date; and  
12 authorizing legislative and emergency rules.

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

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

##### **§11-13A-3f. Reallocation and dedication of the natural gas and oil severance tax for benefit of natural gas and oil-producing counties; maximum amount; permissible uses of distributed revenues; duties of State Treasurer, State Tax Commissioner and Division of Highways; audits; rulemaking**

1 (a) The purpose of this section is to provide for the reallocation and dedication of the tax  
2 attributable to the severance of natural gas and oil imposed by §11-13A-3a of this code for the  
3 use and benefit of the secondary roads in the various counties in which the natural gas and oil  
4 was located at the time it was produced.

5 (b) Effective July 1, 2019, the tax attributable to the severance of natural gas and oil  
6 imposed by §11-13A-3a of this code shall be transferred to the line item accounts in the Division

7 of Highways and specifically allocated to the individual districts of the division where the natural  
8 gas and oil was produced on a production pro rata basis as provided in this section.

9 (c) The amounts of the tax dedicated in §11-13a-3f(b) of this code shall be deposited, from  
10 time to time, into a special fund known as the Natural Gas and Oil Division of Highways  
11 Reallocated Severance Tax Fund, which is hereby established in the State Treasury, as the  
12 proceeds are received by the State Tax Commissioner.

13 (d) The net proceeds of the deposits made into the Natural Gas and Oil Division of  
14 Highways Reallocated Severance Tax Fund shall be allocated among and distributed quarterly to  
15 the natural gas and oil producing districts of the Division of Highways by the State Treasurer in  
16 the manner specified in §11-13a-3f(b) of this code. Upon receipt of those funds, the districts shall  
17 reallocate their pro rata shares to the local county offices of the division on a county by county  
18 production pro rata basis.

19 (e) The maximum yearly amount permitted to be transferred to the Division of Highways  
20 by this section is \$30 million. If the tax collected pursuant to §11-13A-3a of this code is greater  
21 than \$30 million, then each district of the Division of Highways' share shall be based on its pro  
22 rata production share of the total amount of natural gas and oil produced within the state for that  
23 year.

24 (f) (1) No distribution made under this section may be deposited into the Division of  
25 Highway's General Fund. Each district receiving a distribution under this section shall establish a  
26 special account to be known as the "(Name of District) Natural Gas and Oil County Reallocated  
27 Severance Tax Fund" into which all distributions made under this section shall be deposited.

28 (2) Moneys in the district's Natural Gas and Oil County Reallocated Severance Tax Fund  
29 shall be allocated to the district's local offices and expended by those local offices solely for  
30 secondary road projects in their respective counties. The amount available for secondary road  
31 projects within a county shall be its production pro rata share of the natural gas and oil produced  
32 in each county of a district on a yearly basis.

33 (g) On or before December 31, 2020, and December 1 of each year thereafter, each  
34 Division of Highways district receiving a distribution of funds under this section shall deliver to the  
35 Joint Committee on Government and Finance a written report setting forth the specific secondary  
36 road projects for which those funds were expended during the preceding fiscal year, a detailed  
37 account of those expenditures and a showing that the expenditures were made for the purposes  
38 required by this section.

39 (h) An audit of funds distributed under this section may be authorized at any time by the  
40 Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no  
41 cost to the Division of Highways or the districts audited.

42 (i) The State Tax Commissioner and Division of Highways shall jointly propose for  
43 legislative approval legislative rules pursuant to §29A-3-1 et seq. of this code for the  
44 administration of this section, and are authorized to promulgate emergency rules for those  
45 purposes pursuant to §29A-3-15 of this code.

NOTE: The purpose of this bill is to reallocate and dedicate the natural gas and oil severance tax revenues, up to \$30 million annually, to the natural gas and oil producing counties of origin. The bill provides for distribution of the moneys to the districts of the Division of Highways by the State Treasurer. The bill establishes amounts each natural gas and oil-producing county in a district is to receive. The bill requires moneys be used solely for the secondary roads and provides duties of State Tax Commissioner. The bill requires reports of expenditures to Joint Committee on Government and Finance. The bill provides audits of distributed funds when authorized by the Joint Committee on Government and Finance. The bill provides an effective date. The bill authorizes legislative and emergency rules.

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