

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 COMMITTEE SUBSTITUTE

5 FOR

6 **Senate Bill No. 1002**

7 (BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,

8 BY REQUEST OF THE EXECUTIVE)

9 _____
10 [Passed August 5, 2011; in effect ninety days from passage.]

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13
14 AN ACT to amend the Code of West Virginia, 1931, as amended, by
15 adding thereto a new section, designated §11-13A-6a, relating
16 to reallocating and dedicating five percent of coal severance
17 tax revenues up to \$20 million annually to the coal-producing
18 counties of origin to be phased in over a five-year period
19 after accounting for the revenues dedicated to other funds;
20 establishing state and local coal county reallocated severance
21 tax funds and providing for distribution of the moneys to the
22 county commissions by the State Treasurer; establishing
23 amounts each coal-producing county to receive; requiring the
24 creation of local funds into which moneys to be deposited;
25 requiring moneys be expended solely for economic development
26 projects and infrastructure projects; providing definitions;

1 providing restrictions on the expenditure of moneys; providing
2 duties of State Tax Commissioner; requiring report of
3 expenditures to Joint Committee on Government and Finance;
4 providing audits of distributed funds when authorized by the
5 Joint Committee on Government and Finance; and authorizing
6 legislative and emergency rules.

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

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

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

12 **§11-13A-6a. Reallocation and dedication of percentage of**
13 **severance tax for benefit of coal-producing**
14 **counties; phase-in period; permissible uses of**
15 **distributed revenues; duties of State Treasurer**
16 **and State Tax Commissioner; audits; rulemaking.**

17 (a) The purpose of this section is to provide for the
18 reallocation and dedication of a portion of the tax attributable to
19 the severance of coal imposed by section three of this article for
20 the use and benefit of the various counties of this state in which
21 the coal upon which that tax is imposed was located at the time it
22 was severed from the ground. Those counties are referred to in
23 this section as the coal-producing counties or, in the singular, as
24 a coal-producing county.

25 (b) (1) Effective July 1, 2012, one percent of the tax

1 attributable to the severance of coal imposed by section three of
2 this article is dedicated and shall be distributed for the use and
3 benefit of the coal-producing counties as provided in this section.
4 Effective July 1, 2013, two percent of the tax attributable to the
5 severance of coal imposed by section three of this article is
6 dedicated and shall be distributed for the use and benefit of the
7 coal-producing counties as provided in this section. Effective
8 July 1, 2014, three percent of the tax attributable to the
9 severance of coal imposed by section three of this article is
10 dedicated and shall be distributed for the use and benefit of the
11 coal-producing counties as provided in this section. Effective
12 July 1, 2015, four percent of the tax attributable to the severance
13 of coal imposed by section three of this article is dedicated and
14 shall be distributed for the use and benefit of the coal-producing
15 counties as provided in this section. Effective July 1, 2016, and
16 thereafter, five percent of the tax attributable to the severance
17 of coal imposed by section three of this article is dedicated and
18 shall be distributed for the use and benefit of the coal-producing
19 counties as provided in this section.

20 (2) In no fiscal year may the proceeds dedicated in
21 subdivision (1) of this subsection exceed the sum of \$20 million.

22 (3) For purposes of this subsection, the tax attributable to
23 the severance of coal imposed by section three of this article does
24 not include the thirty-five one hundredths of one percent
25 additional severance tax on coal imposed by the state for the
26 benefit of counties and municipalities as provided in section six

1 of this article.

2 (c) The amounts of the tax dedicated in subsection (b) of this
3 section shall be deposited, from time to time, into a special fund
4 known as the Coal County Reallocated Severance Tax Fund, which is
5 hereby established in the State Treasury, as the proceeds are
6 received by the State Tax Commissioner.

7 (d) The net proceeds of the deposits made into the Coal County
8 Reallocated Severance Tax Fund shall be allocated among and
9 distributed quarterly to the coal-producing counties by the State
10 Treasurer in the manner specified in this section. On or before
11 each distribution date, the State Treasurer shall determine the
12 total amount of moneys that will be available for distribution to
13 the respective counties entitled to the moneys on that distribution
14 date. The amount to which a coal-producing county is entitled from
15 the Coal County Reallocated Severance Tax Fund shall be determined
16 in accordance with subsection (e) of this section. After
17 determining as set forth in subsection (e) of this section the
18 amount each coal-producing county is entitled to receive from the
19 fund, a warrant of the State Auditor for the sum due to each coal-
20 producing county shall be issued and a check drawn thereon making
21 payment of that amount shall thereafter be distributed to each such
22 coal-producing county by hand, mail commercial delivery or
23 electronic transmission.

24 (e) The amount to which a coal-producing county is entitled
25 from the Coal County Reallocated Severance Tax Fund shall be
26 determined by:

1 (1) Dividing the total amount of moneys in the fund then
2 available for distribution by the total number of tons of coal
3 mined in this state during the preceding quarter; and

4 (2) Multiplying the quotient thus obtained by the number of
5 tons of coal removed from the ground in the county during the
6 preceding quarter.

7 (f) (1) No distribution made to a county under this section may
8 be deposited into the county's general revenue fund. The county
9 commission of each county receiving a distribution under this
10 section shall establish a special account to be known as the "(Name
11 of County) Coal County Reallocated Severance Tax Fund" into which
12 all distributions made to that county under this section shall be
13 deposited.

14 (2) Moneys in the county's coal county reallocated severance
15 tax fund shall be expended by the county commission solely for
16 economic development projects and infrastructure projects.

17 (3) For purposes of this section:

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

23 (B) "Infrastructure project" means a project in the state
24 which is likely to foster infrastructure improvements including,
25 but not limited to, post-mining land use, any water or wastewater
26 facilities or any part thereof, storm water systems, steam, gas,

1 telephone and telecommunications, broadband development, electric
2 lines and installations, roads, bridges, railroad spurs, drainage
3 and flood control facilities, industrial park development or
4 buildings that promote job creation and retention.

5 (4) A county commission may not expend any of the funds
6 available in its coal county reallocated severance tax fund for
7 personal services, for the costs of issuing bonds, or for the
8 payment of bond debt service, and shall direct the total funds
9 available in its coal county reallocated severance tax fund to
10 project development, which may include the costs of architectural
11 and engineering plans, site assessments, site remediation,
12 specifications and surveys, and any other expenses necessary or
13 incidental to determining the feasibility or practicability of any
14 economic development project or infrastructure project.

15 (g) On or before December 31, 2013, and December 1 of each
16 year thereafter, the county commission of each county receiving a
17 distribution of funds under this section shall deliver to the Joint
18 Committee on Government and Finance a written report setting forth
19 the specific projects for which those funds were expended during
20 the next preceding fiscal year, a detailed account of those
21 expenditures, and a showing that the expenditures were made for the
22 purposes required by this section.

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

1 (i) The State Tax Commissioner shall propose for promulgation
2 legislative rules pursuant to article three, chapter twenty-nine-a
3 of this code for the administration of the provisions of this
4 section, and is authorized to promulgate emergency rules for those
5 purposes pursuant to that article.