

H. B. 4564

(By Delegates Shaver, Skaff, Michael, Williams, Mahan,
Smith, Walker, Stowers, Perry and Butcher)

[Introduced February 16, 2012; referred to the
Committee on the Judiciary then Finance .]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-13A-6b, relating
to the creation of county endowment funds comprised of a
reallocation of five percent of gas severance tax revenues
dedicated to gas-producing counties phased in over a five-year
period after accounting for revenues dedicated to other funds;
establishing state and local gas county reallocated endowment
funds and providing for distribution of the moneys to the
county commissions by the State Treasurer; establishing
amounts each gas-producing county to receive, requiring the
creation of local endowment funds into which moneys to be
deposited; requiring moneys be expended solely for economic
development projects and infrastructure projects; providing
definitions; providing restrictions on the expenditure of
moneys; providing duties of State Tax Commissioner; requiring
report of expenditures to Joint Committee on Government and

1 Finance; and authorizing legislative and emergency rules.

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

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

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

7 **§11-13A-6b. Gas County Reallocated Endowment Fund; reallocation**
8 **and dedication of percentage of severance tax for**
9 **benefit of gas-producing counties; phase-in period;**
10 **permissible uses of distributed revenues; duties of**
11 **State Treasurer and State Tax Commissioner; audits;**
12 **rulemaking.**

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

21 (b) Effective July 1, 2012, one percent of the tax
22 attributable to the severance of gas imposed by section three-a of
23 this article is dedicated and shall be distributed for the use and

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

18 (c) The amounts of the tax dedicated in subsection (b) of this
19 section shall be deposited, from time to time, into a special fund
20 known as the Gas County Reallocated Endowment Fund, which is hereby
21 established in the State Treasury, as the proceeds are received by
22 the State Tax Commissioner.

23 (d) The net proceeds of the deposits made into the Gas County
24 Reallocated Endowment Fund shall be allocated among and distributed

1 quarterly to the gas-producing counties by the State Treasurer in
2 the manner specified in this section. On or before each
3 distribution date, the State Treasurer shall determine the total
4 amount of moneys that will be available for distribution to the
5 respective counties entitled to the moneys on that distribution
6 date. The amount to which a gas-producing county is entitled from
7 the Gas County Reallocated Endowment Fund shall be determined in
8 accordance with subsection (e) of this section. After determining
9 as set forth in subsection (e) of this section the amount each gas-
10 producing county is entitled to receive from the fund, a warrant of
11 the State Auditor for the sum due to each gas-producing county
12 shall be issued and a check drawn thereon making payment of that
13 amount shall thereafter be distributed to each such gas-producing
14 county by hand, mail commercial delivery or electronic
15 transmission.

16 (e) The amount to which a gas-producing county is entitled
17 from the Gas County Reallocated Endowment Fund shall be determined
18 by:

19 (1) Dividing the total amount of moneys in the fund then
20 available for distribution by the total cubic feet of gas produced
21 in this state during the preceding quarter; and

22 (2) Multiplying the quotient thus obtained by the cubic feet
23 of gas produced in the county during the preceding quarter.

24 (f) (1) No distribution made to a county under this section

1 may be deposited into the county's General Revenue Fund. The
2 county commission of each county receiving a distribution under
3 this section shall establish a special account to be known as the
4 "(Name of County) County Reallocated Endowment Fund" into which all
5 distributions made to that county under this section shall be
6 deposited.

7 (2) Moneys in the county's Gas County Reallocated Endowment
8 Fund shall be expended by the county commission solely for economic
9 development projects and infrastructure projects.

10 (3) For purposes of this section:

11 (A) "Economic development project" means a project in the
12 state which is likely to foster economic growth and development in
13 the area in which the project is developed for commercial,
14 industrial, community improvement or preservation or other proper
15 purposes.

16 (B) "Infrastructure project" means a project in the state
17 which is likely to foster infrastructure improvements including,
18 but not limited to, post-mining land use, any water or wastewater
19 facilities or any part thereof, storm water systems, steam, gas,
20 telephone and telecommunications, broadband development, electric
21 lines and installations, roads, bridges, railroad spurs, drainage
22 and flood control facilities, industrial park development or
23 buildings that promote job creation and retention.

24 (4) A county commission may not expend any of the funds

1 available in its Gas County Reallocated Endowment Fund for personal
2 services, for the costs of issuing bonds, or for the payment of
3 bond debt service, and shall direct the total funds available in
4 its Gas County Reallocated Endowment Fund to project development,
5 which may include the costs of architectural and engineering plans,
6 site assessments, site remediation, specifications and surveys and
7 other expenses necessary or incidental to determining the
8 feasibility or practicability of an economic development project or
9 infrastructure project.

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

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

22 (i) The State Tax Commissioner shall propose for legislative
23 approval rules pursuant to article three, chapter twenty-nine-a of
24 this code for the administration of the provisions of this section,

- 1 and is authorized to promulgate emergency rules for those purposes
- 2 pursuant to that article.

NOTE: The purpose of this bill is to create county endowment funds comprised of a reallocation of five percent of gas severance tax revenues dedicated to gas-producing counties phased in over a five-year period after accounting for revenues dedicated to other funds; to establish state and local gas county reallocated endowment funds and provide for distribution of the moneys to the county commissions by the State Treasurer; establishing amounts each gas-producing county to receive, requiring the creation of local endowment funds into which moneys to be deposited; requiring moneys be expended solely for economic development projects and infrastructure projects; providing definitions; providing restrictions on the expenditure of moneys; providing duties of State Tax Commissioner; requiring report of expenditures to Joint Committee on Government and Finance; and authorizing legislative and emergency rules.

§11-13A-6b is new; therefore, it has been completely underscored.