

1 **Senate Bill No. 461**

2 (By Senator Kessler (Mr. President), Williams, Tucker, Plymale,  
3 Stollings, Snyder, Cookman, Palumbo, Fitzsimmons, Beach, Yost,  
4 Miller, D. Hall, Jenkins, McCabe, Wells, Edgell, Barnes, Blair,  
5 Boley, Cann, Chafin, Kirkendoll, Laird, Nohe, Prezioso, Sypolt,  
6 Unger, Walters, Green and M. Hall)

7 \_\_\_\_\_  
8 [Introduced January 31, 2014; referred to the Committee on  
9 Economic Development; and then to the Committee on Finance.]

**FISCAL  
NOTE**

10 \_\_\_\_\_  
11  
12  
13  
14 A BILL to amend the Code of West Virginia, 1931, as amended, by  
15 adding thereto a new section, designated §11-13A-5b, relating  
16 to the use of oil and natural gas severance tax revenues;  
17 setting a baseline of oil and natural gas severance tax  
18 revenue collections; creating the West Virginia Future Fund;  
19 providing for the distribution of funds collected in excess of  
20 that baseline; providing for initial funding of the West  
21 Virginia Future Fund to consist of twenty-five percent of  
22 excess proceeds from oil and natural gas severance taxes;  
23 expressing legislative intent not to encumber, spend, promise  
24 or otherwise use any interest from the West Virginia Future

1 Fund for a term of six years following the creation of the  
2 West Virginia Future Fund; expressing legislative intent that  
3 the principal of the West Virginia Future Fund be inviolable  
4 and not be encumbered, spent, promised or otherwise disturbed;  
5 requiring moneys to be expended solely for economic  
6 development projects, infrastructure projects and  
7 supplementing and increasing state salaries for teachers as  
8 stated in section two, article four, chapter eighteen-a of  
9 this code; providing definitions; providing restrictions on  
10 the expenditure of moneys; providing duties of State Tax  
11 Commissioner; requiring report of expenditures to Joint  
12 Committee on Government and Finance; providing audits of  
13 distributed funds when authorized by the Joint Committee on  
14 Government and Finance; and authorizing legislative and  
15 emergency rules.

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

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

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

21 **§11-13A-5b. Setting a baseline of severance tax revenue for**  
22 **purposes of future tax severance allocation;**  
23 **Creation of West Virginia Future Fund;**  
24 **legislative intent; permissible uses of**

1 **distributed revenues; duties of State Treasurer**  
2 **and State Tax Commissioner; audits; rulemaking.**

3 (a) For fiscal years beginning July 1, 2014, a baseline for  
4 collections of severance tax on the privilege of producing oil and  
5 natural gas levied by section three-a of this article that are  
6 deposited in the General Revenue Fund as provided in section five-a  
7 of this article, is established at \$175 million.

8 (b) There is created in the State Treasury a special revenue  
9 account, designated the "West Virginia Future Fund," which is an  
10 interest-bearing account and may be invested by the West Virginia  
11 Investment Management Board in the manner permitted by the  
12 provisions of article six, chapter twelve of this code, with the  
13 interest income a proper credit to the fund. Notwithstanding any  
14 provision of this code to the contrary, twenty-five percent of the  
15 excess proceeds, above the baseline set by subsection (a) of this  
16 section, received on and after the effective date of this section  
17 as state revenue pursuant to the provisions of section three-a,  
18 article thirteen-a, chapter eleven of this code shall be deposited  
19 in this fund. The Legislature may, by general appropriation or by  
20 designation of other funding sources, deposit into the fund  
21 additional moneys as it considers appropriate.

22 (c) The Legislature declares its intention to use the fund as  
23 a means of conserving a portion of the state's revenue derived from  
24 the increased revenue proceeds received by the state as a result of

1 any new oil and natural gas production as well as other funding  
2 sources as the Legislature may designate in order to meet future  
3 needs. The Legislature further declares its intention that the  
4 fund shall maintain inviolability of principal while maximizing  
5 total return and that only interest income be used for the purposes  
6 enumerated in this section. No interest income of the Future Fund  
7 may be used for a term of six years following the effective date  
8 except for the purposes enumerated in this section.

9 (d) For purposes of this section:

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

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