

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 461**

5 (SENATORS KESSLER (MR. PRESIDENT), WILLIAMS, TUCKER, PLYMALE, STOLLINGS,  
6 SNYDER, COOKMAN, PALUMBO, FITZSIMMONS, BEACH, YOST, MILLER, D. HALL,  
7 JENKINS, MCCABE, WELLS, EDGELL, BARNES, BLAIR, BOLEY, CANN, CHAFIN,  
8 KIRKENDOLL, LAIRD, NOHE, PREZIOSO, SYPOLT, UNGER, WALTERS, GREEN AND M.  
9 HALL, *original sponsors*)

10 \_\_\_\_\_  
11 [Passed March 8, 2014; in effect ninety days from passage.]  
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14 AN ACT to amend the Code of West Virginia, 1931, as amended, by  
15 adding thereto a new section, designated §11-13A-5b, relating  
16 to creation of a Future Fund for conserving a portion of  
17 proceeds from certain severance tax revenues for future  
18 expenditures; creating an interest-bearing special revenue  
19 account; authorizing the West Virginia Investment Management  
20 Board to invest moneys of the fund; providing that the  
21 principal of the fund be inviolate and that only the  
22 investment income may be expended; providing for contributions  
23 to the fund from a portion of revenues collected from certain  
24 severance taxes; prohibiting appropriation and expenditure  
25 from the fund until fiscal year 2020; limiting of amount of  
26 appropriation from the fund in certain circumstances;

1 requiring moneys to be expended solely for enhancing education  
2 and workforce development; economic development and  
3 diversification; infrastructure improvements; tax relief  
4 measures for the benefit of the citizens and businesses of the  
5 State of West Virginia; and defining certain terms.

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

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

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

11 **§11-13A-5b. Creation of West Virginia Future Fund; legislative  
12 intent; calculation of deposits from excess severance tax  
13 revenues; permissible uses of investment income and  
14 limitations on expenditures; definitions.**

15 (a) There is hereby created in the State Treasury a special  
16 revenue account, designated the West Virginia Future Fund, which is  
17 an interest-bearing account and may be invested by the West  
18 Virginia Investment Management Board in the manner permitted by the  
19 provisions of article six, chapter twelve of this code, with the  
20 investment income to be credited to the fund and deposited in the  
21 special revenue account.

22 (b) 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  
25 any mineral production as well as other funding sources as the

1 Legislature may designate in order to meet future needs. The  
2 principal of the fund shall remain inviolate and no portion of the  
3 principal may be appropriated, expended or encumbered by the  
4 Legislature or any official of the state. Only the investment  
5 income of this fund may be appropriated and expended: *Provided,*  
6 That no more than the average net investment return for the  
7 immediately preceding five fiscal years may be appropriated or  
8 expended in any one fiscal year.

9 (c) Notwithstanding any provision of this code to the  
10 contrary, for the fiscal year beginning July 1, 2014, and each year  
11 thereafter, the secretary of revenue shall cause to be deposited in  
12 this fund three percent of the annual severance tax revenue which  
13 would otherwise be deposited into the General Revenue Fund which is  
14 attributable to the severance of coal, limestone, sandstone,  
15 natural gas and oil and collected and received pursuant to the  
16 provisions of sections three and three-a, article thirteen-a,  
17 chapter eleven of this code: *Provided,* That these deposits shall  
18 only be made during fiscal years within which the balance of the  
19 Revenue Shortfall Reserve Fund equals or exceeds thirteen percent  
20 of the state's General Revenue Fund budget for the fiscal year just  
21 ended as determined within sixty days of the end of that prior  
22 fiscal year as provided by subsection (b), section twenty, article  
23 two, chapter eleven-b of this code: *Provided, however,* That these  
24 deposits shall not be made in any fiscal year in which the  
25 Governor's General Revenue Fund estimate relies on transfers from  
26 the Revenue Shortfall Reserve Fund: *Provided further,* That these

1 deposits shall not be made in any fiscal year for which mid-year  
2 spending reductions, hiring freezes, mid-year decreases in  
3 appropriations or transfers from the Revenue Shortfall Reserve Fund  
4 are necessitated due to revenue shortfalls or would be necessitated  
5 if the deposits were to be made: *And provided further,* That amounts  
6 that may be deposited into the fund in error or found later to be  
7 subject to these limitations shall be redeposited into the General  
8 Revenue Fund. The Legislature may, by general appropriation or by  
9 designation of other funding sources, deposit into the fund  
10 additional moneys as it considers appropriate.

11 (d) In order to maximize the value of the fund, no money from  
12 the fund may be expended or appropriated until fiscal year 2020 and  
13 thereafter the Legislature may appropriate, subject to the  
14 limitations provided in this section, from the fund solely for  
15 enhancing education and workforce development; economic development  
16 and diversification; infrastructure improvements; and tax relief  
17 measures for the benefit of the citizens and businesses of the  
18 State of West Virginia.

19 (e) For purposes of this section:

20 (1) "Economic development and diversification" means fostering  
21 economic growth and development in the state, including commercial,  
22 industrial, community, cultural or historical improvements; or  
23 preservation or other proper purposes.

24 (2) "Infrastructure improvements" means fostering  
25 infrastructure improvements including, but not limited to, post-  
26 mining land use, water or wastewater facilities or a part thereof,

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

6       (3) "Tax relief" means reducing the tax responsibility of  
7 citizens and businesses located in the State of West Virginia,  
8 including but not limited to increasing the Homestead Exemption and  
9 reducing or eliminating the ad valorem property tax on inventory  
10 and equipment held for commercial or industrial use.