

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### Senate Bill 15

FISCAL  
NOTE

By Senators Smith, Clements, and Maroney

[Introduced January 11, 2023; referred  
to the Committee on Finance]

1 A BILL to amend and reenact §11-13A-5a of the Code of West Virginia, 1931, as amended,  
 2 relating to the apportionment of oil and gas severance taxes; and relating to funding the  
 3 West Virginia Department of Environmental Protection’s Office of Oil and Gas adequately  
 4 and meaningfully.

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

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

**§11-13A-5a. Dedication of 10 percent of oil and gas severance tax for benefit of counties and municipalities and of one and one half percent of oil and gas severance tax for the benefit of the West Virginia Department of Environmental Protection Office of Oil and Gas; distribution of major portion of such dedicated tax to oil and gas producing counties; distribution of minor portion of such dedicated tax to all counties and municipalities; reports; rules; special funds in the office of State Treasurer; methods and formulae for distribution of such dedicated tax; expenditure of funds by counties and municipalities for public purposes; and requiring special county and municipal budgets and reports thereon.**

1 (a) Effective July 1, 1996, five percent of the tax attributable to the severance of oil and gas  
 2 imposed by §11-13A-3a of this code is hereby dedicated for the use and benefit of counties and  
 3 municipalities within this state and shall be distributed to the counties and municipalities as  
 4 provided in this section. Effective July 1, 1997, and thereafter, 10 percent of the tax attributable to  
 5 the severance of oil and gas imposed by §11-13A-3a of this code is hereby dedicated for the use  
 6 and benefit of counties and municipalities within this state and shall be distributed to the counties  
 7 and municipalities as provided in this section. Effective July 1, 2022, and thereafter, one and one  
 8 half percent of the tax attributable to the severance of oil and gas imposed by §11-13A-3a of this  
 9 code is hereby dedicated for the use and benefit of regulating the oil and gas industry by the West  
 10 Virginia Department of Environmental Protection Office of Oil and Gas and shall be deposited in  
 11 the Oil and Gas Operating Permit and Processing Fund to ensure that the Office of Oil and Gas

12 has sufficient funding to support its regulatory mission of ensuring the safety of the natural  
13 environment of the State of West Virginia.

14 (b) Seventy-five percent of ~~this~~ the dedicated tax for counties and municipalities shall be  
15 distributed by the State Treasurer in the manner specified in this section to the various counties of  
16 this state in which the oil and gas upon which this additional tax is imposed was located at the time  
17 it was removed from the ground. Those counties are referred to in this section as the "oil and gas  
18 producing counties". The remaining 25 percent of the net proceeds of this additional tax on oil and  
19 gas shall be distributed among all the counties and municipalities of this state in the manner  
20 specified in this section.

21 (c) The Tax Commissioner is hereby granted plenary power and authority to promulgate  
22 reasonable rules requiring the furnishing by oil and gas producers of such additional information  
23 as may be necessary to compute the allocation required under the provisions of subsection (f) of  
24 this section. The Tax Commissioner is also hereby granted plenary power and authority to  
25 promulgate such other reasonable rules as may be necessary to implement the provisions of this  
26 section.

27 (d) In order to provide a procedure for the distribution of seventy-five percent of the  
28 dedicated tax for counties and municipalities on oil and gas to the oil and gas producing counties,  
29 the special fund known as the Oil and Gas County Revenue Fund, ~~established in State Treasurer's~~  
30 ~~office by Chapter 242, Acts of the Legislature, Regular Session, 1995, as amended and reenacted~~  
31 ~~in the subsequent act of the Legislature~~ is hereby continued. In order to provide a procedure for the  
32 distribution of the remaining 25 percent of the dedicated tax for counties and municipalities on oil  
33 and gas to all counties and municipalities of the state, without regard to oil and gas having been  
34 produced in those counties or municipalities, the special fund known as the All Counties and  
35 Municipalities Revenue Fund *previously* established in ~~State Treasurer's office by chapter two~~  
36 ~~hundred forty two, acts of the Legislature, 1995 regular session, as amended and reenacted in the~~  
37 ~~subsequent act of the Legislature, is hereby redesignated as the "all counties and municipalities oil~~

38 ~~and gas revenue fund" and in the State Treasury~~ is hereby continued.

39         Seventy-five percent of the dedicated tax for counties and municipalities on oil and gas  
40 shall be deposited in the Oil and Gas County Revenue Fund and 25 percent of the dedicated tax  
41 on oil and gas shall be deposited in the All Counties and Municipalities Oil and Gas Revenue  
42 Fund, from time to time, as the proceeds are received by the Tax Commissioner. The moneys in  
43 the funds shall be distributed to the respective counties and municipalities entitled to the moneys  
44 in the manner set forth in subsection (e) of this section.

45         (e) The moneys in the Oil and Gas County Revenue Fund and the moneys in the All  
46 Counties and Municipalities Oil and Gas Revenue Fund shall be allocated among and distributed  
47 annually to the counties and municipalities entitled to the moneys by the State Treasurer in the  
48 manner specified in this section. On or before each distribution date, the State Treasurer shall  
49 determine the total amount of moneys in each fund which will be available for distribution to the  
50 respective counties and municipalities entitled to the moneys on that distribution date. The amount  
51 ~~to which~~ an oil and gas producing county is entitled from the Oil and Gas County Revenue Fund  
52 shall be determined in accordance with subsection (f) of this section, and the amount to which  
53 every county and municipality shall be entitled from the All Counties and Municipalities Oil and  
54 Gas Revenue Fund shall be determined in accordance with subsection (g) of this section. After  
55 determining, as set forth in subsections (f) and (g) of this section, the amount each county and  
56 municipality is entitled to receive from the respective fund or funds, a warrant of the State Auditor  
57 for the sum due to the county or municipality shall issue and a check drawn thereon making  
58 payment of the sum shall thereafter be distributed to the county or municipality.

59         (f) The amount to which an oil and gas producing county is entitled from the Oil and Gas  
60 County Revenue Fund shall be determined by:

61         (1) In the case of moneys derived from tax on the severance of gas:

62         (A) Dividing the total amount of moneys in the fund derived from tax on the severance of  
63 gas then available for distribution by the total volume of cubic feet of gas extracted in this state

64 during the preceding year; and

65 (B) Multiplying the quotient thus obtained by the number of cubic feet of gas taken from the  
66 ground in the county during the preceding year; and

67 (2) In the case of moneys derived from tax on the severance of oil:

68 (A) Dividing the total amount of moneys in the fund derived from tax on the severance of oil  
69 then available for distribution by the total number of barrels of oil extracted in this state during the  
70 preceding year; and

71 (B) Multiplying the quotient thus obtained by the number of barrels of oil taken from the  
72 ground in the county during the preceding year.

73 (g) The amount to which each county and municipality is entitled from the All Counties and  
74 Municipalities Oil and Gas Revenue Fund shall be determined in accordance with the provisions of  
75 this subsection. For purposes of this subsection "population" means the population as determined  
76 by the most recent decennial census taken under the authority of the United States:

77 (1) The ~~treasurer~~ State Treasurer shall first apportion the total amount of moneys available  
78 in the All Counties and Municipalities Oil and Gas Revenue Fund by multiplying the total amount in  
79 the fund by the percentage which the population of each county bears to the total population of the  
80 state. The amount thus apportioned for each county is the county's "base share".

81 (2) Each county's base share shall then be subdivided into two portions. One portion is  
82 shall be determined by multiplying the base share by that percentage which the total population of  
83 all unincorporated areas within the county bears to the total population of the county, and the other  
84 portion ~~is~~ shall be determined by multiplying the base share by that percentage which the total  
85 population of all municipalities within the county bears to the total population of the county. The  
86 former portion shall be paid to the county and the latter portion shall be the "municipalities' portion"  
87 of the county's base share. The percentage of the latter portion to which each municipality in the  
88 county is entitled shall be determined by multiplying the total of the latter portion by the percentage  
89 which the population of each municipality within the county bears to the total population of all

90 municipalities within the county.

91 (h) Moneys distributed to any county or municipality under the provisions of this section,  
92 from either or both special funds, shall be deposited in the county or municipal general fund and  
93 may be expended by the county commission or governing body of the municipality for such  
94 purposes as the county commission or governing body shall determine to be in the best interest of  
95 its respective county or municipality: *Provided*, That in counties with population in excess of  
96 200,000, at least 75 percent of the funds received from the oil and gas county revenue fund shall  
97 be apportioned to and expended within the oil and gas producing area or areas of the county, the  
98 oil and gas producing areas of each county to be determined generally by the ~~State~~ Tax  
99 Commissioner: *Provided, however*, That the moneys distributed to any county or municipality  
100 under the provisions of this section shall not be budgeted for personal services in an amount to  
101 exceed one fourth of the total amount of the moneys.

102 (i) On or before March 28, 1997, and each March 28 thereafter, each county commission or  
103 governing body of a municipality receiving any such moneys shall submit to the Tax Commissioner  
104 on forms provided by the Tax Commissioner a special budget, detailing how the moneys are to be  
105 spent during the subsequent fiscal year. The budget shall be followed in expending the moneys  
106 unless a subsequent budget is approved by the ~~State~~ Tax Commissioner. All unexpended  
107 balances remaining in the county or municipality general fund at the close of a fiscal year shall  
108 remain in the General Fund and may be expended by the county or municipality without restriction.

109 (j) On or before December 15, 1996, and each December 15 thereafter, the Tax  
110 Commissioner shall deliver to the clerk of the Senate and the Clerk of the House of Delegates a  
111 consolidated report of the budgets, created by subsection (i) of this section, for all county  
112 commissions and municipalities as of July 15, of the current year.

113 (k) The ~~State~~ Tax Commissioner shall retain for the benefit of the state from the dedicated  
114 tax attributable to the severance of oil and gas the amount of \$35,000 annually as a fee for the  
115 administration of the additional tax by the Tax Commissioner.

