WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

ENROLLED

Com. S. d. for
HOUSE BILL No. 2420

(By Delegates Kimm Browning, Staton,
Ashcraft, Campbell, Tattott and
Schoonover)

Passed ....................... April 19 ....................... 1993

In Effect Ninety Days from Passage
AN ACT to amend and reenact section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requirements for budgeting additional tax on severance, extraction and production of coal; and removing or reducing certain budgetary restrictions.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE TAXES.

§11-13A-6. Additional tax on the severance, extraction and production of coal; dedication of additional tax for benefit of counties and municipalities; distribution of major portion of such additional tax to coal-producing counties; distribution of minor portion of such additional tax to all counties and municipalities; reports; rules and regulations; creation of special funds in office of state treasurer; method and formulas for
distribution of such additional tax; expenditure of funds by counties and municipalities for public purposes; creating special funds in counties and municipalities; and requiring special county and municipal budgets and reports thereon.

1 (a) **Additional coal severance tax.** — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing coal, or preparing coal (or both severing and preparing coal), for sale, profit or commercial use, there is hereby imposed an additional severance tax, the amount of which shall be equal to the value of the coal severed or prepared (or both severed and prepared), against which the tax imposed by section three of this article is measured as shown by the gross proceeds derived from the sale thereof by the producer, multiplied by thirty-five one hundredths of one percent. The tax imposed by this subsection (a) shall be in addition to the tax imposed by section three of this article, and this additional tax is hereinafter in this section referred to as the “additional tax on coal.”

(b) This additional tax on coal is imposed pursuant to the provisions of section six-a, article ten of the West Virginia constitution. Seventy-five percent of the net proceeds of this additional tax on coal shall, after appropriation thereof by the Legislature, be distributed by the state treasurer in the manner hereinafter specified, to the various counties of this state in which the coal upon which this additional tax is imposed was located at the time it was severed from the ground. Those counties are hereinafter in this section referred to as the “coal-producing counties.” The remaining twenty-five percent of the net proceeds of this additional tax on coal shall be distributed, after appropriation, among all the counties and municipalities of this state in the manner hereinafter specified.

(c) Such additional tax on coal shall be due and payable, reported and remitted as elsewhere provided in this article for the tax imposed by said section three of this article, and all of the enforcement and other
provisions of this article shall apply to such additional
tax. In addition to the reports and other information
required under the provisions of this article and the
 tonnage reports required to be filed under the provisions
of section seventy-two, article two, chapter twenty-two
of this code, the tax commissioner is hereby granted
plenary power and authority to promulgate reasonable
rules and regulations requiring the furnishing by
producers of such additional information as may be
necessary to compute the allocation required under the
provisions of subsection (f) of this section. The tax
commissioner is also hereby granted plenary power and
authority to promulgate such other reasonable rules and
regulations as may be necessary to implement the
provisions of this section: Provided, That notwithstanding
any language contained in this code to the contrary,
the gross amount of additional tax on coal collected
under this article shall be paid over and distributed
without the application of any credits against the tax
imposed by this section.

(d) In order to provide a procedure for the distribu-
tion of seventy-five percent of the net proceeds of such
additional tax on coal to such coal-producing counties,
there is hereby created in the state treasurer's office a
special fund to be known as the "county coal revenue
fund"; and in order to provide a procedure for the
distribution of the remaining twenty-five percent of the
net proceeds of such additional tax on coal to all counties
and municipalities of the state, without regard to coal
having been produced therein, there is also hereby
created in the state treasurer's office a special fund to
be known as the "all counties and municipalities revenue
fund."

Seventy-five percent of the net proceeds of such
additional tax on coal shall be deposited in the "county
coal revenue fund" and twenty-five percent of such net
proceeds shall be deposited in the "all counties and
municipalities revenue fund," from time to time, as such
proceeds are received by the tax commissioner. The
moneys in such funds shall, after appropriation thereof
by the Legislature, be distributed to the respective
counties and municipalities entitled thereto in the manner set forth in subsection (e) of this section.

(e) The moneys in the “county coal revenue fund” and the moneys in the “all counties and municipalities revenue fund” shall be allocated among and distributed quarterly to the counties and municipalities entitled thereto by the state treasurer in the manner hereinafter specified. On or before each distribution date, the state treasurer shall determine the total amount of moneys in each fund which will be available for distribution to the respective counties and municipalities entitled thereto on that distribution date. The amount to which a coal-producing county is entitled from the “county coal revenue fund” shall be determined in accordance with subsection (f) of this section, and the amount to which every county and municipality shall be entitled from the “all counties and municipalities revenue fund” shall be determined in accordance with subsection (g) of this section. After determining as set forth in subsection (f) and subsection (g) of this section the amount each county and municipality is entitled to receive from the respective fund or funds, a warrant of the state auditor for the sum due to such county or municipality shall issue and a check drawn thereon making payment of such sum shall thereafter be distributed to such county or municipality.

(f) The amount to which a coal-producing county is entitled from the “county coal revenue fund” shall be determined by: (1) Dividing the total amount of moneys in such fund then available for distribution by the total number of tons of coal mined in this state during the preceding quarter; and (2) multiplying the quotient thus obtained by the number of tons of coal removed from the ground in such county during the preceding quarter.

(g) The amount to which each county and municipality shall be entitled from the “all counties and municipalities revenue fund” shall be determined in accordance with the provisions of this subsection. For purposes of this subsection “population” shall mean the population as determined by the most recent decennial census taken under the authority of the United States:
(1) The treasurer shall first apportion the total amount of moneys available in the "all counties and municipalities revenue fund" by multiplying the total amount in such fund by the percentage which the population of each county bears to the total population of the state. The amount thus apportioned for each county shall be the county's "base share."

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

(h) All counties and municipalities shall create a "coal severance tax revenue fund" which shall be the depository for moneys distributed to any county or municipality under the provisions of this section, from either or both special funds. Moneys in such "coal severance tax revenue funds" may be expended by the county commission or governing body of the municipality for such public purposes as the county commission or governing body shall determine to be in the best interest of the people of its respective county or municipality: Provided, That in counties with population in excess of two hundred thousand at least seventy-five percent of such funds received from the county coal revenue fund shall be apportioned to, and expended within the coal-producing area or areas of the county, said coal-producing areas of each county to be determined
159 generally by the state tax commissioner: Provided, however, That a line item budgeted amount from the current levy estimated for a county shall be funded at fifty percent of the preceding year's expenditure from the county general fund prior to the use of coal severance tax revenue fund moneys for the same general purpose: Provided further, That said coal severance tax revenue fund moneys shall not be budgeted for personal services in an amount to exceed one half of the total funds available in such fund.

169 (i) The state tax commissioner shall retain for the benefit of the state from the additional taxes on coal collected the amount of thirty-five thousand dollars annually as a fee for the administration of such additional tax by the tax commissioner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 7th day of May, 1993.

Governor