

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3012

By Delegates Anderson, Zatezalo, Foggin, Heckert,

Hott, Barnhart, Ferrell, Young, Hansen,

Fehrenbacher, and Rowe

[Originating in the Committee on Finance,

February 13, 2023]

1 A BILL to amend and reenact §11-13A-3c of the Code of West Virginia, 1931, as amended,
2 relating to the imposition of the tax on the privilege of severing other natural resources;
3 providing for an exemption from the imposition of the severance tax for a period of 9 years
4 beginning on July 1, 2023, for severing rare earth elements and critical minerals; and
5 defining rare earth elements and critical minerals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3c. Imposition of tax on privilege of severing other natural resources.

1 (a) Imposition of tax. — For the privilege of engaging or continuing within this state in the
2 business of severing, extracting, reducing to possession and producing for sale, profit or
3 commercial use any other natural resource product or product not taxed under section three,
4 three-a, three-b or four of this article, there is hereby levied and shall be collected from every
5 person exercising this privilege an annual privilege tax.

6 (b) Rate and measure of tax. — The tax imposed in subsection (a) of this section shall be
7 four percent of the gross value of the natural resource produced, as shown by the gross proceeds
8 derived from the sale thereof by producer, except as otherwise provided in this article: *Provided,*
9 That beginning July 1, 1993, the tax imposed by this section shall be levied and collected at the
10 rate of four and one-half percent, and beginning July 1, 1994, the tax imposed by this section shall
11 be levied and collected at the rate of five percent: *Provided, however, That there is an exemption*
12 *from the imposition of the tax provided for in this article for 9 years beginning July 1, 2023, for*
13 *severing, extracting, reducing to possession and producing for sale, profit or commercial use rare*
14 *earth elements and critical minerals. For the purposes of this section, "rare earth elements" (also*
15 *known as rare earth metals or rare earth oxides) are only yttrium, lanthanum, cerium,*
16 *praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium,*
17 *holmium, erbium, thulium, ytterbium, lutetium, and scandium, and "critical minerals" are only*
18 *aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar,*

19 gallium, germanium, graphite, hafnium, indium, iridium, lithium, magnesium, manganese, nickel,
20 niobium, palladium, platinum, rhodium, rubidium, ruthenium, tantalum, tellurium, tin, titanium,
21 tungsten, vanadium, zinc, zirconium, uranium, osmium, strontium, rhenium, potash, and bauxite.

22 (c) Tax in addition to other taxes. — The tax imposed by this section shall apply to all
23 persons severing other natural resources in this state, and shall be in addition to all other taxes
24 imposed by law.

25 (d) Effective date. — This section, as amended in the year 1993, shall apply to gross
26 proceeds derived after May 31 of such year. The language of section three of this article, as in
27 effect on January 1, of such year, shall apply to gross proceeds derived prior to June 1 of such year
28 and, with respect to such gross proceeds, shall be fully and completely preserved.

NOTE: The purpose of this bill is to encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.