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Senate Bill No. 466

(By Senators Yost, Kessler (Acting President) and Jenkins)

[Introduced February 8, 2011; referred to the Committee on Health
and Human Resources; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-13A-3 of the Code of West Virginia,
1931, as amended; and to amend and reenact §11-27-18 of said
code, all relating to privilege tax on certain occupations and
services; reducing the tax on behavioral health services; and
providing a definition of that term.

Be it enacted by the Legislature of West Virginia:

That §11-13A-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that §11-27-18 of said code be
amended and reenacted, all to read as follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

**§11-13A-3. Imposition of tax or privilege of severing coal,
limestone or sandstone, or furnishing certain
health care services, effective dates therefor;
reduction of severance rate for coal mined by
underground methods based on seam thickness.**

1 (a) *Imposition of tax.* -- Upon every person exercising the
2 privilege of engaging or continuing within this state in the
3 business of severing, extracting, reducing to possession and
4 producing for sale, profit or commercial use coal, limestone or
5 sandstone, ~~or in the business of furnishing certain health care~~
6 ~~services,~~ there is hereby levied and shall be collected from every
7 person exercising such privilege an annual privilege tax.

8 (b) *Rate and measure of tax.* -- The tax imposed in subsection
9 (a) of this section shall be five percent of the gross value of the
10 natural resource produced ~~or the health care service provided,~~ as
11 shown by the gross income derived from the sale or furnishing
12 thereof by the producer ~~or the provider of the health care service,~~
13 except as otherwise provided in this article. In the case of coal,
14 this five percent rate of tax includes the thirty-five one
15 hundredths of one percent additional severance tax on coal imposed
16 by the state for the benefit of counties and municipalities as
17 provided in section six of this article.

18 ~~(c) "*Certain health care services*" defined. -- For purposes of~~
19 ~~this section, the term "certain health care services" means, and is~~
20 ~~limited to, behavioral health services.~~

21 ~~(d)~~ (c) *Tax in addition to other taxes.* -- The tax imposed by
22 this section shall apply to all persons severing or processing (or
23 both severing and processing) in this state natural resources
24 enumerated in subsection (a) of this section and ~~to all persons~~
25 ~~providing certain health care services in this state as enumerated~~

1 ~~in subsection (c) of this section and~~ shall be in addition to all
2 other taxes imposed by law.

3 ~~(e)~~ (d) *Effective date.* -- This section, as amended in the
4 year one thousand nine hundred ninety-three, shall apply to gross
5 proceeds derived after the thirty-first day of May of such year.
6 The language of this section, as in effect on January 1, of such
7 year, shall apply to gross proceeds derived prior to June 1 of such
8 year and, with respect to such gross proceeds, shall be fully and
9 completely preserved.

10 ~~(f)~~ (e) *Reduction of severance tax rate.* -- For tax years
11 beginning after the effective date of this subsection, any person
12 exercising the privilege of engaging within this state in the
13 business of severing coal for the purposes provided in subsection
14 (a) of this section shall be allowed a reduced rate of tax on coal
15 mined by underground methods in accordance with the following:

16 (1) For coal mined by underground methods from seams with an
17 average thickness of thirty-seven inches to forty-five inches, the
18 tax imposed in subsection (a) of this section shall be two percent
19 of the gross value of the coal produced. For coal mined by
20 underground methods from seams with an average thickness of less
21 than thirty-seven inches, the tax imposed in subsection (a) of this
22 section shall be one percent of the gross value of the coal
23 produced. Gross value is determined from the sale of the mined
24 coal by the producer. This rate of tax includes the thirty-five
25 one hundredths of one percent additional severance tax imposed by

1 the state for the benefit of counties and municipalities as
2 provided in section six of this article.

3 (2) This reduced rate of tax applies to any new underground
4 mine producing coal after the effective date of this subsection,
5 from seams of less than forty-five inches in average thickness or
6 any existing mine that has not produced coal from seams forty-five
7 inches or less in thickness in the one hundred eighty days
8 immediately preceding the effective date of this subsection.

9 (3) The seam thickness shall be based on the weighted average
10 isopach mapping of actual coal thickness by mine as certified by a
11 professional engineer.

12 **ARTICLE 27. HEALTH CARE PROVIDER TAXES.**

13 **§11-27-18. Imposition of tax on providers of psychological**
14 **services.**

15 (a) *Imposition of tax.* -- For the privilege of engaging or
16 continuing within this state in the business of providing
17 psychological services and behavioral health services, there is
18 hereby levied and shall be collected from every person rendering
19 such service an annual broad-based health care related tax.

20 (b) *Rate and measure of tax.* -- The tax imposed in subsection
21 (a) of this section shall be one and three-fourths percent of the
22 gross receipts derived by the taxpayer from furnishing
23 psychological services and behavioral health services in this
24 state.

1 (c) *Definitions.* --

2 (1) "Gross receipts" means the amount received or receivable,
3 whether in cash or in kind, from patients, third-party payors and
4 others for psychological services furnished by the provider,
5 including retroactive adjustments under reimbursement agreements
6 with third-party payors, without any deduction for any expenses of
7 any kind: *Provided*, That accrual basis providers shall be allowed
8 to reduce gross receipts by their contractual allowances, to the
9 extent such allowances are included therein, and by bad debts, to
10 the extent the amount of such bad debts was previously included in
11 gross receipts upon which the tax imposed by this section was paid.

12 (2) "Contractual allowances" means the difference between
13 revenue (gross receipts) at established rates and amounts
14 realizable from third-party payors under contractual agreements.

15 (3) "Psychological services" means those services furnished in
16 the practice of psychology by a person entitled to practice
17 psychology in this state.

18 (4) "Behavioral health services" means those services
19 furnished for mental illness, mental retardation, developmental
20 disabilities, substance abuse and chemical dependency.

21 (d) *Effective date.* -- The tax imposed by this section shall
22 apply to gross receipts received or receivable by providers after
23 May 31, 1993.

NOTE: The purpose of this bill is to reduce the tax on behavioral health services. The bill removes those services from

the article on the taxing of the severance of minerals and places it in the article taxing health care providers. The bill also provides a definition of that term.

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