

**Senate Bill No. 654**

(By Senator D. Facemire)

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[Introduced February 20, 2012; referred to the Committee on  
Energy, Industry and Mining; and then to the Committee on  
Finance.]

**FISCAL  
NOTE**

10  
11 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia,  
12 1931, as amended, relating to providing a severance tax  
13 holiday to West Virginia coal companies.

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

15 That §11-13A-3 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

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

18 **§11-13A-3. Imposition of tax or privilege of severing coal,**  
19 **limestone or sandstone, or furnishing certain**  
20 **health care services, effective dates therefor;**  
21 **reduction of severance rate for coal mined by**  
22 **underground methods based on seam thickness.**

23 (a) *Imposition of tax.* -- Upon every person exercising the

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

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

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

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

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

3 (e) *Effective date.* -- This section, as amended in the year  
4 1993, shall apply to gross proceeds derived after May 31 of such  
5 year. The language of this section, as in effect on January 1, of  
6 such year, shall apply to gross proceeds derived prior to June 1 of  
7 such year and, with respect to such gross proceeds, shall be fully  
8 and completely preserved.

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

15 (i) For coal mined by underground methods from seams with an  
16 average thickness of thirty-seven inches to forty-five inches, the  
17 tax imposed in subsection (a) of this section shall be two percent  
18 of the gross value of the coal produced. For coal mined by  
19 underground methods from seams with an average thickness of less  
20 than thirty-seven inches, the tax imposed in subsection (a) of this  
21 section shall be one percent of the gross value of the coal  
22 produced. Gross value is determined from the sale of the mined  
23 coal by the producer. This rate of tax includes the thirty-five  
24 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 (ii) 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 (iii) The seam thickness shall be based on the weighted  
10 average isopach mapping of actual coal thickness by mine as  
11 certified by a professional engineer.

12 (g) Notwithstanding any other provision in this code, coal  
13 companies operating in West Virginia shall receive a reprieve from  
14 severance tax on revenues from coal extraction in an amount equal  
15 to the amount of funds expended by the coal company for wages,  
16 equipment and supplies in the county where the coal is extracted.  
17 The commissioner shall propose rules for legislative approval in  
18 accordance with chapter twenty-nine-a of this code, to implement  
19 this provision.

NOTE: The purpose of this bill is to permit West Virginia coal companies a reprieve from severance tax in an amount equal to money spent for wages, equipment and supplies in the county where the coal is extracted.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.