

**Senate Bill No. 95**

(By Senators Cann, Plymale and Williams)

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[Introduced February 13, 2013; referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13H-1 and §11-13H-2, all relating to providing a business and occupation tax credit to electric power generators for use of coal mined in West Virginia by small mining operations.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §11-13H-1 and §11-13H-2, all to read as follows:

**ARTICLE 13H. BUSINESS AND OCCUPATION TAX CREDIT FOR USE OF DOMESTIC COAL FROM SMALL MINING OPERATIONS BY ELECTRIC POWER GENERATORS.**

**§11-13H-1. Credit for use of domestic coal from small mining**

1                   **operations by electric power generators.**

2           Notwithstanding any provision in this code to the contrary,  
3 beginning January 1, 2014, any corporation generating electricity  
4 is allowed a credit against its liability for tax under section  
5 two-m, article thirteen of this chapter in the amount of \$3 per ton  
6 of coal mined from small mining operations in West Virginia as the  
7 term is defined in section two of this article and used by the  
8 corporation in the generation of electric power for sale, profit or  
9 commercial use. The credit allowed may not exceed the amount of  
10 tax liability of the corporation. Any tax credit not usable for  
11 the taxable year in which it is earned may be carried over to the  
12 extent usable for the next five succeeding taxable years or until  
13 the full credit is used, whichever is sooner.

14 **§11-13H-2. "Small mining operations" defined.**

15           For purposes of this article, "small mining operations" means  
16 West Virginia mines operated by operators who:

17           (1) Establish that their probable total annual coal production  
18 from all locations during any consecutive twelve-month period,  
19 either during the term of the existing permit or during the first  
20 five years after issuance of the permit, whichever period is  
21 shorter, will not exceed 300,000 tons, as determined pursuant to  
22 rules promulgated by the division; and

23           (2) Qualify for the small operator assistance program  
24 authorized under the federal Surface Mining Control and Reclamation

1 Act of 1977, as amended, and the federal regulations promulgated  
2 thereunder, as amended.

NOTE: The purpose of this bill is to provide a business and occupation tax credit to electric power generators for the use of each ton of coal mined in West Virginia by "small mining operations."

This article is new; therefore, strike-throughs and underscoring have been omitted.