

**H. B. 2675**

(By Delegates E. Nelson, Ashley, Hanshaw, Ireland, R. Smith,  
Storch, R. Phillips, B. White, McCuskey, Waxman and Summers)

[Introduced February 10, 2015; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended, relating  
to reducing certain severance taxes that are dedicated to the Workers' Compensation Debt  
Reduction Fund, beginning after June 30, 2015.

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

That §11-13V-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
to read as follows:

**ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.**

**§11-13V-4. Imposition of tax.**

(a) *Imposition of additional tax on privilege of severing coal.* -- Upon every person exercising  
the privilege of engaging within this state in severing, extracting, reducing to possession or  
producing coal for sale, profit or commercial use, there is hereby imposed an additional annual  
severance tax for exercising the privilege after November 30, 2005. The tax shall be is \$.56 per ton  
and the measure of the tax is tons of clean coal severed or produced in this state by the taxpayer after  
November 30, 2005, for sale, profit or commercial use during the taxable year: Provided, That the

1 tax is \$.50 per ton and the measure of the tax is tons of clean coal severed or produced in this state  
2 by the taxpayer after June 30, 2015, for sale, profit or commercial use during the taxable year. When  
3 the person mining the coal sells raw coal, the measure of tax shall be ton of clean coal determined  
4 in accordance with rules promulgated by the Tax Commissioner as provided in article three, chapter  
5 twenty-nine-a of this code. ~~If this rule is filed for public comment before July 1, 2005, the rule may~~  
6 ~~be promulgated as an emergency legislative rule.~~ This tax shall be is in addition to all taxes imposed  
7 with respect to the severance and production of coal in this state including, but not limited to, the  
8 taxes imposed by articles twelve-d and thirteen-a of this chapter and the taxes imposed by sections  
9 eleven and thirty-two, article three, chapter twenty-two of this code, if applicable.

10 (b) *Imposition of additional tax on privilege of severing natural gas.* -- For the privilege of  
11 engaging or continuing within this state in the business of severing natural gas for sale, profit or  
12 commercial use, there is ~~hereby~~ levied and shall be collected from every person exercising this  
13 privilege an additional annual privilege tax. The rate of this additional tax shall be \$.047 per mcf  
14 of natural gas and the measure of the tax is natural gas produced after November 30, 2005,  
15 determined at the point where the production privilege ends for purposes of the tax imposed by  
16 section three-a, article thirteen-a of this chapter, and with respect to which the tax imposed by section  
17 three-a of ~~said~~ article thirteen-a is paid: Provided, That the rate of this additional tax shall be \$.042  
18 per mcf of natural gas and the measure of the tax is natural gas produced after June 30, 2015,  
19 determined at the point where the production privilege ends for purposes of the tax imposed by  
20 section three-a, article thirteen-a of this chapter, and with respect to which the tax imposed by section  
21 three-a of article thirteen-a is paid. The additional tax imposed by this subsection shall be collected  
22 with respect to natural gas produced after November 30, 2005.

1           (c) *Imposition of additional tax on privilege of severing timber.* -- For the privilege of  
2 engaging or continuing within this state in the business of severing timber for sale, profit or  
3 commercial use, there is hereby levied and shall be collected from every person exercising this  
4 privilege an additional annual privilege tax equal to two and seventy-eight hundredths percent of the  
5 gross value of the timber produced, determined at the point where the production privilege ends for  
6 purposes of the tax imposed by section three-b, article thirteen-a of this chapter and upon which the  
7 tax imposed by section three-b of ~~said~~ article thirteen-a is paid: Provided, That after June 30, 2015,  
8 for the privilege of engaging or continuing within this state in the business of severing timber for  
9 sale, profit or commercial use, there is levied and shall be collected from every person exercising this  
10 privilege an additional annual privilege tax equal to two and four tenths percent of the gross value  
11 of the timber produced, determined at the point where the production privilege ends for purposes of  
12 the tax imposed by section three-b, article thirteen-a of this chapter and upon which the tax imposed  
13 by section three-b of article thirteen-a is paid. The additional tax imposed by this subsection shall  
14 be collected with respect to timber produced after November 30, 2005: *Provided, That during the*  
15 *period of discontinuance of the tax as provided in subsection (d), section three-b, article thirteen-a*  
16 *of this chapter, the additional tax imposed by this subsection shall be determined as provided in this*  
17 *subsection in the same manner as if the tax described under section three-b, article thirteen-a of this*  
18 *chapter is being imposed and collected, subject to the provisions of subsection (g) of this section.*

19           (d) *No pyramiding of tax burden.* -- Each ton of coal and each mcf of natural gas severed in  
20 this state after the effective date of the taxes imposed by this section shall be included in the measure  
21 of a tax imposed by this section only one time.

22           (e) *Effect on utility rates.* -- The Public Service Commission shall, upon the application of

1 any public utility that, as of the effective date of the taxes imposed by this section, is not currently  
2 making periodic adjustments to its approved rates and charges to reflect changes in its fuel costs  
3 because the mechanism historically used to make such periodic adjustments is suspended by an order  
4 of the commission, allow such utility to defer, for future recovery from its customers, any increase  
5 in its costs attributable to the taxes imposed by this section upon: Coal and natural gas severed in  
6 this state and utilized in the production of electricity generated or produced in this state and sold to  
7 customers in this state; coal and natural gas severed in this state and utilized in the production of  
8 electricity not generated or produced in this state that is sold to customers in this state; and natural  
9 gas severed in this state that is sold to customers in this state.

10 (f) *Dedication of new taxes.* -- The net amount of all moneys received by the Tax  
11 Commissioner from collection of the taxes imposed by this section, including any interest, additions  
12 to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this  
13 code, shall be deposited in the Workers' Compensation Debt Reduction Fund created in article two-d,  
14 chapter twenty-three of this code. As used in this section, "net amount of all taxes received by the  
15 Tax Commissioner" means the gross amount received by the Tax Commissioner less the amount of  
16 any refunds paid for overpayment of the taxes imposed by this article, including the amount of any  
17 interest on the overpayment amount due the taxpayer under the provisions of section fourteen, article  
18 ten of this chapter.

19 (g) *Sunset expiration date of taxes.* -- The new taxes imposed by this section shall expire and  
20 not be imposed with respect to privileges exercised on and after the first day of the month following  
21 the month in which the Governor certifies to the Legislature that ~~(1) The revenue bonds issued~~  
22 ~~pursuant to article two-d, chapter twenty-three of this code, have been retired, or payment of the debt~~

1 ~~service provided for, and (2)~~ that an independent certified actuary has determined that the unfunded  
2 liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided  
3 for in its entirety. Expiration of the taxes imposed in this section as provided in this subsection shall  
4 not relieve any person from payment of any tax imposed with respect to privileges exercised before  
5 the expiration date.

NOTE: The purpose of this bill is to reduce the severance taxes imposed on coal, natural gas and timber for Workers' Compensation debt reduction purposes, beginning July 1, 2015.

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