

# WEST VIRGINIA LEGISLATURE

## 2026 REGULAR SESSION

Introduced

### House Bill 5398

FISCAL  
NOTE

By Delegates Anderson, Fehrenbacher, Jeffries,

Zatezalo, and Eldridge

[Introduced February 10, 2026; referred to the

Committee on Energy and Public Works then

Finance]

1 A BILL to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended,  
 2 relating to dates and deposits for Oil and Gas Well Plugging; and allowing for the receipt of  
 3 federal moneys for Abandoned Well Plugging if there is not more than \$6 million in  
 4 unencumbered funds by September 30 of each year.

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

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

**§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil.**

1 (a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the  
 2 business of severing natural gas or oil for sale, profit or commercial use, there is levied and shall  
 3 be collected from every person exercising the privilege an annual privilege tax at the rate and  
 4 measure provided in subsection (b) of this section: *Provided*, That effective for all taxable periods  
 5 beginning on or after January 1, 2000, there is an exemption from the imposition of the tax  
 6 provided in this article on the following: (1) Free natural gas provided to any surface owner; (2)  
 7 Natural gas produced from any well which produced an average of less than 5,000 cubic feet of  
 8 natural gas per day during the calendar year immediately preceding a given taxable period; (3) Oil  
 9 produced from any oil well which produced an average of less than one-half barrel of oil per day  
 10 during the calendar year immediately preceding a given taxable period; and (4) For a maximum  
 11 period of 10 years, all natural gas or oil produced from any well which has not produced  
 12 marketable quantities of natural gas or oil for five consecutive years immediately preceding the  
 13 year in which a well is placed back into production and thereafter produces marketable quantities  
 14 of natural gas or oil.

15 (b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five  
 16 percent of the gross value of the natural gas or oil produced by the producer as shown by the gross  
 17 proceeds derived from the sale thereof by the producer, except as otherwise provided in this  
 18 article: *Provided*, That effective for taxable periods beginning on or after January 1, 2020:

19 (1) For all natural gas produced from any well which produced an average in excess of  
20 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given  
21 taxable year, and for oil produced from any well which produced an average in excess of 10  
22 barrels of oil per day, during the calendar year immediately preceding the beginning date of a given  
23 taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as  
24 shown by the gross proceeds derived from the sale thereof by the producer;

25 (2) For all natural gas produced from any well, excluding wells utilizing horizontal drilling  
26 techniques targeting shale formations, which produced an average between 5,000 cubic feet of  
27 natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year  
28 immediately preceding the beginning date of a given taxable year, and for oil produced from any  
29 well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which  
30 produced an average between one-half barrel per day and 10 barrels per day, during the calendar  
31 year immediately preceding the beginning date of a given taxable year, the rate of tax is two and  
32 five tenths percent of the gross value of the natural gas or oil produced as shown by the gross  
33 proceeds derived from the sale thereof by the producer; and

34 (3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting  
35 shale formations, which produced an average between 5,000 cubic feet of natural gas per day and  
36 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the  
37 beginning date of a given taxable year, and for oil produced from wells utilizing horizontal drilling  
38 techniques targeting shale formations, which produced an average between one-half barrel per  
39 day and 10 barrels per day, during the calendar year immediately preceding the beginning date of  
40 a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil  
41 produced as shown by the gross proceeds derived from the sale thereof by the producer.

42 (c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons  
43 severing gas or oil in this state, and is in addition to all other taxes imposed by law.

44 (d) For purposes of this section, in determining the average amount of production of gas  
45 and oil in any given calendar year, a taxpayer must calculate the actual production of such well in  
46 the calendar year and divide the same by the number of days the well was in operation and  
47 producing gas or oil in such calendar year.

48 (e) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the  
49 tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are  
50 dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this  
51 code: *Provided*, That if on June 1, 2023, ~~or on June 1 of any year thereafter,~~ June 1, 2024, or June  
52 1, 2025, there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or  
53 exceeding the sum of \$6 million; ~~or if on September 30, 2026, or on September 30 of any year~~  
54 ~~thereafter, there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or~~  
55 ~~exceeding the sum of \$6 million that has not been encumbered by the Office of Oil and Gas, then~~  
56 the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to  
57 zero for the taxable year beginning on and after the next succeeding January 1. ~~The~~ Starting in  
58 2026, the Tax Commissioner shall issue an Administrative Notice ~~by July 1 of each year indicating~~  
59 within 30 days of determining the amount of the balance in the fund as of the immediately  
60 preceding ~~June 1~~ September 30 and the rate of tax on wells pursuant to this subsection.

NOTE: The purpose of this bill is to allow for the receipt of the oil and gas severance tax into the Oil and Gas Abandoned Well Plugging Fund if there is not more than \$6 million in unencumbered funds by September 30 of each year.

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