

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5398

**FISCAL
NOTE**

By Delegates Anderson, Zatezalo, Fehrenbacher,

Jeffries, Eldridge, and Riley

[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:

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

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

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

(c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons 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.