

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 76**

By Senators Phillips and Rose

[Reported January 20, 2026, from the Committee on  
Energy, Industry and Mining]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
2 to providing an exemption from the state severance tax for natural gas and coal sold to  
3 natural gas-powered and coal-fired power plants located within the state.

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

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

**§11-13A-3. Imposition of tax on privilege of severing coal, limestone, or sandstone, or  
furnishing certain health care services; ~~effective dates therefor~~; reduction of  
severance rate for coal mined by underground methods based on seam thickness;  
exemption for thermal or steam coal sold to in-state electric generating facilities.**

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

6 (b) *Rate and measure of tax.* — Subject to the provisions of subsection (h) of this section,  
7 the tax imposed in subsection (a) of this section is five percent of the gross value of the natural  
8 resource produced or the health care service provided, as shown by the gross income derived  
9 from the sale or furnishing thereof by the producer or the provider of the health care service,  
10 except as otherwise provided in this article: *Provided*, That effective July 1, 2019, the tax rate  
11 imposed by this subsection on the gross value of thermal or steam coal produced shall be reduced  
12 incrementally over the next three tax years for a total reduction of two percent by July 1, 2021. That  
13 on July 1, 2019, the reduction shall occur at the rate of 35 percent of the two percent reduction, on  
14 July 1, 2020, the reduction shall occur at the rate of 65 percent of the two percent reduction, and on  
15 July 1, 2021, at the rate of 100 percent of the two percent reduction. In the case of coal, the rate of  
16 tax includes the thirty-five one hundredths of one percent additional severance tax on coal  
17 imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this

code and the additional severance tax on coal imposed by the state for the benefit of coal-producing counties as provided in §11-13A-6a of this code.

(c) Definitions. — As used in this section, the following phrases have the meanings ascribed to them:

(1) ~~"Thermal or steam coal" defined.~~ — ~~For purposes of this section the term "thermal or steam coal"~~ means coal sold for the purpose of generating electricity; and

~~(2)-(d) "Certain health care services" defined.~~ — ~~For purposes of this section, the term "certain health care services"~~ means, and is limited to, behavioral health services.

~~(d)-(e) Tax in addition to other taxes.~~ — The tax imposed by this section applies to all persons severing or processing, or both severing and processing, in this state natural resources enumerated in subsection (a) of this section and to all persons providing certain health care services in this state as enumerated in subsection (d) of this section and shall be in addition to all other taxes imposed by law.

~~(f) Effective date.~~ — ~~This section, as amended in 1993, shall apply to gross proceeds derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds, shall be fully and completely preserved.~~

~~(e)-(g) Reduction of severance tax rate.~~ — ~~For tax years beginning after the effective date of this subsection~~ Any person exercising the privilege of engaging within this state in the business of severing coal for the purposes provided in subsection (a) of this section shall be allowed a reduced rate of tax on coal mined by underground methods. in accordance with ~~the following~~ this subsection.

(1) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches, the tax imposed in subsection (a) of this section shall be two percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than 37 inches, the tax imposed in subsection (a) of this section shall be

one percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

~~(2) This reduced rate of tax applies to any new underground mine producing coal after the effective date of this subsection from seams of less than 45 inches in average thickness or any existing mine that has not produced coal from seams 45 inches or less in thickness in the 180 days immediately preceding the effective date of this subsection.~~

~~(3) The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer.~~

*(h)(1) Termination and expiration of the behavioral health severance and business privilege tax.* — The tax imposed upon providers of health care services under the provisions of this article shall expire, terminate, and cease to be imposed with respect to privileges exercised on or after July 1, 2016. Expiration of the tax as provided in this subsection does not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.

*(2) Refunds made.* — The Tax Commissioner shall issue a requisition on the Treasury for any amount finally, administratively or judicially determined to be an overpayment of the tax terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the Treasurer shall pay the warrant out of the fund into which the amount refunded was originally paid.

*(i) Termination and expiration of the privilege tax on limestone or sandstone.* — The taxes imposed under this section for persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not

relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of the termination.

(j) Exemption for thermal or steam coal sold to in-state electric generating facilities. — Thermal or steam coal severed after March 31, 2026, and sold for the purpose of generating electricity to a coal-fired electric generating facility that is physically located within this state is exempt from the severance tax imposed by this section. This exemption does not apply to the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

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

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

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing natural gas or oil for sale, profit, or commercial use, ~~there~~ an annual privilege tax is levied and shall be collected from every person exercising the privilege ~~an annual privilege tax~~ at the rate and measure provided in subsection (b) of this section. ~~Provided, That Effective for all taxable periods beginning on or after January 1, 2000~~ There is an exemption from the imposition of the tax provided in this article on the following:

(1) Free natural gas provided to any surface owner;

(2) Natural gas produced from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period;

(3) Oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and

(4) For a maximum period of 10 years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil; and

17       (5) Natural gas severed after March 31, 2026, and sold for the purpose of generating  
18       electricity to a natural gas-powered electric generating facility that is physically located within this  
19       state.

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

24       (1) For all natural gas produced from any well which produced an average in excess of  
25       60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given  
26       taxable year, and for oil produced from any well which produced an average in excess of 10  
27       barrels of oil per day, during the calendar year immediately preceding the beginning date of a given  
28       taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as  
29       shown by the gross proceeds derived from the sale thereof by the producer;

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

39       (3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting  
40       shale formations, which produced an average between 5,000 cubic feet of natural gas per day and  
41       60,000 cubic feet of natural gas per day during the calendar year immediately preceding the  
42       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.

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

(e) After the dedication in §11-13A-5a of this code is made, the remaining proceeds collected from the tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this code. ~~Provided, That If on June 1, 2023, or If on June 1 of any year thereafter~~ there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to zero for the taxable year beginning on and after the next succeeding January 1. The Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant to this subsection.