

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2767

FISCAL  
NOTE

BY DELEGATES CRISS, J. JEFFRIES, AZINGER, STEELE,

MANDT, CADLE, HANNA AND PORTERFIELD

[Introduced January 30, 2019; Referred  
to the Committee on Energy then Finance.]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to reducing the severance tax on thermal or steam coal to two percent, effective March  
 3 31, 2019.

*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.**

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 levied and shall be collected from every  
 5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* — Subject to the provisions of subsection ~~(g)~~ (h) of this  
 7 section, the tax imposed in subsection (a) of this section shall be is five percent of the gross value  
 8 of the natural resource produced or the health care service provided, as shown by the gross  
 9 income derived from the sale or furnishing thereof by the producer or the provider of the health  
 10 care service, except as otherwise provided in this article: Provided, That effective March 31, 2019,  
 11 the tax rate imposed by this subsection on the gross value of thermal or steam coal produced  
 12 shall be reduced to two percent. In the case of coal, ~~this five percent~~ the rate of tax includes the  
 13 thirty-five one hundredths of one percent additional severance tax on coal imposed by the state  
 14 for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

15 (c) "Thermal or steam coal" defined. - For purposes of this section the term "thermal or  
 16 steam coal" means coal sold for the purpose of generating electricity.

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

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

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

28           ~~(f)~~ (g) *Reduction of severance tax rate.* — For tax years beginning after the effective date  
29 of this subsection, any person exercising the privilege of engaging within this state in the business  
30 of severing coal for the purposes provided in subsection (a) of this section shall be allowed a  
31 reduced rate of tax on coal mined by underground methods in accordance with the following:

32           (1) For coal mined by underground methods from seams with an average thickness of 37  
33 inches to 45 inches, the tax imposed in subsection (a) of this section shall be two percent of the  
34 gross value of the coal produced. For coal mined by underground methods from seams with an  
35 average thickness of less than 37 inches, the tax imposed in subsection (a) of this section shall  
36 be one percent of the gross value of the coal produced. Gross value is determined from the sale  
37 of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one  
38 percent additional severance tax imposed by the state for the benefit of counties and  
39 municipalities as provided in §11-13A-6 of this code.

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

44           (3) The seam thickness shall be based on the weighted average isopach mapping of

45 actual coal thickness by mine as certified by a professional engineer.

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

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

NOTE: The purpose of this bill is to reduce the severance tax on thermal or steam coal to two percent.

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