

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

Introduced

### House Bill 4411

FISCAL  
NOTE

BY DELEGATES HOUSEHOLDER AND CRISS

[BY REQUEST OF THE TAX AND REVENUE DEPARTMENT]

[Introduced January 26, 2022; Referred to the  
Committee on Energy and Manufacturing then  
Finance]

1 A BILL to amend and reenact §11-12B-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to the imposition of the minimum severance tax on coal; and making technical corrections  
 3 to the code.

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

## **ARTICLE 12B. MINIMUM SEVERANCE TAX ON COAL.**

### **§11-12B-3. Imposition of tax, credit.**

1 (a) *Imposition of tax.* – Upon every person exercising the privilege of engaging within this  
 2 state in severing, extracting, reducing to possession or producing coal for sale, profit or  
 3 commercial use, there is hereby imposed an annual minimum severance tax equal to 50¢ cents  
 4 per ton of coal produced by the taxpayer for sale, profit or commercial use during the taxable year:  
 5 *Provided, That for taxable years ending after May 31, 1993, the minimum severance tax imposed*  
 6 *on coal produced by the taxpayer for sale, profit or commercial use during such taxable year shall*  
 7 *be 75¢ cents per ton, with such rate increase to apply only to tons of coal produced after May 31,*  
 8 *1993: *Provided, however, That for taxable years ending after December 31, 1999, the minimum**  
 9 *severance tax on coal may not be imposed on any ton of thin seam coal produced on or after*  
 10 *April 1, 2000, on which the severance tax is imposed by the provisions of subsection (f), section*  
 11 *three, article thirteen-a of this chapter §11-13A-3 of this code.*

12 (b) *Credit against ~~article thirteen-a tax~~ the severance tax imposed under §11-13A-1 et seq.*  
 13 *of this code* – A person who pays the minimum severance tax imposed by this article shall be  
 14 allowed a credit against the severance tax imposed on the privilege of producing coal by ~~section~~  
 15 ~~three, article thirteen-a of this chapter~~ §11-13A-3 of this code, but not including the additional  
 16 severance tax on coal imposed by ~~section six of article thirteen-a of this chapter~~ §11-13A- 6 of  
 17 this code or, for taxable years ending after December 31, 1999, the severance tax imposed by  
 18 the provisions of ~~subsection (f), section three, article thirteen-a of this chapter~~ §11-13A-3 of this  
 19 code on thin seam coal produced on or after April 1, 2000. The amount of credit allowed shall be  
 20 equal to the liability of the taxpayer for the taxable year for payment of the minimum severance

21 tax on coal imposed by this article: *Provided*, That the amount of credit allowed by this section  
22 may not exceed the severance tax liability of the taxpayer for the taxable year determined under  
23 ~~section three of that article~~ §11-13A-3 of this code exclusive of the additional tax on coal imposed  
24 by ~~section six of that article~~ §11-13A-6 of this code and, for taxable years ending after December  
25 31, 1999, of the severance tax imposed ~~by the provisions of subsection (f), section three, article~~  
26 ~~thirteen-a of this chapter~~ §11-13A-3 of this code on thin seam coal produced on or after April 1,  
27 2000, after application of all credits to which the taxpayer may be entitled except any credit  
28 allowed pursuant to ~~chapter five-e~~ §5E-1-1 et seq. of this code, any credit for installment payments  
29 of estimated tax paid pursuant to ~~section six of this article~~ §11-12B-6 of this code during the  
30 taxable year and any credit for overpayment of ~~article thirteen-a tax~~ the severance tax imposed  
31 under §11-13A-1 et seq. Notwithstanding anything herein to the contrary, in no event may the  
32 credit allowed under ~~chapter five-e of this code~~ §5E-1-1 et seq. of this code be allowed as a credit  
33 against the minimum severance tax imposed by this article.

NOTE: The purpose of this bill is correct cross references that exempt thin seam coal from the minimum severance tax.

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