

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 519**

4 (By Senators K. Facemyer and Minard)

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6 [Originating in the Committee on Energy, Industry and Mining;  
7 reported February 25, 2011.]  
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10  
11 A BILL to amend the Code of West Virginia, 1931, as amended, by  
12 adding thereto a new article, designated §11-13BB-1, §11-13BB-  
13 2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6, §11-13BB-7,  
14 §11-13BB-8, §11-13BB-9, §11-13BB-10, §11-13BB-11, §11-13BB-12  
15 and §11-13BB-13; to amend and reenact §22A-1-4 of said code;  
16 and to amend and reenact §22A-11-3 of said code, all relating  
17 to providing a tax credit for purchase of innovative mine  
18 safety technology; legislative findings and purpose;  
19 definitions; requirements for list of approved innovative mine  
20 safety technology; amount of tax credit allowed; criteria for  
21 qualified investment; forfeiture of unused tax credits;  
22 treatment for transfer of certified eligible safety property  
23 to successors; setting forth requirements for identification  
24 of investment credit property; prescribing treatment for  
25 failure to keep records of certified eligible safety property;  
26 specifying tax credit review and accountability requirements;

1 specifying requirement for disclosure of tax credits;  
2 authorizing rules; amending the duties of the Director of the  
3 West Virginia Office of Miners' Health, Safety and Training;  
4 and amending the duties of the Mine Safety Technology Task  
5 Force.

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

7 That the Code of West Virginia, 1931, as amended, be amended  
8 by adding thereto a new article, designated §11-13BB-1, §11-13BB-2,  
9 §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6, §11-13BB-7, §11-  
10 13BB-8, §11-13BB-9, §11-13BB-10, §11-13BB-11, §11-13BB-12, §11-  
11 13BB-13 and §11-13BB-14; that §22A-1-4 of said code be amended and  
12 reenacted; and that §22A-11-3 of said code be amended and  
13 reenacted, all to read as follows:

14 **CHAPTER 11. TAXATION.**

15 **ARTICLE 13BB. WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY TAX**

16 **CREDIT ACT.**

17 **§11-13BB-1. Short title.**

18 This article may be cited as the "West Virginia Innovative  
19 Mine Safety Technology Tax Credit Act."

20 **§11-13BB-2. Legislative findings and purpose.**

21 The Legislature finds that the encouragement of new investment  
22 in innovative coal mine safety technology in this state is in the  
23 public interest and promotes the general welfare of the people of  
24 this state.

25 **§11-13BB-3. Definitions.**

1 (a) Any term used in this article has the meaning ascribed by  
2 this section, unless a different meaning is clearly required by the  
3 context of its use or by definition in this article.

4 (b) For purposes of this article, the term:

5 (1) "Certified eligible safety property" means eligible safety  
6 property in which an eligible taxpayer has made qualified  
7 investment for which credit has been certified under this article.

8 (2) "Coal mining company" means:

9 (A) Any person subject to tax imposed on the severance of coal  
10 by section three, article thirteen-a of this chapter, or

11 (B) Any person working as a contract miner of coal, which  
12 mines coal in this state, under contract with a person subject to  
13 tax imposed on the severance of coal by section three, article  
14 thirteen-a of this chapter.

15 (3) "Director" means the Director of the Office of Miners'  
16 Health, Safety and Training or West Virginia Office of Miners'  
17 Health, Safety and Training established under article one, chapter  
18 twenty two-a of this code.

19 (4) "Eligible safety property" means safety technology  
20 equipment, that at the time of acquisition, is on the list of  
21 approved innovative mine safety technology.

22 (5) "Eligible taxpayer" means a coal mining company which  
23 purchases eligible safety property.

24 (6) "List of approved innovative mine safety technology" means  
25 the list required to be compiled and maintained by the Mine Safety  
26 Technology Task Force and approved and published by the director

1 under this article.

2 (7) "Office of Miners' Health, Safety and Training" or "West  
3 Virginia Office of Miners' Health, Safety and Training" means the  
4 Office of Miners' Health, Safety and Training established under  
5 article one, chapter twenty two-a of this code.

6 (8) "Person" includes any corporation, limited liability  
7 company, or partnership.

8 (9) "Qualified investment" means the eligible taxpayer's  
9 investment in eligible safety property pursuant to a qualified  
10 purchase as qualified and limited by section six of this article.

11 (10) "Qualified purchase" means and includes only acquisitions  
12 of eligible safety property for use in this state.

13 (A) A lease of eligible safety property may constitute a  
14 qualified purchase if the lease was entered into and became  
15 effective at a time when the equipment is on the list of approved  
16 innovative mine safety technology, and if the primary term of the  
17 lease for the eligible safety property is five years or more.  
18 Leases having a primary term of less than five years do not  
19 qualify.

20 (B) "Qualified purchase" does not include:

21 (i) Purchases or leases of realty or any cost for, or related  
22 to, the construction of any building, facility or structure  
23 attached to realty;

24 (ii) Purchases or leases of any property not exclusively used  
25 in West Virginia;

26 (iii) Repair costs including materials used in the repair,

1 unless for federal income tax purposes, the cost of the repair must  
2 be capitalized and not expensed;

3 (iv) Motor vehicles licensed by the Department of Motor  
4 Vehicles;

5 (v) Clothing;

6 (vi) Airplanes;

7 (vii) Off-premises transportation equipment;

8 (viii) Leases of tangible personal property having a primary  
9 term of less than five years shall not qualify;

10 (ix) Property that is used outside this state; and

11 (x) Property that is acquired incident to the purchase of the  
12 stock or assets of an industrial taxpayer, which property was or  
13 had been used by the seller in his or her industrial business in  
14 this state, or in which investment was previously the basis of a  
15 credit against tax taken under any other article of this chapter.

16 (C) Acquisitions (including leases) of eligible safety  
17 property may constitute qualified purchases for purposes of this  
18 article only if:

19 (i) The property is not acquired from a person whose  
20 relationship to the person acquiring it would result in the  
21 disallowance of deductions under section 267 or 707(b) of the  
22 United States Internal Revenue Code of 1986, as amended;

23 (ii) The property is not acquired from a related person or by  
24 one component member of a controlled group from another component  
25 member of the same controlled group. The Tax Commissioner may  
26 waive this requirement if the property was acquired from a related

1 party for its then fair market value; and

2 (iii) The basis of the property for federal income tax  
3 purposes, in the hands of the person acquiring it, is not  
4 determined, in whole or in part, by reference to the federal  
5 adjusted basis of the property in the hands of the person from whom  
6 it was acquired; or under Section 1014(e) of the United States  
7 Internal Revenue Code of 1986, as amended.

8 (11) "Safety technology" means depreciable tangible personal  
9 property and equipment, other than clothing, principally designed  
10 to directly minimize workplace injuries and fatalities in coal  
11 mines.

12 (12) "Taxpayer" means any person subject to any of the taxes  
13 imposed by article thirteen-a, twenty-three or twenty-four of this  
14 chapter (or any combination of those articles of this chapter).

15 **§11-13BB-4. List of approved innovative mine safety technology.**

16 (a) *List of approved innovative mine safety technology.* -- The  
17 Mine Safety Technology Task Force, established in section two,  
18 article eleven, chapter twenty-two-a of this code, shall annually  
19 compile a proposed list of approved innovative mine safety  
20 technologies. Such list shall be transmitted to the director for  
21 approval. The director has thirty days to approve or amend the  
22 list. At the expiration of thirty days, the director shall publish  
23 the list of approved innovative mine safety technologies. The list  
24 shall describe and specifically identify safety equipment for use  
25 in West Virginia coal mines which, in the fiscal year when such  
26 equipment is added to the list, is not required by the Mine Safety

1 and Health Administration of the United States Department of Labor  
2 or the West Virginia Office Of Miners' Health, Safety And Training  
3 or any other state or federal agency, to be used in a coal mine or  
4 on a mine site or on any other industrial site. Safety equipment  
5 shall remain on the list from year to year until the director  
6 removes it from the list. The Office of Miners' Health, Safety and  
7 Training may establish by legislative rule or interpretive rule a  
8 shorter time period for issuance of and updating of the list of  
9 approved innovative mine safety technologies.

10 (b) It is the intent of the Legislature that the list of  
11 approved innovative mine safety technologies include only safety  
12 equipment that is depreciable tangible personal property for  
13 federal income tax purposes, which is so new to the industry and so  
14 innovative in concept, design, operation or performance that, in  
15 the fiscal year when it is added to the list of approved innovative  
16 mine safety technologies, the equipment has not yet been adopted by  
17 the Federal Mine Safety and Health Administration or the West  
18 Virginia Office of Mine Safety or any other state or federal agency  
19 as required equipment to be used in a coal mine or on a mine site  
20 or on any other industrial site.

21 (c) *Delisting.* -- (1) If any item of equipment or any line of  
22 equipment or class of equipment is listed on the list of approved  
23 innovative mine safety technologies in any fiscal year, but then is  
24 subsequently adopted by the Federal Mine Safety and Health  
25 Administration or the West Virginia Office of Mine Safety or any  
26 other state or federal agency as required equipment to be used in

1 a coal mine or on a mine site or on any other industrial site, such  
2 equipment shall be removed from the list of approved innovative  
3 mine safety technologies compiled and issued for the next  
4 succeeding periodic issuance thereafter of the list of approved  
5 innovative mine safety technologies.

6 (2) If it is determined by the director that any item of  
7 equipment or any line of equipment or class of equipment that is  
8 listed on the list of approved innovative mine safety technology  
9 has ceased to be innovative in concept, design, operation or  
10 performance, or is ineffective, or has failed to meet the  
11 expectations of the Mine Safety Technology Task Force, or has  
12 failed to prove its value in directly minimizing workplace injuries  
13 and fatalities in coal mines, such equipment shall be removed from  
14 the list of approved innovative mine safety technologies that is  
15 compiled and issued for the next succeeding periodic issuance of  
16 the list of approved innovative mine safety technologies after such  
17 determination has been reached.

18 (3) However, any eligible taxpayer who invested in such  
19 equipment as certified eligible safety property during the time  
20 such equipment was lawfully listed on the list of approved  
21 innovative mine safety technologies, shall not forfeit the credit  
22 authorized by this article as a result of the delisting of the  
23 equipment under either subdivision (1) or subdivision (2) of this  
24 subsection, so long as the requirements of this article are  
25 otherwise fulfilled by the taxpayer for entitlement to the credit.

26 **§11-13BB-5. Amount of credit allowed.**

1           (a) *Credit allowed.* -- There is allowed to eligible taxpayers  
2 a credit against the taxes imposed by articles twenty-three and  
3 twenty-four of this chapter. The amount of credit shall be  
4 determined as provided in this section.

5           (b) *Amount of credit allowable.* -- The amount of allowable  
6 credit under this article is equal to fifty percent of the  
7 qualified investment (as determined in section six of this  
8 article), and shall reduce the business franchise tax imposed under  
9 article twenty-three of this chapter and the corporation net income  
10 tax imposed under article twenty-four of this chapter, in that  
11 order, subject to the following conditions and limitations:

12           (1) The amount of credit allowable is applied over a five-year  
13 period, at the rate of one-fifth thereof per taxable year,  
14 beginning with the taxable year in which the eligible safety  
15 property is first placed in service or use in this state.

16           (2) *Business franchise tax.* -- The credit is applied to reduce  
17 the business franchise tax imposed under article twenty-three of  
18 this chapter (determined after application of the credits against  
19 tax provided in section seventeen, article twenty-three of this  
20 chapter, but before application of any other allowable credits  
21 against tax). The amount of annual credit allowed will not reduce  
22 the business franchise tax, imposed under article twenty-three of  
23 this chapter, below fifty percent of the amount which would be  
24 imposed for such taxable year in the absence of this credit against  
25 tax.

26           (3) *Corporation net income tax.* -- After application of

1 subdivision (2) of this subsection, any unused credit is next  
2 applied to reduce the corporation net income tax imposed under  
3 article twenty-four of this chapter (determined before application  
4 of any other allowable credits against tax). The amount of annual  
5 credit allowed will not reduce corporation net income tax, imposed  
6 under article twenty-four of this chapter, below fifty percent of  
7 the amount which would be imposed for such taxable year in the  
8 absence of this credit against tax.

9       (4) *Pass-through entities.* -- (A) If the eligible taxpayer is  
10 a limited liability company, small business corporation or a  
11 partnership, then any unused credit (after application of  
12 subdivisions (2) and (3) of this subsection) is allowed as a credit  
13 against the taxes imposed by article twenty-four of this chapter on  
14 owners of the eligible taxpayer on the conduit income directly  
15 derived from the eligible taxpayer by its owners. Only those  
16 portions of the tax imposed by article twenty-four of this chapter  
17 that are imposed on income directly derived by the owner from the  
18 eligible taxpayer are subject to offset by this credit.

19       (B) The amount of annual credit allowed will not reduce  
20 corporation net income tax, imposed under article twenty-four of  
21 this chapter, below fifty percent of the amount which would be  
22 imposed on the conduit income directly derived from the eligible  
23 taxpayer by each owner for such taxable year in the absence of this  
24 credit against the taxes.

25       (5) Small business corporations, limited liability companies,  
26 partnerships and other unincorporated organizations shall allocate

1 any unused credit (after application of subdivisions (2) and (3) of  
2 this subsection) among their members in the same manner as profits  
3 and losses are allocated for the taxable year; and

4 (6) No credit is allowed under this article against any tax  
5 imposed by article twenty-one of this chapter.

6 (c) No carryover to a subsequent taxable year or carryback to  
7 a prior taxable year is allowed for the amount of any unused  
8 portion of any annual credit allowance. Such unused credit is  
9 forfeited.

10 (d) No tax credit is allowed or may be applied under this  
11 article until the taxpayer seeking to claim the tax credit has:

12 (1) Filed, with the Office of Miners' Health, Safety and  
13 Training, a written application for certification of the proposed  
14 tax credit; and

15 (2) Received, from the Office of Miners' Health, Safety and  
16 Training, certification of the amount of tax credit to be allocated  
17 to the eligible taxpayer.

18 (e) No more than \$5 million of the tax credits allowed under  
19 this article shall be allocated by the Office of Miners' Health,  
20 Safety and Training during any fiscal year. The Office of Miners'  
21 Health, Safety and Training shall allocate the tax credits in the  
22 order the applications therefor are received.

23 (f) The total amount of tax credit that may be used in any  
24 taxable year by any eligible taxpayer, individually or in  
25 combination with the owners of the eligible taxpayer, under this  
26 article may not exceed \$100,000.

1 (g) Applications for certification of the proposed tax credit  
2 shall contain such information and be in such detail and in such  
3 form as may be required by the Office of Miners' Health, Safety and  
4 Training.

5 (h) The Tax Commissioner may prescribe such forms and  
6 schedules as may be necessary or appropriate for effective,  
7 efficient and lawful administration of this article.

8 (i) Notwithstanding the provisions of section five-d, article  
9 ten of this chapter, and notwithstanding any other provision of  
10 this code, the Tax Commissioner and Office of Miners' Health,  
11 Safety and Training may exchange such tax information and other  
12 information as may be determined by the Tax Commissioner to be  
13 useful and necessary for the effective oversight and administration  
14 of the credit authorized pursuant to this article.

15 **§11-13BB-6. Qualified investment.**

16 (a) *General.* -- The qualified investment is one hundred  
17 percent of the cost for eligible safety property pursuant to a  
18 qualified purchase, which is placed in service or use in this state  
19 by the eligible taxpayer during the taxable year.

20 (b) *Placed in service or use.*-- For purposes of the credit  
21 allowed by this article, property is considered placed in service  
22 or use in the earlier of the following taxable years:

23 (1) The taxable year in which, under the taxpayer's  
24 depreciation practice, the period for federal income tax  
25 depreciation with respect to the property begins; or

26 (2) The taxable year in which the property is placed in a

1 condition or state of readiness and availability for a specifically  
2 assigned function.

3 (c) *Cost.* -- For purposes of this article, the cost for  
4 eligible safety property pursuant to a qualified purchase is  
5 determined under the following rules:

6 (1) *Trade-ins.* -- Cost for eligible safety property will not  
7 include the value of property given in trade or exchange for  
8 eligible safety property pursuant to a qualified purchase;

9 (2) *Damaged, destroyed or stolen property.* -- If eligible  
10 safety property is damaged or destroyed by fire, flood, storm or  
11 other casualty, or is stolen, then the cost for replacement of such  
12 eligible safety property, will not include any insurance proceeds  
13 received in compensation for the loss;

14 (3) *Rental property.* -- The cost for eligible safety property  
15 acquired by lease for a term of at least five years or longer is  
16 one hundred percent of the rent reserved for the primary term of  
17 the lease, not to exceed ten years;

18 (4) *Property purchased for multiple use.* -- Any cost of  
19 acquisition of property that is not principally and directly used  
20 to minimize workplace injuries and fatalities in a coal mine does  
21 not qualify as qualified investment for purposes of this article.

22 **§11-13BB-7. Forfeiture of unused tax credits.**

23 *Disposition of property or cessation of use.* -- If during any  
24 taxable year, property with respect to which a tax credit has been  
25 allowed under this article:

1 (1) Is disposed of prior to the end of the fourth tax year  
2 subsequent to the end of the tax year in which the property was  
3 placed in service or use; or

4 (2) Ceases to be used in a coal mine of the eligible taxpayer  
5 in this state prior to the end of the fourth tax year subsequent to  
6 the end of the tax year in which the property was placed in service  
7 or use, then the unused portion of the credit allowed for such  
8 property is forfeited for the tax year in which the disposition or  
9 cessation of use occurred and all ensuing tax years.

10 **§11-13BB-8. Transfer of certified eligible safety property to**  
11 **successors.**

12 (a) *Mere change in form of business.* -- Certified eligible  
13 safety property may not be treated as disposed of under section  
14 seven of this article, by reason of a mere change in the form of  
15 conducting the business as long as the certified eligible safety  
16 property is retained in a business in this state for use in a coal  
17 mine in West Virginia, and the taxpayer retains a controlling  
18 interest in the successor business. In this event, the successor  
19 business is allowed to claim the amount of credit still available  
20 with respect to the certified eligible safety property transferred,  
21 and the taxpayer (transferor) may not be required to forfeit the  
22 credit for the years remaining at the time of transfer in the  
23 original five year credit period.

24 (b) *Transfer or sale to successor.* -- Certified eligible  
25 safety property will not be treated as disposed of under section

1 seven of this article by reason of any transfer or sale to a  
2 successor business which continues to use the certified eligible  
3 safety property in a coal mine in West Virginia. Upon transfer or  
4 sale, the successor shall acquire the amount of credit that remains  
5 available under this article in the original five year credit  
6 period for each subsequent taxable year, and the taxpayer  
7 (transferor) shall not be required to forfeit the credit for such  
8 subsequent years. Upon transfer or sale, the successor shall  
9 acquire the amount of credit that remains available under this  
10 article for each taxable year subsequent to the taxable year of the  
11 transferor during which the transfer occurred and, for the year of  
12 transfer, an amount of annual credit for the year in the same  
13 proportion as the number of days remaining in the transferor's  
14 taxable year bears to the total number of days in the taxable year  
15 and the taxpayer (transferor) shall not be required to redetermine  
16 the amount of credit allowed in earlier years.

17 **§11-13BB-9. Identification of investment credit property.**

18 Every taxpayer who claims credit under this article shall  
19 maintain sufficient records to establish the following facts for  
20 each item of certified eligible safety property:

- 21 (1) Its identity;
- 22 (2) Its actual or reasonably determined cost;
- 23 (3) Its straight-line depreciation life;
- 24 (4) The month and taxable year in which it was placed in  
25 service;
- 26 (5) The amount of credit taken; and

1           (6) The date it was disposed of or otherwise ceased to be  
2 actively and directly used in a coal mine in this state.

3 **§11-13BB-10. Failure to keep records of certified eligible safety**  
4 **property.**

5           A taxpayer who does not keep the records required for  
6 certified eligible safety property and the credit authorized under  
7 this article, is subject to the following rules:

8           (1) A taxpayer is treated as having disposed of, during the  
9 taxable year, any certified eligible safety property which the  
10 taxpayer cannot establish was still on hand and used in a coal mine  
11 in this state at the end of that year; and

12           (2) If a taxpayer cannot establish when certified eligible  
13 safety property reported for purposes of claiming this credit was  
14 placed in service, the taxpayer is treated as having placed it in  
15 service in the most recent year in which similar property was  
16 placed in service, unless the taxpayer can establish that the  
17 property placed in service in the most recent year is still on hand  
18 and used in a coal mine in this state at the end of that year. In  
19 that event, the taxpayer will be treated as having placed the  
20 property in service in the next most recent year.

21 **§11-13BB-11. Tax credit review and accountability.**

22           (a) Beginning on August 1, 2012, and August 1 of every third  
23 year thereafter, the Tax Commissioner shall submit to the Governor,  
24 the President of the Senate and the Speaker of the House of  
25 Delegates a tax credit review and accountability report evaluating

1 the cost of the credit allowed under this article during the most  
2 recent three-year period for which information is available. The  
3 criteria to be evaluated includes, but is not limited to, for each  
4 year of the three-year period:

5 (1) The number of taxpayers claiming the credit; and

6 (2) The cost of the credit;

7 (b) Taxpayers claiming the credit shall provide whatever  
8 information the Tax Commissioner may require to prepare the report.  
9 The information provided is subject to the confidentiality and  
10 disclosure provisions of sections five-d and five-s, article ten of  
11 this chapter. If, in any reporting period under this section,  
12 fewer than ten eligible taxpayers have taken or applied for the  
13 credit authorized under this article, then no report shall be filed  
14 for that reporting period under this section.

15 **§11-13BB-12. Disclosure of tax credits.**

16 Notwithstanding section five-d, article ten of this chapter or  
17 any other provision in this code to the contrary, the Tax  
18 Commissioner shall annually publish in the State Register the name  
19 and address of every eligible taxpayer and the amount of any tax  
20 credit asserted under this article.

21 **§11-13BB-13. Rules.**

22 The Tax Commissioner and the Office of Miners' Health, Safety  
23 and Training may each promulgate rules in accordance with article  
24 three, chapter twenty-nine-a of this code to carry out the policy  
25 and purposes of this article, to provide any necessary  
26 clarification of the provisions of this article and to efficiently

1 provide for the general administration of this article.

2 **CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.**

3 **ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;**

4 **ADMINISTRATION; ENFORCEMENT.**

5 **§22A-1-4. Powers and duties of the Director of the Office of**  
6 **Miners' Health, Safety and Training.**

7 (a) The Director of the Office of Miners' Health, Safety and  
8 Training is hereby empowered and it is his or her duty to  
9 administer and enforce such provisions of this chapter relating to  
10 health and safety inspections and enforcement and training in  
11 surface and underground coal mines, underground clay mines, open  
12 pit mines, cement manufacturing plants and underground limestone  
13 and sandstone mines.

14 (b) The Director of the Office of Miners' Health, Safety and  
15 Training has full charge of the division. The director has the  
16 power and duty to:

17 (1) Supervise and direct the execution and enforcement of the  
18 provisions of this article.

19 (2) Employ such assistants, clerks, stenographers and other  
20 employees as may be necessary to fully and effectively carry out  
21 his or her responsibilities and fix their compensation, except as  
22 otherwise provided in this article.

23 (3) Assign mine inspectors to divisions or districts in  
24 accordance with the provisions of section eight of this article as  
25 may be necessary to fully and effectively carry out the provisions

1 of this law, including the training of inspectors for the  
2 specialized requirements of surface mining, shaft and slope sinking  
3 and surface installations and to supervise and direct such mine  
4 inspectors in the performance of their duties.

5 (4) Suspend, for good cause, any such mine inspector without  
6 compensation for a period not exceeding thirty days in any calendar  
7 year.

8 (5) Prepare report forms to be used by mine inspectors in  
9 making their findings, orders and notices, upon inspections made in  
10 accordance with this article.

11 (6) Hear and determine applications made by mine operators for  
12 the annulment or revision of orders made by mine inspectors, and to  
13 make inspections of mines, in accordance with the provisions of  
14 this article.

15 (7) Cause a properly indexed permanent and public record to be  
16 kept of all inspections made by himself or by mine inspectors.

17 (8) Make annually a full and complete written report of the  
18 administration of the office to the Governor and the Legislature of  
19 the state for the year ending June 30. The report shall include  
20 the number of visits and inspections of mines in the state by mine  
21 inspectors, the quantity of coal, coke and other minerals  
22 (excluding oil and gas) produced in the state, the number of  
23 individuals employed, number of mines in operation, statistics with  
24 regard to health and safety of persons working in the mines  
25 including the causes of injuries and deaths, improvements made,  
26 prosecutions, the total funds of the office from all sources

1 identifying each source of such funds, the expenditures of the  
2 office, the surplus or deficit of the office at the beginning and  
3 end of the year, the amount of fines collected, the amount of fines  
4 imposed, the value of fines pending, the number and type of  
5 violations found, the amount of fines imposed, levied and turned  
6 over for collection, the total amount of fines levied but not paid  
7 during the prior year, the titles and salaries of all inspectors  
8 and other officials of the office, the number of inspections made  
9 by each inspector, the number and type of violations found by each  
10 inspector. ~~Provided, That~~ However, no inspector may be identified  
11 by name in this report. Such reports shall be filed with the  
12 Governor and the Legislature on or before December 31 of the same  
13 year for which it was made, and shall upon proper authority be  
14 printed and distributed to interested persons.

15 (9) Call or subpoena witnesses, for the purpose of conducting  
16 hearings into mine fires, mine explosions or any mine accident; to  
17 administer oaths and to require production of any books, papers,  
18 records or other documents relevant or material to any hearing,  
19 investigation or examination of any mine permitted by this chapter.  
20 Any witness so called or subpoenaed shall receive \$40 per diem and  
21 shall receive mileage at the rate of \$0.15 for each mile actually  
22 traveled, which shall be paid out of the State Treasury upon a  
23 requisition upon the State Auditor, properly certified by such  
24 witness.

25 (10) Institute civil actions for relief, including permanent  
26 or temporary injunctions, restraining orders, or any other

1 appropriate action in the appropriate federal or state court  
2 whenever any operator or the operator's agent violates or fails or  
3 refuses to comply with any lawful order, notice or decision issued  
4 by the director or his or her representative.

5 (11) Perform all other duties which are expressly imposed upon  
6 him or her by the provisions of this chapter.

7 (12) Impose reasonable fees upon applicants taking tests  
8 administered pursuant to the requirements of this chapter.

9 (13) Impose reasonable fees for the issuance of certifications  
10 required under this chapter.

11 (14) Prepare study guides and other forms of publications  
12 relating to mine safety and charge a reasonable fee for the sale of  
13 the publications.

14 (15) Make all records of the office open for inspection of  
15 interested persons and the public.

16 (c) The Director of the Office of Miners' Health, Safety and  
17 Training, or his or her designee, upon receipt of the list of  
18 approved innovative mine safety technologies from the Mine Safety  
19 Technology Task force, has thirty days to approve or amend the list  
20 as provided in section four, article thirteen-BB, chapter eleven of  
21 this code. At the expiration of the time period, the director  
22 shall publish the list of approved innovative mine safety  
23 technologies as provided in section four, article thirteen-BB,  
24 chapter eleven of this code.

25 **ARTICLE 11. MINE SAFETY TECHNOLOGY.**

26 **§22A-11-3. Task force powers and duties.**

1 (a) The task force shall provide technical and other  
2 assistance to the office related to the implementation of the new  
3 technological requirements set forth in the provisions of section  
4 fifty-five, article two, of this chapter, as amended and reenacted  
5 during the regular session of the Legislature in 2006 and  
6 requirements for other mine safety technologies.

7 (b) The task force, working in conjunction with the director,  
8 shall continue to study issues regarding the commercial  
9 availability, the functional and operational capability and the  
10 implementation, compliance and enforcement of the following  
11 protective equipment:

12 (1) Self-contained self-rescue devices, as provided in  
13 subsection (f), section fifty-five, article two of this chapter;

14 (2) Wireless emergency communication devices, as provided in  
15 subsection (g), section fifty-five, article two of this chapter;

16 (3) Wireless emergency tracking devices, as provided in  
17 subsection (h), section fifty-five, article two of this chapter;  
18 and

19 (4) Any other protective equipment required by this chapter or  
20 rules promulgated in accordance with the law that the director  
21 determines would benefit from the expertise of the task force.

22 (c) The task force shall on a continuous basis study, monitor  
23 and evaluate:

24 (1) The potential for enhancing coal mine health and safety  
25 through the application of existing technologies and techniques;

26 (2) Opportunities for improving the integration of

1 technologies and procedures to increase the performance and  
2 survivability of coal mine health and safety systems;

3 (3) Emerging technological advances in coal mine health and  
4 safety; and

5 (4) Market forces impacting the development of new  
6 technologies, including issues regarding the costs of research and  
7 development, regulatory certification and incentives designed to  
8 stimulate the marketplace.

9 (d) On or before July 1 of each year, the task force shall  
10 submit a report to the Governor and the board of Coal Mine Health  
11 and Safety that shall include, but not be limited to:

12 (1) A comprehensive overview of issues regarding the  
13 implementation of the new technological requirements set forth in  
14 the provisions of section fifty-five, article two, of this chapter,  
15 or rules promulgated in accordance with the law;

16 (2) A summary of any emerging technological advances that  
17 would improve coal mine health and safety;

18 (3) Recommendations, if any, for the enactment, repeal or  
19 amendment of any statute which would enhance technological  
20 advancement in coal mine health and safety; and

21 (4) Any other information the task force considers  
22 appropriate.

23 (e) In performing its duties, the task force shall, where  
24 possible, consult with, among others, mine engineering and mine  
25 safety experts, radiocommunication and telemetry experts and  
26 relevant state and federal regulatory personnel.

1 (f) Appropriations to the task force commission and to  
2 effectuate the purposes of this article shall be made to one or  
3 more budget accounts established for that purpose.

4 (g) The task force shall annually compile a proposed list of  
5 approved innovative mine safety technologies and transmit the list  
6 to the Director of the Office of Miners' Health, Safety and  
7 Training as provided in section four, article thirteen-BB, chapter  
8 eleven of this code.

NOTE: The purpose of this bill is to allow for a tax credit for coal companies that purchase innovative safety technology that is compiled by the Mine Safety Technology Task Force and approved by the Director of the West Virginia Office of Miners' Health, Safety and Training. The bill makes legislative findings and purpose and defines terms. The bill sets forth requirements for a list of approved innovative mine safety technology. The bill specifies the amount of tax credit allowed. The bill establishes the criteria for qualified investments. The bill specifies forfeiture of unused tax credits. The bill specifies treatment for transfer of certified eligible safety property to successors. The bill also sets forth requirements for identification of investment credit property. The bill prescribes treatment for failure to keep records of certified eligible safety property. The bill further sets forth tax credit review and accountability requirements and specifies the requirements for disclosure of tax credits. The bill grants rule-making authority. The bill also amends the duties of the Director of the West Virginia Office of Miners' Health, Safety and Training and amends the duties of the Mine Safety Technology Task Force.

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

Article 13BB is new; therefore, strike-throughs and underscoring have been omitted.