

H. B. 3099

(By Delegates Varner, Kominar, White, Pethtel,
Ferro, Ennis, Ferns, Skaff, Storch,
Givens and Nelson)

[Introduced February 10, 2011; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §5B-2H-1 and §5B-2H-
2; to amend said code by adding thereto a new section,
designated §11-1C-11c; to amend and reenact §11-6D-1, §11-6D-
2, §11-6D-3, §11-6D-4, §11-6D-5, §11-6D-6, §11-6D-7 and §11-
6D-8 of said code; to amend said code by adding there a new
section, designated §11-6D-9; to amend and reenact §11-6F-2
and §11-6F-3 of said code; to amend said code by adding
thereto a new section, designated §11-13A-5b; to amend and
reenact §11-13R-3 of said code; to amend and reenact §11-13S-3
of said code; to amend and reenact §11-15-8d of said code; and
to amend and reenact §24-2F-3 of said code, all relating
generally to the Marcellus Gas and Manufacturing Development
Act of 2011, and as to such act, providing short title and
making legislative findings and declarations; amending and
reinstating alternative-fuel motor vehicle tax credit and

1 providing credit for alternative-fuel refueling facilities and
2 as to such making legislative findings; stating legislative
3 purpose; defining terms; allowing credit for purchase of
4 alternative-fuel motor vehicles, conversion of vehicles to
5 alternative-fuel motor vehicles, and for commercial and
6 residential alternative fuel refueling facilities; providing
7 for expiration of credits; requiring Tax Commissioner to
8 promulgate rules and design forms; providing for carryover of
9 unused credits and for recapture of credits; amending
10 definition of manufacturing for purposes of special method for
11 appraising qualified capital additions to manufacturing
12 facilities for property tax purposes; providing new rules for
13 treatment of certified capital addition property; setting
14 baseline for oil and gas severance tax collections providing
15 for excess distribution and deposit of excess collections;
16 amending definition of research and development purposes of
17 strategic research and development tax credit; amending
18 definition of manufacturing for purposes of manufacturing
19 investment tax credit; providing additional exception to
20 limitation on right to assert sales and use tax exemptions;
21 and clarifying meaning of natural gas for purposes of
22 alternative and renewable energy portfolio standard act.

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

24 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §5B-2H-1 and §5B-2H-2;
 2 that said code be amended by adding thereto a new section,
 3 designated §11-1C-11c; that §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4,
 4 §11-6D-5, §11-6D-6, §11-6D-7 and §11-6D-8 of said code be amended
 5 and reenacted; that said code be amended by adding thereto a new
 6 section, designated §11-6D-9; that §11-6F-2 and §11-6F-3 of said
 7 code be amended and reenacted; that said code be amended by adding
 8 thereto a new section, designated §11-13A-5b; that §11-13R-3 of
 9 said code be amended and reenacted; that §11-13S-3 of said code be
 10 amended and reenacted; that §11-15-8d of said code be amended and
 11 reenacted; and that §24-2F-3 of said code be amended and reenacted,
 12 all to read as follows:

13 **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT of 1985.**

14 **ARTICLE 2H. MARCELLUS GAS AND MANUFACTURING DEVELOPMENT ACT.**

15 **§5B-2H-1. Short Title.**

16 This article shall be known and cited as the "Marcellus Gas
 17 and Manufacturing Development Act".

18 **§5B-2H-2. Legislative findings; declaration of public policy.**

19 (a) The Legislature finds that:

20 (1) The advent and advancement of new and existing
 21 technologies and drilling practices have created the opportunity
 22 for the efficient development of natural gas contained in
 23 underground shales and other geological formations.

24 (2) With development of the Marcellus shale comes the

1 opportunity for economic development in related areas of the
2 economy including, but not limited to, manufacturing, transmission
3 of natural gas and related products and the transportation of
4 manufactured products.

5 (3) It is in the interest of national security to encourage
6 post-production uses of natural gas and its various components as
7 a replacement for oil imported from other countries.

8 (4) Producers of natural gas, transporters of natural gas and
9 manufacturers of products using natural gas face a significant
10 number of regulatory requirements, some of which may be redundant,
11 inconsistent, or overlapping. Agencies should work together, where
12 practical, to avoid duplication, promote better coordination and
13 reduce these requirements, thus reducing costs, simplifying and
14 harmonizing rules and streamlining regulatory oversight.

15 (5) In developing regulatory actions and identifying
16 appropriate approaches, agencies should attempt to promote
17 coordination, simplification, and harmonization.

18 (6) Agencies should also seek to identify, as appropriate,
19 means to achieve regulatory goals that are designed to promote
20 innovation.

21 (7) Agencies should review their existing significant
22 legislative, interpretive and procedural rules to determine whether
23 any such rules should be modified, streamlined, expanded or
24 repealed so as to make the agency's regulatory program more

1 effective or less burdensome in achieving the regulatory
2 objectives.

3 (8) The West Virginia Economic Development Authority
4 established in article fifteen, chapter thirty-one of this code and
5 the West Virginia Infrastructure and Jobs Development Council
6 created in article fifteen-a, chapter thirty-one of this code,
7 should, where appropriate, provide assistance that grows or
8 sustains this segment of the economy.

9 (b) The Legislature declares that facilitating the development
10 of business activity directly and indirectly related to development
11 of the Marcellus shale serves the public interest of the citizens
12 of this state by promoting economic development and improving
13 economic opportunities for the citizens of this state.

14 **CHAPTER 11. TAXATION.**

15 **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

16 **§11-1C-11c. Valuation of oil and gas drilling rigs.**

17 Notwithstanding any provision of this code to the contrary and
18 to facilitate the equal and uniform taxation of oil and natural gas
19 drilling rigs throughout the state, the State Tax Commissioner
20 shall annually compile a schedule of oil and natural gas drilling
21 rig values based on the wholesale values shown in a nationally
22 recognized guide or bulletin published during the calendar year
23 that includes the assessment date, using the appropriate depth
24 rating assigned to the drawworks by its manufacturer and the actual

1 condition of the drilling rig. The State Tax Commissioner shall
2 furnish the schedule to each assessor and it shall be used by him
3 or her as a guide in placing the assessed values on all oil and
4 natural gas drilling rigs in his or her county. This section
5 applies to assessment years beginning on and after July 1, 2011.

6 **ARTICLE 6D. ALTERNATIVE-FUEL MOTOR VEHICLES TAX CREDIT.**

7 **§11-6D-1. Legislative findings and purpose.**

8 Consistent with the public policy as stated in section one,
9 article two-d, chapter twenty-four of this code, the Legislature
10 hereby finds that the use of alternative fuels is in the public
11 interest and promotes the general welfare of the people of this
12 state insofar as it addresses serious concerns for our environment
13 and our state's and nation's dependence on foreign oil as a source
14 of energy. The Legislature further finds that this state has an
15 abundant supply of alternative fuels and an extensive supply
16 network and that, by encouraging the use of alternatively-fueled
17 motor vehicles, the state will be reducing its dependence on
18 foreign oil and attempting to improve its air quality. The
19 Legislature further finds that the wholesale cost of fuel for
20 certain alternatively-fueled motor vehicles is significantly lower
21 than the cost of fueling traditional motor vehicles with oil based
22 fuels.

23 However, because the cost of motor vehicles which utilize
24 alternative-fuel technologies remains high in relation to motor

1 vehicles that employ more traditional technologies, citizens of
2 this state who might otherwise choose an alternatively-fueled motor
3 vehicle are forced by economic necessity to continue using motor
4 vehicles that are fueled by more conventional means. Additionally,
5 the availability of commercial and residential infrastructure to
6 support alternatively-fueled vehicles available to the public is
7 inadequate to encourage the use of alternatively-fueled motor
8 vehicles. Therefore, in order to encourage the use of
9 alternatively-fueled motor vehicles and possibly reduce unnecessary
10 pollution of our environment and reduce our dependence on foreign
11 sources of energy, there is hereby created an alternative-fuel
12 motor vehicles tax credit and an alternative-fuel infrastructure
13 tax credit.

14 **§11-6D-2. Definitions.**

15 As used in this article, the following terms have the meanings
16 ascribed to them in this section:

17 (a) "Alternative fuel" includes:

18 (1) Compressed natural gas;

19 (2) Liquified natural gas;

20 (3) Liquified petroleum gas;

21 ~~(4) Methanol;~~

22 ~~(5) Ethanol;~~

23 ~~(6) Fuel mixtures that contain eighty five percent or more by~~
24 ~~volume, when combined with gasoline or other fuels, of the~~

1 following:

2 ~~(A) Methanol;~~

3 ~~(B) Ethanol; or~~

4 ~~(C) Other alcohols;~~

5 (4) Hydrogen;

6 ~~(7)~~ (5) Coal-derived liquid fuels; and

7 ~~(8)~~ (6) Electricity, including electricity from solar energy.

8 (b) "Alternative-fuel motor vehicle" means a motor vehicle
9 that as a new or retrofitted or converted fuel vehicle:

10 (1) Operates solely on one alternative fuel;

11 (2) Is capable of operating on one or more alternative fuels,
12 singly or in combination; or

13 (3) Is capable of operating on an alternative fuel and is also
14 capable of operating on gasoline or diesel fuel.

15 (c) "Bi-fueled" means the ability of an alternative-fuel motor
16 vehicle to operate on an alternative fuel and another form of fuel.

17 (d) "Plug-in hybrid electric vehicle" means:

18 (1) An original equipment manufacturer plug-in hybrid electric
19 vehicle that can operate solely on electric power and that is
20 capable of recharging its battery from an on-board generation
21 source and an off-board electricity source; and

22 (2) A plug-in hybrid electric vehicle conversion that provides
23 an increase in city fuel economy of seventy-five percent or more as
24 compared to a comparable nonhybrid version vehicle for a minimum of

1 twenty miles and that is capable of recharging its battery from an
2 on-board generation source and an off-board electricity source. A
3 vehicle is comparable if it is the same model year and the same
4 vehicle class as established by the United States Environmental
5 Protection Agency and is comparable in weight, size, and use. Fuel
6 economy comparisons shall be made using city fuel economy standards
7 in a manner that is substantially similar to the manner in which
8 city fuel economy is measured in accordance with procedures set
9 forth in 40 C.F.R. 600 as in effect on January 1, 2011.

10 (e) "Qualified alternative fuel vehicle refueling
11 infrastructure" means property owned by the applicant for the tax
12 credit and used for storing alternative fuels and for dispensing
13 such alternative fuels into fuel tanks of motor vehicles, including
14 but not limited to, compression equipment, storage tanks and
15 dispensing units for alternative fuel at the point where the fuel
16 is delivered: Provided, That the property is installed and located
17 in this state and is not located on a private residence or private
18 home.

19 (f) "Qualified alternative fuel vehicle home refueling
20 infrastructure" means property owned by the applicant for the tax
21 credit located on a private residence or private home and used for
22 storing alternative fuels and for dispensing such alternative fuels
23 into fuel tanks of motor vehicles, including but not limited to,
24 compression equipment, storage tanks and dispensing units for

1 alternative fuel at the point where the fuel is delivered or for
 2 providing electricity to plug-in hybrid electric vehicles or
 3 electric vehicles: *Provided*, That the property is installed and
 4 located in this state.

5 (g) "Taxpayer" means any natural person, corporation, limited
 6 liability company or partnership subject to the tax imposed under
 7 article twenty-one, article twenty-three or article twenty-four of
 8 this chapter or any combination thereof.

9 **§11-6D-3. Credit allowed for alternative-fuel motor vehicles and**
 10 **qualified alternative fuel vehicle refueling**
 11 **infrastructure; application against personal income**
 12 **tax, business franchise tax or corporate net income**
 13 **tax; effective date.**

14 The tax ~~credit~~ credits for the purchase of alternative-fuel
 15 motor vehicles or conversion to alternative-fuel motor vehicles,
 16 qualified alternative fuel vehicle refueling infrastructure and
 17 qualified alternative fuel vehicle home refueling infrastructure
 18 provided in this article may be applied against the tax liability
 19 of a taxpayer imposed by the provisions of either article twenty-
 20 one, article twenty-three or article twenty-four of this chapter
 21 but in no case may more than one credit be granted for the same
 22 alternative-fuel motor vehicle as defined in subdivision (b),
 23 section two of this article. This credit shall be available for
 24 those tax years beginning after ~~June 30, 1997~~ January 1, 2011.

1 **§11-6D-4. Eligibility for credit.**

2 A taxpayer is eligible to claim the credit against tax
3 provided in this article if he or she:

4 (a) Converts a motor vehicle that is presently registered in
5 West Virginia to operate exclusively on an alternative fuel as
6 defined in subdivision (a), section two of this article; or

7 ~~(1) Exclusively on an alternative fuel as defined in~~
8 ~~subdivision (a), section two of this article; or~~

9 ~~(2) In a dual fuel mode, as defined in paragraph (6),~~
10 ~~subdivision (a), section two of this article; as a bi-fueled~~
11 ~~alternative-fuel motor vehicle; or~~

12 (b) Purchases from an original equipment manufacturer or an
13 after-market conversion facility or any other automobile retailer,
14 a new dedicated or ~~dually fueled~~ bi-fueled alternative-fuel motor
15 vehicle for which the taxpayer then obtains a valid West Virginia
16 registration; or

17 (c) Constructs or purchases and installs qualified alternative
18 fuel vehicle refueling infrastructure or qualified alternative fuel
19 vehicle home refueling infrastructure that is capable of dispensing
20 alternative fuel for alternative-fuel motor vehicles.

21 ~~(c)~~ (d) The credit provided in this article is not available
22 to and may not be claimed by any taxpayer under any obligation
23 pursuant to any federal or state law, policy or regulation to
24 convert to the use of alternative fuels for any motor vehicle.

1 **§11-6D-5. Amount of credit for alternative fuel motor vehicles.**

2 ~~(a) The total amount of any credit allowed under this article~~
3 ~~for an alternative-fuel motor vehicle is limited by and subject to~~
4 ~~the provisions set forth in this subsection and subsections (b),~~
5 ~~(c) and (d) of this section and may not exceed: (1) In the case of~~
6 ~~a motor vehicle conversions or retrofitting, the actual cost of~~
7 ~~converting from a traditionally fueled motor vehicle to an~~
8 ~~alternatively-fueled motor vehicle; or (2) in the case of a new~~
9 ~~purchase, the incremental difference in cost between an~~
10 ~~alternative-fuel motor vehicle and a comparably equipped motor~~
11 ~~vehicle that employs traditional fuel technology.~~

12 ~~(b) The maximum total credit allowed for an alternative-fuel~~
13 ~~motor vehicle is:~~

14 ~~(1) For a vehicle with a gross vehicle weight of not more than~~
15 ~~ten thousand pounds, three thousand seven hundred fifty dollars;~~

16 ~~(2) For a vehicle with a gross vehicle weight of more than ten~~
17 ~~thousand pounds up to twenty-six thousand pounds, nine thousand two~~
18 ~~hundred fifty dollars;~~

19 ~~(3) For a truck or van with a gross vehicle weight of more~~
20 ~~than twenty-six thousand pounds, fifty thousand dollars; and~~

21 ~~(4) For a bus capable of seating at least twenty adults, fifty~~
22 ~~thousand dollars.~~

23 ~~(c) Subject to the limitations set forth in subsection (a) of~~
24 ~~this section, a taxpayer who is otherwise entitled to a credit~~

~~1 against tax who claims the credit provided for in this article on
2 the basis of any alternative-fuel motor vehicle that operates
3 exclusively on electricity is entitled to an additional credit of
4 ten percent of the credit which is otherwise allowed under
5 subsection (b) of this section.~~

~~6 (d) The maximum incremental credit allowed per year is one
7 third of the credit attributable to five vehicles with the
8 cumulative credit over a three-year period not to exceed one third
9 of the credit attributable to fifteen vehicles.~~

10 (a) For taxable years beginning on and after January 1, 2011,
11 the amount of the credit allowed under this article for an
12 alternative-fuel motor vehicle that weighs less than twenty-six
13 thousand pounds is thirty-five percent of the purchase price of the
14 alternative-fuel motor vehicle up to a maximum amount of \$7,500 or
15 fifty percent of the actual cost of converting from a traditionally
16 fueled motor vehicle to an alternative fuel motor vehicle up to a
17 maximum amount of \$7,500.

18 (b) For taxable years beginning on and after January 1, 2011,
19 the amount of the credit allowed under this article for an
20 alternative-fuel motor vehicle that weighs more than twenty-six
21 thousand pounds is thirty-five percent of the purchase price of the
22 alternative-fuel motor vehicle up to a maximum amount of \$25,000 or
23 fifty percent of the actual cost of converting from a traditionally
24 fueled motor vehicle to an alternative fuel motor vehicle up to a

1 maximum amount of \$25,000.

2 **§11-6D-6. Amount of credit for qualified alternative fuel vehicle**
3 **refueling infrastructure and qualified alternative**
4 **fuel vehicle home refueling infrastructure.**

5 ~~The credit against tax for any alternative fuel motor vehicle~~
6 ~~provided for in this article may be taken by a taxpayer claiming~~
7 ~~the credit only in three equal increments over a three consecutive~~
8 ~~tax-year period, so that in any tax year in which a taxpayer is~~
9 ~~entitled to the credit, only one third of the total credit allowed~~
10 ~~for a certain alternative fuel motor vehicle under section five may~~
11 ~~be taken.~~

12 (a) For taxable years beginning on and after January 1, 2011
13 but prior to January 1, 2014, the amount of the credit allowed
14 under this article for qualified alternative fuel vehicle refueling
15 infrastructure is equal to an amount of fifty percent of the total
16 costs directly associated with the construction or purchase and
17 installation of the alternative fuel vehicle refueling
18 infrastructure up to a maximum of \$250,000: *Provided, That if the*
19 qualified alternative fuel vehicle refueling infrastructure is
20 generally accessible for public use, the amount of the credit
21 allowed will be multiplied by 1.25 and the maximum amount allowable
22 will be \$312,500. The amount of credit allowed may not exceed the
23 cost of construction of the alternative fuel vehicle refueling
24 infrastructure.

1 (b) For taxable years beginning on and after January 1, 2014,
2 but prior to January 1, 2016, the amount of the credit allowed
3 under this article for qualified alternative fuel vehicle refueling
4 infrastructure is equal to an amount of fifty percent of the total
5 costs directly associated with the construction or purchase and
6 installation of the alternative fuel vehicle refueling
7 infrastructure up to a maximum of \$200,000: *Provided*, That if the
8 qualified alternative fuel vehicle refueling infrastructure is
9 generally accessible for public use, the amount of the credit
10 allowed will be multiplied by 1.25 and the maximum amount allowable
11 will be \$250,000. The amount of credit allowed may not exceed the
12 cost of construction of the alternative fuel vehicle refueling
13 infrastructure.

14 (c) For taxable years beginning on and after January 1, 2016,
15 but prior to January 1, 2022, the amount of the credit allowed
16 under this article for qualified alternative fuel vehicle refueling
17 infrastructure is equal to an amount of fifty percent of the total
18 costs directly associated with the construction or purchase and
19 installation of the alternative fuel vehicle refueling
20 infrastructure up to a maximum of \$150,000: *Provided*, That if the
21 qualified alternative fuel vehicle refueling infrastructure is
22 generally accessible for public use, the amount of the credit
23 allowed will be multiplied by 1.25 and the maximum amount allowable
24 will be \$187,500. The amount of credit allowed may not exceed the

1 cost of construction of the alternative fuel vehicle refueling
2 infrastructure.

3 (d) For taxable years beginning on and after January 1, 2011,
4 the amount of the credit allowed under this article for qualified
5 alternative fuel vehicle home refueling infrastructure is equal to
6 an amount of fifty percent of the total costs directly associated
7 with the construction or purchase and installation of the
8 alternative fuel vehicle home refueling infrastructure up to a
9 maximum of \$10,000.

10 (e) The cost of construction of the alternative fuel vehicle
11 refueling infrastructure or alternative fuel vehicle home refueling
12 infrastructure eligible for a tax credit under this section does
13 not include costs associated with exploration, development or
14 production activities necessary for severing natural resources from
15 the soil or ground.

16 (f) When the taxpayer is a pass-through entity treated like a
17 partnership for federal and state income tax purposes, the credit
18 allowed under this article for the year shall flow through to the
19 equity owners of the pass-through entity in the same manner that
20 distributive share flows through to the equity owners and in
21 accordance with any legislative rule the Tax Commissioner may
22 propose for legislative approval in accordance with article three,
23 chapter twenty-nine-a of this code to administer this section.

24 (g) No credit allowed by this article may be applied against

1 employer withholding taxes imposed by article twenty-one of this
2 chapter.

3 **§11-6D-7. Duration of availability of credit.**

4 ~~The tax credit provided in this article shall expire by~~
5 ~~operation of law ten years after the effective date of this~~
6 ~~article: *Provided*, That any eligible taxpayer who makes a valid~~
7 ~~claim for the credit before that expiration is entitled to claim~~
8 ~~and receive the remaining one-third increment or increments of the~~
9 ~~total credit allowed under section five of this article for the tax~~
10 ~~year or years ensuing after the expiration of this article until~~
11 ~~the total amount of credit allowed has been exhausted.~~

12 No person is eligible to receive a tax credit under this
13 article for: (i) An alternative-fuel motor vehicle purchased after
14 December 31, 2021; (ii) a vehicle converted to an alternative-fuel
15 motor vehicle after December 31, 2021; or (iii) the construction or
16 purchase and installation of qualified alternative fuel vehicle
17 refueling infrastructure or qualified alternative fuel vehicle home
18 refueling infrastructure occurring after December 31, 2021.

19 **§11-6D-8. Commissioner to design forms and schedules; promulgation**
20 **of rules.**

21 (a) The Tax Commissioner shall design and provide to the
22 public simplified forms and schedules to implement and effectuate
23 the provisions of this article.

24 (b) The Tax Commissioner ~~is authorized to promulgate~~ shall

1 promulgate new rules for the administration of this article
2 consistent with its provisions and in accordance with article
3 three, chapter twenty-nine-a of this code after the effective date
4 of the amendments to this article. Such rules shall include rules
5 relating to the necessary documentation required to be filed in
6 order to take the tax credits allowed in this article.

7 (c) Within one year ~~following~~ prior to the expiration of the
8 credit established in this article, the State Tax Commissioner
9 shall provide a written report to the Legislature setting forth the
10 utilization of the credit, the benefit of the credit and the
11 overall cost of the credit.

12 **§11-6D-9. Carryover credit allowed; recapture of credit.**

13 (a) If the tax credit allowed under this article in any
14 taxable year exceeds the taxpayer's tax liability as determined in
15 accordance with article twenty-one, article twenty-three or article
16 twenty-four of this chapter for that taxable year, the excess may
17 be applied for succeeding taxable years until the full amount of
18 the excess tax credit is used.

19 (b) No carry back to a prior taxable year is allowed for the
20 amount of any unused credit in any taxable year.

21 (c) A tax credit is subject to recapture, elimination or
22 reduction if it is determined by the State Tax Commissioner that a
23 taxpayer was not entitled to the credit, in whole or in part, in
24 the tax year in which it was claimed by the taxpayer. The amount

1 of credit that flows through to equity owners of a passthrough
2 entity may be recaptured or recovered from either the taxpayer or
3 the equity owners in the discretion of the Tax Commissioner.

4 **ARTICLE 6F. SPECIAL METHOD FOR APPRAISING QUALIFIED CAPITAL**
5 **ADDITIONS TO MANUFACTURING FACILITIES.**

6 **§11-6F-2. Definitions.**

7 As used in this article, the term:

8 (a) "Certified capital addition property" means all real
9 property and personal property included within or to be included
10 within a qualified capital addition to a manufacturing facility
11 that has been certified by the State Tax Commissioner in accordance
12 with section four of this article: *Provided*, That airplanes and
13 motor vehicles licensed by the Division of Motor Vehicles shall in
14 no event constitute certified capital addition property.

15 (b) "Manufacturing" means any business activity classified as
16 having a sector identifier, consisting of the first two digits of
17 the six-digit North American Industry Classification System code
18 number of thirty-one, thirty-two or thirty-three or the six digit
19 code number 211112.

20 ~~(b)~~ (c) "Manufacturing facility" means any factory, mill,
21 chemical plant, refinery, warehouse, building or complex of
22 buildings, including land on which it is located, and all
23 machinery, equipment, improvements and other real property and
24 personal property located at or within the facility used in

1 connection with the operation of the facility in a manufacturing
2 business.

3 ~~(c)~~ (d) "Personal property" means all property specified in
4 subdivision (q), section ten, article two, chapter two of this code
5 and includes, but is not limited to, furniture, fixtures, machinery
6 and equipment, pollution control equipment, computers and related
7 data processing equipment, spare parts and supplies.

8 ~~(d)~~ (e) "Qualified capital addition to a manufacturing
9 facility" means all real property and personal property, the
10 combined original cost of all of the property which exceeds \$50
11 million to be constructed, located or installed at or within two
12 miles of a manufacturing facility owned or operated by the person
13 making the capital addition that has a total original cost before
14 the capital addition of at least \$100 million. ~~Provided, That~~ If
15 the capital addition is made in a steel, chemical or polymer
16 alliance zone as designated from time-to-time by executive order of
17 the Governor, then the person making the capital addition may for
18 purposes of satisfying the requirements of this subsection join in
19 a multiparty project with a person owning or operating a
20 manufacturing facility that has a total original cost before the
21 capital addition of at least \$100 million if the capital addition
22 creates additional production capacity of existing or related
23 products or feedstock or derivative products respecting the
24 manufacturing facility, is a source of raw materials for the

1 operating manufacturing facility, or converts coal to a gas or
2 liquid for its use in heating, manufacturing or generation of
3 electricity. Beginning July 1, 2011, wherever the number "100" is
4 used in this subsection, the number "20" shall be substituted and
5 where the number "50" is used, the number "10" shall be
6 substituted.

7 ~~(e)~~ (f) "Real property" means all property specified in
8 subdivision (p), section ten, article two, chapter two of this code
9 and includes, but is not limited to, lands, buildings and
10 improvements on the land such as sewers, fences, roads, paving and
11 leasehold improvements.

12 **§11-6F-3. Tax treatment of certified capital addition property.**

13 Notwithstanding any other provisions of law, the value of
14 certified capital addition property, for purposes of ad valorem
15 property taxation under this chapter, ~~shall be~~ is its salvage
16 value, which for purposes of this article is five percent of the
17 certified capital addition property's original cost. For capital
18 additions certified on or after July 1, 2011, the value of the land
19 before any improvements shall be subtracted from the value of the
20 capital addition and the unimproved land value shall not be given
21 salvage value treatment.

22 **ARTICLE 13A. SEVERANCE TAXES.**

23 **§11-13A-5b. Distribution of oil and gas severance tax for**
24 **maintenance of highways and permitting and**

1 inspection of shale gas wells.

2 (a) Effective July 1, 2011, a baseline for the imposition of
3 the severance tax on oil and gas that is deposited in the General
4 Revenue Fund and that is distributed to counties and municipalities
5 as provided in section five-a of this article is established at
6 \$64.8 million.

7 (b) The State Treasurer shall apportion any net collections in
8 excess of the baseline as follows:

9 (1) Ten percent of the excess shall be distributed as provided
10 in section five-a of this article; and

11 (2) Two million dollars shall be distributed into a special
12 revenue account hereby created within the State Treasury and known
13 as the "Marcellus Shale Permit Fund" as an interest bearing,
14 nonexpiring special revenue account. The Marcellus Shale Permit
15 Fund shall be separate and apart from the General Revenue Fund and
16 shall be administered by the West Virginia Department of
17 Environmental Protection. Expenditures from the special revenue
18 account shall be for the purposes set forth in this section and
19 made in accordance with appropriations from the Legislature and
20 pursuant to the provisions of article three, chapter twelve of this
21 code and after the fulfilment of the provisions of article two,
22 chapter eleven-b of this code: *Provided, That for the fiscal year*
23 ending June 30, 2012, expenditures are authorized from collections.

24 Moneys in the Marcellus Shale Permit Fund not expended at the close

1 of the fiscal year do not lapse or revert to the General Fund but
2 are carried forward to the next fiscal year. Interest earnings on
3 the revolving fund becomes a part of the revolving fund and do not
4 lapse or revert to the General Fund. The West Virginia Department
5 of Environmental Protection shall use the moneys in the Marcellus
6 Shale Permit Fund for the purposes of paying for additional costs
7 associated with permitting activity in the marcellus shale.

8 (3) The remaining balance after the distributions in
9 subdivision (1) and (2) of this subsection shall be divided pro
10 rata among the General Fund and the State Road Fund.

11 (c) This section shall have no force or effect after June 30,
12 2016.

13 **ARTICLE 13R. STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT.**

14 **§11-13R-3. Definitions.**

15 (a) *General.* -- When used in this article or in the
16 administration of this article, terms defined in subsection (b) of
17 this section have the meanings ascribed to them by this section
18 unless a different meaning is clearly required by either the
19 context in which the term is used or by specific definition in this
20 article.

21 (b) *Terms defined.* --

22 (1) "Base amount" means:

23 (A) The average annual combined qualified research and
24 development expenditure for the three taxable years immediately

1 preceding the taxable year for which a credit is claimed under this
2 article;

3 (B) For a taxpayer that has filed a tax return under article
4 twenty-three of this chapter for fewer than three but at least one
5 prior taxable year, determined on the basis of all filings by the
6 taxpayer's controlled group, the base amount is the average annual
7 combined qualified research and development expenditure for the
8 number of immediately preceding taxable years, other than short
9 taxable years, during which the taxpayer has filed a tax return
10 under article twenty-three of this chapter; or

11 (C) For a taxpayer that has not filed a tax return under
12 article twenty-three of this chapter for at least one taxable year,
13 determined on the basis of all filings by the taxpayer's controlled
14 group, the base amount is zero.

15 (2) "Commissioner" and "Tax Commissioner" are used
16 interchangeably herein and mean the Tax Commissioner of the State
17 of West Virginia or his or her delegate.

18 (3) "Controlled group" means a controlled group as defined by
19 section 1563 of the Internal Revenue Code of 1986, as amended.

20 (4) "Corporation" means any corporation, limited liability
21 company, joint-stock company or association and any business
22 conducted by a trustee or trustees wherein interest or ownership is
23 evidenced by a certificate of interest or ownership or similar
24 written instrument.

1 (5) "Delegate" in the phrase "or his or her delegate," when
2 used in reference to the Tax Commissioner, means any officer or
3 employee of the State Tax Division of the Department of Tax and
4 Revenue duly authorized by the Tax Commissioner directly, or
5 indirectly by one or more redelegations of authority, to perform
6 the functions mentioned or described in this article.

7 (6) "Eligible taxpayer" means any person that is subject to
8 the tax imposed by article twenty-three or article twenty-four of
9 this chapter that is engaged in qualified research and development
10 that has paid or incurred investment in qualified research and
11 development credit property or that has paid or incurred qualified
12 research and development expenses as defined in section four of
13 this article. In the case of a sole proprietorship subject to
14 neither the tax imposed by article twenty-three nor the tax imposed
15 by article twenty-four, the term "eligible taxpayer" means any sole
16 proprietor who is subject to the tax imposed by article twenty-one
17 of this chapter and who is engaged in qualified research and
18 development that has paid or incurred investment in qualified
19 research and development credit property or that has paid or
20 incurred qualified research and development expenses as defined in
21 section four of this article.

22 (7) "Partnership" includes a syndicate, group, pool, joint
23 venture or other unincorporated organization through or by means of
24 which any business, financial operation or venture is carried on,

1 and which is not a trust or estate, a corporation or a sole
2 proprietorship. The term "partner" includes a member in such a
3 syndicate, group, pool, joint venture or other organization.

4 (8) "Person" includes any natural person, corporation, limited
5 liability company or partnership.

6 (9) "Qualified research and development credit property" means
7 depreciable property purchased for the conduct of qualified
8 research and development.

9 (10) "Research and development" means systematic scientific,
10 engineering or technological study and investigation in a field of
11 knowledge in the physical, computer or software sciences often
12 involving the formulation of hypotheses and experimentation for the
13 purpose of revealing new facts, theories or principles or
14 increasing scientific knowledge which may reveal the basis for new
15 or enhanced products, equipment or manufacturing processes.

16 (A) Research and development includes, but is not limited to,
17 design, refinement and testing of prototypes of new or improved
18 products ~~or design~~ or equipment or the design, refinement and
19 testing of manufacturing processes before commercial sales relating
20 thereto have begun. For purposes of this section, commercial sales
21 includes, but is not limited to, sales of prototypes or sales for
22 market testing.

23 (B) Research and development does not include:

24 (i) Market research;

- 1 (ii) Sales research;
- 2 (iii) Efficiency surveys;
- 3 (iv) Consumer surveys;
- 4 (v) Product market testing;
- 5 (vi) Product testing by product consumers or through consumer
- 6 surveys for evaluation of consumer product performance or consumer
- 7 product usability;
- 8 (vii) The ordinary testing or inspection of materials or
- 9 products for quality control; ~~(quality control testing);~~
- 10 (viii) Management studies;
- 11 (ix) Advertising;
- 12 (x) Promotions;
- 13 (xi) The acquisition of another's patent, model, production or
- 14 process or investigation or evaluation of the value or investment
- 15 potential related thereto;
- 16 (xii) Research in connection with literary, historical or
- 17 similar activities;
- 18 (xiii) Research in the social sciences, economics, humanities
- 19 or psychology and other nontechnical activities; and
- 20 (xiv) The providing of sales services or any other service,
- 21 whether technical service or nontechnical service.
- 22 (11) "Related person" means:
- 23 (A) A corporation, limited liability company, partnership,
- 24 association or trust controlled by the taxpayer;

1 (B) An individual, corporation, limited liability company,
2 partnership, association or trust that is in control of the
3 taxpayer;

4 (C) A corporation, limited liability company, partnership,
5 association or trust controlled by an individual, corporation,
6 partnership, association or trust that is in control of the
7 taxpayer; or

8 (D) A member of the same controlled group as the taxpayer.

9 For purposes of this article, "control", with respect to a
10 corporation, means ownership, directly or indirectly, of stock
11 possessing fifty percent or more of the total combined voting power
12 of all classes of the stock of the corporation entitled to vote.
13 "Control", with respect to a trust, means ownership, directly or
14 indirectly, of fifty percent or more of the beneficial interest in
15 the principal or income of the trust. The ownership of stock in a
16 corporation, of a capital or profits interest in a partnership or
17 association or of a beneficial interest in a trust is determined in
18 accordance with the rules for constructive ownership of stock
19 provided in section 267(c) of the United States Internal Revenue
20 Code of 1986, as amended, other than paragraph (3) of that section.

21 (12) "Taxpayer" means any person subject to the tax imposed by
22 article twenty-three or twenty-four of this chapter or both. In the
23 case of a sole proprietorship subject to neither the tax imposed by
24 article twenty-three nor the tax imposed by article twenty-four,

1 the term "taxpayer" means any sole proprietor who is subject to the
2 tax imposed by article twenty-one of this chapter.

3 (13) "This code" means the Code of West Virginia, 1931, as
4 amended.

5 (14) "This state" means the State of West Virginia.

6 **ARTICLE 13S. MANUFACTURING INVESTMENT TAX CREDIT.**

7 **§11-13S-3. Definitions.**

8 (a) Any term used in this article has the meaning ascribed by
9 this section unless a different meaning is clearly required by the
10 context of its use or by definition in this article.

11 (b) For purpose of this article, the term:

12 (1) "Eligible taxpayer" means an industrial taxpayer who
13 purchases new property for the purpose of industrial expansion or
14 for the purpose of industrial revitalization of an existing
15 industrial facility in this state.

16 (2) "Industrial expansion" means capital investment in a new
17 or expanded industrial facility in this state.

18 (3) "Industrial facility" means any factory, mill, plant,
19 refinery, warehouse, building or complex of buildings located
20 within this state, including the land on which it is located, and
21 all machinery, equipment and other real and tangible personal
22 property located at or within the facility primarily used in
23 connection with the operation of the manufacturing business.

24 (4) "Industrial revitalization" or "revitalization" means

1 capital investment in an industrial facility located in this state
2 to replace or modernize buildings, equipment, machinery and other
3 tangible personal property used in connection with the operation of
4 the facility in an industrial business of the taxpayer including
5 the acquisition of any real property necessary to the industrial
6 revitalization.

7 (5) "Industrial taxpayer" means any taxpayer who is primarily
8 engaged in a manufacturing business.

9 (6) "Manufacturing" means any business activity classified as
10 having a sector identifier, consisting of the first two digits of
11 the six-digit North American Industry Classification System code
12 number, of thirty-one, thirty-two or thirty-three or the six digit
13 code number 211112.

14 (7) "Property purchased for manufacturing investment" means
15 real property, and improvements thereto, and tangible personal
16 property but only if the property was constructed or purchased on
17 or after ~~the first day of January, two thousand three,~~ January 1,
18 2003, for use as a component part of a new, expanded or revitalized
19 industrial facility. This term includes only that tangible
20 personal property with respect to which depreciation, or
21 amortization in lieu of depreciation, is allowable in determining
22 the federal income tax liability of the industrial taxpayer, that
23 has a useful life, at the time the property is placed in service or
24 use in this state, of four years or more. Property acquired by

1 written lease for a primary term of ten years or longer, if used as
2 a component part of a new or expanded industrial facility, is
3 included within this definition.

4 (A) "Property purchased for manufacturing investment" does not
5 include:

6 (i) Repair costs, including materials used in the repair,
7 unless for federal income tax purposes, the cost of the repair must
8 be capitalized and not expensed;

9 (ii) Motor vehicles licensed by the department of motor
10 vehicles;

11 (iii) Airplanes;

12 (iv) Off-premises transportation equipment;

13 (v) Property which is primarily used outside this state; and

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

19 (B) Purchases or acquisitions of land or depreciable property
20 qualify as purchases of property purchased for manufacturing
21 investment for purposes of this article only if:

22 (i) The property is not acquired from a person whose
23 relationship to the person acquiring it would result in the
24 disallowance of deductions under section 267 or 707(b) of the

1 United States Internal Revenue Code of 1986, as amended;

2 (ii) The property is not acquired from a related person or by
3 one component member of a controlled group from another component
4 member of the same controlled group. The Tax Commissioner may waive
5 this requirement if the property was acquired from a related party
6 for its then fair market value; and

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

13 (8) "Qualified manufacturing investment" means that amount
14 determined under section five of this article as qualified
15 manufacturing investment.

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

19 **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

20 **§11-15-8d. Limitations on right to assert exemptions.**

21 (a) Persons who perform "contracting" as defined in section
22 two of this article or persons acting in an agency capacity may not
23 assert any exemption to which the purchaser of such contracting
24 services or the principal is entitled. Any statutory exemption to

1 which a taxpayer may be entitled ~~shall be~~ is invalid unless the
2 tangible personal property or taxable service is actually purchased
3 by such taxpayer and is directly invoiced to and paid by such
4 taxpayer. This section ~~shall not~~ does not apply to purchases by an
5 employee for his or her employer, purchases by a partner for his or
6 her partnership or purchases by a duly authorized officer of a
7 corporation, or unincorporated organization, for his or her
8 corporation or unincorporated organization so long as the purchase
9 is invoiced to and paid by the employer, partnership, corporation
10 or unincorporated organization.

11 (b) *Transition rule.* -- This section ~~shall not~~ does not apply
12 to purchases of tangible personal property or taxable services in
13 fulfillment of a purchasing agent or procurement agent contract
14 executed and legally binding on the parties thereto prior to
15 September 15, 1999. ~~Provided, That~~ This transition rule ~~shall not~~
16 does not apply to any purchases of tangible personal property or
17 taxable services made under such a contract after August 31, 1991
18 and this transition rule ~~shall not~~ does not apply if the primary
19 purpose of the purchasing agent or procurement agent contract was
20 to avoid payment of consumers sales and use taxes. ~~However,~~
21 Effective July 1, 2007, this section ~~shall not~~ does not apply to
22 purchases of services, machinery, supplies or materials, except
23 gasoline and special fuel, to be directly used or consumed in the
24 construction, alteration, repair or improvement of a new or

1 existing building or structure by a person performing
2 "contracting", as defined in section two of this article, if the
3 purchaser of the "contracting" services would be entitled to claim
4 the refundable exemption under subdivision (2), subsection (b),
5 section nine of this article had it purchased the services,
6 machinery, supplies or materials. Effective July 1, 2009, this
7 section ~~shall not~~ does not apply to purchases of services,
8 computers, servers, building materials and tangible personal
9 property, except purchases of gasoline and special fuel, to be
10 installed into a building or facility or directly used or consumed
11 in the construction, alteration, repair or improvement of a new or
12 existing building or structure by a person performing
13 "contracting", as defined in section two of this article, if the
14 purchaser of the "contracting" services would be entitled to claim
15 the exemption under subdivision (7), subsection (a), section nine-h
16 of this article. Effective July 1, 2011, this section does not
17 apply to purchases of services, machinery, supplies or materials,
18 except gasoline and special fuel, to be directly used or consumed
19 in the construction, alteration, repair or improvement of a new or
20 existing natural gas compressor station or gas transmission line
21 having a diameter of twenty inches or more by a person performing
22 "contracting", as defined in section two of this article, if the
23 purchaser of the "contracting" services would be entitled to claim
24 the refundable exemption under subdivision (2), subsection (b),

1 section nine of this article had it purchased the services,
2 machinery, supplies or materials.

3 **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

4 **ARTICLE 2F. ALTERNATIVE AND RENEWABLE ENERGY PORTFOLIO STANDARD.**

5 **§24-2F-3. Definitions.**

6 Unless the context clearly requires a different meaning, as
7 used in this article:

8 (1) "Advanced coal technology" means a technology that is used
9 in a new or existing energy generating facility to reduce airborne
10 carbon emissions associated with the combustion or use of coal and
11 includes, but is not limited to, carbon dioxide capture and
12 sequestration technology, supercritical technology, advanced
13 supercritical technology as that technology is determined by the
14 Public Service Commission, ultrasupercritical technology and
15 pressurized fluidized bed technology and any other resource,
16 method, project or technology certified by the commission as
17 advanced coal technology.

18 (2) "Alternative and renewable energy portfolio standard" or
19 "portfolio standard" means a requirement in any given year that
20 requires an electric utility to own credits in an amount equal to
21 a certain percentage of electric energy sold in the preceding
22 calendar year by the electric utility to retail customers in this
23 state.

24 (3) "Alternative energy resources" means any of the following

1 resources, methods or technologies for the production or generation
2 of electricity:

3 (A) Advanced coal technology;

4 (B) Coal bed methane;

5 (C) Natural gas, including any component of raw natural gas;

6 (D) Fuel produced by a coal gasification or liquefaction
7 facility;

8 (E) Synthetic gas;

9 (F) Integrated gasification combined cycle technologies;

10 (G) Waste coal;

11 (H) Tire-derived fuel;

12 (I) Pumped storage hydroelectric projects; and

13 (J) Any other resource, method, project or technology
14 certified as an alternative energy resource by the Public Service
15 Commission.

16 (4) "Alternative and renewable energy resource credit" or
17 "credit" means a tradable instrument that is used to establish,
18 verify and monitor the generation of electricity from alternative
19 and renewable energy resource facilities, energy efficiency or
20 demand-side energy initiative projects or greenhouse gas emission
21 reduction or offset projects.

22 (5) "Alternative energy resource facility" means a facility or
23 equipment that generates electricity from alternative energy
24 resources.

1 (6) "Commission" or "Public Service Commission" means the
2 Public Service Commission of West Virginia as continued pursuant to
3 section three, article one of this chapter.

4 (7) "Customer-generator" means an electric retail customer who
5 owns and operates a customer-sited generation project utilizing an
6 alternative or renewable energy resource or a net metering system
7 in this state.

8 (8) "Electric utility" means any electric distribution company
9 or electric generation supplier that sells electricity to retail
10 customers in this state. Unless specifically provided for
11 otherwise, for the purposes of this article, the term "electric
12 utility" may not include rural electric cooperatives, municipally-
13 owned electric facilities or utilities serving less than thirty
14 thousand residential electric customers in West Virginia.

15 (9) "Energy efficiency or demand-side energy initiative
16 project" means a project in this state that promotes customer
17 energy efficiency or the management of customer consumption of
18 electricity through the implementation of:

19 (A) Energy efficiency technologies, equipment, management
20 practices or other strategies utilized by residential, commercial,
21 industrial, institutional or government customers that reduce
22 electricity consumption by those customers;

23 (B) Load management or demand response technologies,
24 equipment, management practices, interruptible or curtailable

1 tariffs, energy storage devices or other strategies in residential,
2 commercial, industrial, institutional and government customers that
3 shift electric load from periods of higher demand to periods of
4 lower demand;

5 (C) Industrial by-product technologies consisting of the use
6 of a by-product from an industrial process, including, but not
7 limited to, the reuse of energy from exhaust gases or other
8 manufacturing by-products that can be used in the direct production
9 of electricity at the customer's facility;

10 (D) Customer-sited generation, demand-response, energy
11 efficiency or peak demand reduction capabilities, whether new or
12 existing, that the customer commits for integration into the
13 electric utility's demand-response, energy efficiency or peak
14 demand reduction programs; or

15 (E) Infrastructure and modernization projects that help
16 promote energy efficiency, reduce energy losses or shift load from
17 periods of higher demand to periods of lower demand, including the
18 modernization of metering and communications, (also known as "smart
19 grid"), distribution automation, energy storage, distributed energy
20 resources and investments to promote the electrification of
21 transportation.

22 (10) "Greenhouse gas emission reduction or offset project"
23 means a project to reduce or offset greenhouse gas emissions from
24 sources in this state other than the electric utility's own

1 generating and energy delivery operations. Greenhouse gas emission
2 reduction or offset projects include, but are not limited to:

3 (A) Methane capture and destruction from landfills, coal mines
4 or farms;

5 (B) Forestation, afforestation or reforestation; and

6 (C) Nitrous oxide or carbon dioxide sequestration through
7 reduced fertilizer use or no-till farming.

8 (11) "Net metering" means measuring the difference between
9 electricity supplied by an electric utility and electricity
10 generated from an alternative or renewable energy resource facility
11 owned or operated by an electric retail customer when any portion
12 of the electricity generated from the alternative or renewable
13 energy resource facility is used to offset part or all of the
14 electric retail customer's requirements for electricity.

15 (12) "Reclaimed surface mine" means a surface mine, as that
16 term is defined in section three, article three, chapter twenty-two
17 of this code, that is reclaimed or is being reclaimed in accordance
18 with state or federal law.

19 (13) "Renewable energy resource" means any of the following
20 resources, methods, projects or technologies for the production or
21 generation of electricity:

22 (A) Solar photovoltaic or other solar electric energy;

23 (B) Solar thermal energy;

24 (C) Wind power;

1 (D) Run of river hydropower;

2 (E) Geothermal energy, which means a technology by which
3 electricity is produced by extracting hot water or steam from
4 geothermal reserves in the earth's crust to power steam turbines
5 that drive generators to produce electricity;

6 (F) Biomass energy, which means a technology by which
7 electricity is produced from a nonhazardous organic material that
8 is available on a renewable or recurring basis, including pulp mill
9 sludge;

10 (G) Biologically derived fuel including methane gas, ethanol
11 or biodiesel fuel;

12 (H) Fuel cell technology, which means any electrochemical
13 device that converts chemical energy in a hydrogen-rich fuel
14 directly into electricity, heat and water without combustion;

15 (I) Recycled energy, which means useful thermal, mechanical or
16 electrical energy produced from: (i) Exhaust heat from any
17 commercial or industrial process; (ii) waste gas, waste fuel or
18 other forms of energy that would otherwise be flared, incinerated,
19 disposed of or vented; and (iii) electricity or equivalent
20 mechanical energy extracted from a pressure drop in any gas,
21 excluding any pressure drop to a condenser that subsequently vents
22 the resulting heat; and

23 (J) Any other resource, method, project or technology
24 certified by the commission as a renewable energy resource.

1 (14) "Renewable energy resource facility" means a facility or
2 equipment that generates electricity from renewable energy
3 resources.

4 (15) "Waste coal" means a technology by which electricity is
5 produced by the combustion of the by-product, waste or residue
6 created from processing coal, such as gob.

NOTE: The purpose of this bill is to enact the Marcellus Gas and Manufacturing Development Act of 2011 which encourages and facilitates the development of oil and gas wells and the downstream uses of natural gas in this state and economic development in this state associated with production and various downstream uses.

§5B-2H-1, §5B-2H-2, §11-1C-11C, §11-6D-9 and §11-13A-5b are new; therefore, they have been completely underscored.

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