

Senate Bill No. 519

(By Senators K. Facemyer and Minard)

[Introduced February 16, 2011; referred to the Committee on
Energy, Industry and Mining; and then to the Committee on
Finance.]

**FISCAL
NOTE**

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 §11-13BB-13 and §11-13BB-14; to amend and reenact §22A-1-4 of
16 said code; and to amend and reenact §22A-11-3 of said code,
17 all relating to providing a tax credit for purchase of
18 innovative mine safety technology; legislative findings and
19 purpose; definitions; requirements for list of approved
20 innovative mine safety technology; amount of tax credit
21 allowed; criteria for qualified investment; forfeiture of
22 unused tax credits; treatment for transfer of certified
23 eligible safety property to successors; setting forth
24 requirements for identification of investment credit property;

1 prescribing treatment for failure to keep records of certified
 2 eligible safety property; specifying tax credit review and
 3 accountability requirements; specifying requirement for
 4 disclosure of tax credits; authorizing rules; amending the
 5 duties of the Director of the West Virginia Office of Miners'
 6 Health, Safety and Training; amending the duties of the Mine
 7 Safety Technology Task Force; and specifying termination date.

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

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

16 **CHAPTER 11. TAXATION.**

17 **ARTICLE 13BB. WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY TAX**
 18 **CREDIT ACT.**

19 **§11-13BB-1. Short title.**

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

22 **§11-13BB-2. Legislative findings and purpose.**

23 The Legislature finds that the encouragement of new investment
 24 in innovative coal mine safety technology in this state is in the

1 public interest and promotes the general welfare of the people of
2 this state.

3 **§11-13BB-3. Definitions.**

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

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

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

11 (2) "Coal mining company" means:

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

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

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

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

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

3 (6) "List of approved innovative mine safety technology" means
4 the list required to be compiled and maintained by the Mine Safety
5 Technology Task Force and approved and published by the director
6 under this article.

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

11 (8) "Person" includes any corporation, limited liability
12 company, or partnership.

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

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

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

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

2 (i) Purchases or leases of realty or any cost for, or related
3 to, the construction of any building, facility or structure
4 attached to realty;

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

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

10 (iv) Motor vehicles licensed by the Department of Motor
11 Vehicles;

12 (v) Clothing;

13 (vi) Airplanes;

14 (vii) Off-premises transportation equipment;

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

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

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

23 (C) Acquisitions (including leases) of eligible safety
24 property may constitute qualified purchases for purposes of this

1 article only if:

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

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

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

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

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

24 **§11-13BB-4. List of approved innovative mine safety technology.**

1 (a) *List of approved innovative mine safety technology.* -- The
2 Mine Safety Technology Task Force, established in section two,
3 article eleven, chapter twenty-two-a of this code, shall annually
4 compile a proposed list of approved innovative mine safety
5 technologies. Such list shall be transmitted to the director for
6 approval. The director has thirty days to approve or amend the
7 list. At the expiration of thirty days, the director shall publish
8 the list of approved innovative mine safety technologies. The list
9 shall describe and specifically identify safety equipment for use
10 in West Virginia coal mines which, in the fiscal year when such
11 equipment is added to the list, is not required by the Mine Safety
12 and Health Administration of the United States Department of Labor
13 or the West Virginia Office Of Miners' Health, Safety And Training
14 or any other state or federal agency, to be used in a coal mine or
15 on a mine site or on any other industrial site. Safety equipment
16 shall remain on the list from year to year until the director
17 removes it from the list. The Office of Miners' Health, Safety and
18 Training may establish by legislative rule or interpretive rule a
19 shorter time period for issuance of and updating of the list of
20 approved innovative mine safety technologies.

21 (b) It is the intent of the Legislature that the list of
22 approved innovative mine safety technologies include only safety
23 equipment that is depreciable tangible personal property for
24 federal income tax purposes, which is so new to the industry and so

1 innovative in concept, design, operation or performance that, in
2 the fiscal year when it is added to the list of approved innovative
3 mine safety technologies, the equipment has not yet been adopted by
4 the Federal Mine Safety and Health Administration or the West
5 Virginia Office of Mine Safety or any other state or federal agency
6 as required equipment to be used in a coal mine or on a mine site
7 or on any other industrial site.

8 (c) *Delisting.* -- (1) If any item of equipment or any line of
9 equipment or class of equipment is listed on the list of approved
10 innovative mine safety technologies in any fiscal year, but then is
11 subsequently adopted by the Federal Mine Safety and Health
12 Administration or the West Virginia Office of Mine Safety or any
13 other state or federal agency as required equipment to be used in
14 a coal mine or on a mine site or on any other industrial site, such
15 equipment shall be removed from the list of approved innovative
16 mine safety technologies compiled and issued for the next
17 succeeding periodic issuance thereafter of the list of approved
18 innovative mine safety technologies.

19 (2) If it is determined by the director that any item of
20 equipment or any line of equipment or class of equipment that is
21 listed on the list of approved innovative mine safety technology
22 has ceased to be innovative in concept, design, operation or
23 performance, or is ineffective, or has failed to meet the
24 expectations of the Mine Safety Technology Task Force, or has

1 failed to prove its value in directly minimizing workplace injuries
2 and fatalities in coal mines, such equipment shall be removed from
3 the list of approved innovative mine safety technologies that is
4 compiled and issued for the next succeeding periodic issuance of
5 the list of approved innovative mine safety technologies after such
6 determination has been reached.

7 (3) However, any eligible taxpayer who invested in such
8 equipment as certified eligible safety property during the time
9 such equipment was lawfully listed on the list of approved
10 innovative mine safety technologies, shall not forfeit the credit
11 authorized by this article as a result of the delisting of the
12 equipment under either subdivision (1) or subdivision (2) of this
13 subsection, so long as the requirements of this article are
14 otherwise fulfilled by the taxpayer for entitlement to the credit.

15 **§11-13BB-5. Amount of credit allowed.**

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

20 (b) *Amount of credit allowable.* -- The amount of allowable
21 credit under this article is equal to fifty percent of the
22 qualified investment (as determined in section six of this
23 article), and shall reduce the business franchise tax imposed under
24 article twenty-three of this chapter and the corporation net income

1 tax imposed under article twenty-four of this chapter, in that
2 order, subject to the following conditions and limitations:

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

7 (2) *Business franchise tax.* -- The credit is applied to reduce
8 the business franchise tax imposed under article twenty-three of
9 this chapter (determined after application of the credits against
10 tax provided in section seventeen, article twenty-three of this
11 chapter, but before application of any other allowable credits
12 against tax). The amount of annual credit allowed will not reduce
13 the business franchise tax, imposed under article twenty-three of
14 this chapter, below fifty percent of the amount which would be
15 imposed for such taxable year in the absence of this credit against
16 tax.

17 (3) *Corporation net income tax.* -- After application of
18 subdivision (2) of this subsection, any unused credit is next
19 applied to reduce the corporation net income tax imposed under
20 article twenty-four of this chapter (determined before application
21 of any other allowable credits against tax). The amount of annual
22 credit allowed will not reduce corporation net income tax, imposed
23 under article twenty-four of this chapter, below fifty percent of
24 the amount which would be imposed for such taxable year in the

1 absence of this credit against tax.

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

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

18 (5) Small business corporations, limited liability companies,
19 partnerships and other unincorporated organizations shall allocate
20 any unused credit (after application of subdivisions (2) and (3) of
21 this subsection) among their members in the same manner as profits
22 and losses are allocated for the taxable year; and

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

1 (c) No carryover to a subsequent taxable year or carryback to
2 a prior taxable year is allowed for the amount of any unused
3 portion of any annual credit allowance. Such unused credit is
4 forfeited.

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

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

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

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

18 (f) The total amount of tax credit that may be used in any
19 taxable year by any eligible taxpayer in combination with the
20 owners of the eligible taxpayer under this article may not exceed
21 \$100,000.

22 (g) Applications for certification of the proposed tax credit
23 shall contain such information and be in such detail and in such
24 form as may be required by the Office of Miners' Health, Safety and

1 Training.

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

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

12 **§11-13BB-6. Qualified investment.**

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

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

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

23 (2) The taxable year in which the property is placed in a
24 condition or state of readiness and availability for a specifically

1 assigned function.

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

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

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

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

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

21 **§11-13BB-7. Forfeiture of unused tax credits.**

22 *Disposition of property or cessation of use.* -- If during any
23 taxable year, property with respect to which a tax credit has been
24 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 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 ten year credit period.

24 (b) *Transfer or sale to successor.* -- Certified eligible

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

18 **§11-13BB-9. Identification of investment credit property.**

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

- 22 (1) Its identity;
- 23 (2) Its actual or reasonably determined cost;
- 24 (3) Its straight-line depreciation life;

1 (4) The month and taxable year in which it was placed in
2 service;

3 (5) The amount of credit taken; and

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

6 **§11-13BB-10. Failure to keep records of certified eligible safety**
7 **property.**

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

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

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

1 **§11-13BB-11. Tax credit review and accountability.**

2 (a) Beginning on August 1, 2012, and August 1 of every third
3 year thereafter, the Tax Commissioner shall submit to the Governor,
4 the President of the Senate and the Speaker of the House of
5 Delegates a tax credit review and accountability report evaluating
6 the cost of the credit allowed under this article during the most
7 recent three-year period for which information is available. The
8 criteria to be evaluated includes, but is not limited to, for each
9 year of the three-year period:

10 (1) The numbers of taxpayers claiming the credit; and

11 (2) The cost of the credit;

12 (b) Taxpayers claiming the credit shall provide whatever
13 information the Tax Commissioner may require to prepare the report:
14 *Provided*, That the information is subject to the confidentiality
15 and disclosure provisions of sections five-d and five-s, article
16 ten of this chapter. If, in any reporting period under this
17 section, fewer than ten eligible taxpayers have taken or applied
18 for the credit authorized under this article, then no report shall
19 be filed for that reporting period under this section.

20 **§11-13BB-12. Disclosure of tax credits.**

21 Notwithstanding section five-d, article ten of this chapter or
22 any other provision in this code to the contrary, the Tax
23 Commissioner shall annually publish in the State Register the name
24 and address of every eligible taxpayer and the amount of any tax

1 credit asserted under this article.

2 **§11-13BB-13. Rules.**

3 The Tax Commissioner and the Office of Miners' Health, Safety
4 and Training may each promulgate rules in accordance with article
5 three, chapter twenty-nine-a of this code to carry out the policy
6 and purposes of this article, to provide any necessary
7 clarification of the provisions of this article and to efficiently
8 provide for the general administration of this article.

9 **§11-13BB-14. Severability.**

10 (a) If any provision of this article or the application
11 thereof shall for any reason be adjudged by any court of competent
12 jurisdiction to be invalid, such judgment shall not affect, impair
13 or invalidate the remainder of said article, but shall be confined
14 in its operation to the provision thereof directly involved in the
15 controversy in which such judgment shall have been rendered, and
16 the applicability of such provision to other persons or
17 circumstances shall not be affected thereby.

18 (b) If any provision of this article or the application
19 thereof shall be made invalid or inapplicable by reason of the
20 failure of the Legislature to enact any statute therein addressed
21 or referred to, or by reason of the repeal or any other
22 invalidation of any statute therein addressed or referred to, such
23 failure to reenact on such repeal or invalidation of any such
24 statute shall not affect, impair or invalidate the remainder of the

1 said article, but shall be confined in its operation to the
2 provision thereof directly involved with, pertaining to, addressing
3 or referring to the said statute, and the application of such
4 provision with regard to other statutes or in other instances not
5 affected by any such invalid or repealed statute shall not be
6 abrogated or diminished in any way.

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

8 **ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;**
9 **ADMINISTRATION; ENFORCEMENT.**

10 **§22A-1-4. Powers and duties of the Director of the Office of**
11 **Miners' Health, Safety and Training.**

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

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

22 (1) Supervise and direct the execution and enforcement of the
23 provisions of this article.

24 (2) Employ such assistants, clerks, stenographers and other

1 employees as may be necessary to fully and effectively carry out
2 his or her responsibilities and fix their compensation, except as
3 otherwise provided in this article.

4 (3) Assign mine inspectors to divisions or districts in
5 accordance with the provisions of section eight of this article as
6 may be necessary to fully and effectively carry out the provisions
7 of this law, including the training of inspectors for the
8 specialized requirements of surface mining, shaft and slope sinking
9 and surface installations and to supervise and direct such mine
10 inspectors in the performance of their duties.

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

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

17 (6) Hear and determine applications made by mine operators for
18 the annulment or revision of orders made by mine inspectors, and to
19 make inspections of mines, in accordance with the provisions of
20 this article.

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

23 (8) Make annually a full and complete written report of the
24 administration of the office to the Governor and the Legislature of

1 the state for the year ending June 30. The report shall include
2 the number of visits and inspections of mines in the state by mine
3 inspectors, the quantity of coal, coke and other minerals
4 (excluding oil and gas) produced in the state, the number of
5 individuals employed, number of mines in operation, statistics with
6 regard to health and safety of persons working in the mines
7 including the causes of injuries and deaths, improvements made,
8 prosecutions, the total funds of the office from all sources
9 identifying each source of such funds, the expenditures of the
10 office, the surplus or deficit of the office at the beginning and
11 end of the year, the amount of fines collected, the amount of fines
12 imposed, the value of fines pending, the number and type of
13 violations found, the amount of fines imposed, levied and turned
14 over for collection, the total amount of fines levied but not paid
15 during the prior year, the titles and salaries of all inspectors
16 and other officials of the office, the number of inspections made
17 by each inspector, the number and type of violations found by each
18 inspector. ~~Provided, That~~ However, no inspector may be identified
19 by name in this report. Such reports shall be filed with the
20 Governor and the Legislature on or before December 31 of the same
21 year for which it was made, and shall upon proper authority be
22 printed and distributed to interested persons.

23 (9) Call or subpoena witnesses, for the purpose of conducting
24 hearings into mine fires, mine explosions or any mine accident; to

1 administer oaths and to require production of any books, papers,
2 records or other documents relevant or material to any hearing,
3 investigation or examination of any mine permitted by this chapter.
4 Any witness so called or subpoenaed shall receive \$40 per diem and
5 shall receive mileage at the rate of \$0.15 for each mile actually
6 traveled, which shall be paid out of the State Treasury upon a
7 requisition upon the State Auditor, properly certified by such
8 witness.

9 (10) Institute civil actions for relief, including permanent
10 or temporary injunctions, restraining orders, or any other
11 appropriate action in the appropriate federal or state court
12 whenever any operator or the operator's agent violates or fails or
13 refuses to comply with any lawful order, notice or decision issued
14 by the director or his or her representative.

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

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

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

21 (14) Prepare study guides and other forms of publications
22 relating to mine safety and charge a reasonable fee for the sale of
23 the publications.

24 (15) Make all records of the office open for inspection of

1 interested persons and the public.

2 (c) The Director of the Office of Miners' Health, Safety and
3 Training, or his or her designee, upon receipt of the list of
4 approved innovative mine safety technologies from the Mine Safety
5 Technology Task force, has thirty days to approve or amend the list
6 as provided in section four, article thirteen-aa, chapter eleven of
7 this code. At the expiration of the time period, the director
8 shall publish the list of approved innovative mine safety
9 technologies as provided in section four, article thirteen-aa,
10 chapter eleven of this code.

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

12 **§22A-11-3. Task force powers and duties.**

13 (a) The task force shall provide technical and other
14 assistance to the office related to the implementation of the new
15 technological requirements set forth in the provisions of section
16 fifty-five, article two, of this chapter, as amended and reenacted
17 during the regular session of the Legislature in 2006 and
18 requirements for other mine safety technologies.

19 (b) The task force, working in conjunction with the director,
20 shall continue to study issues regarding the commercial
21 availability, the functional and operational capability and the
22 implementation, compliance and enforcement of the following
23 protective equipment:

24 (1) Self-contained self-rescue devices, as provided in

1 subsection (f), section fifty-five, article two of this chapter;

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

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

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

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

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

14 (2) Opportunities for improving the integration of
15 technologies and procedures to increase the performance and
16 survivability of coal mine health and safety systems;

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

19 (4) Market forces impacting the development of new
20 technologies, including issues regarding the costs of research and
21 development, regulatory certification and incentives designed to
22 stimulate the marketplace.

23 (d) On or before July 1 of each year, the task force shall
24 submit a report to the Governor and the board of Coal Mine Health

1 and Safety that shall include, but not be limited to:

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

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

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

11 (4) Any other information the task force considers
12 appropriate.

13 (e) In performing its duties, the task force shall, where
14 possible, consult with, among others, mine engineering and mine
15 safety experts, radiocommunication and telemetry experts and
16 relevant state and federal regulatory personnel.

17 (f) The task force shall annually compile a proposed list of
18 approved innovative mine safety technologies and transmit the list
19 to the Director of the Office of Miners' Health, Safety and
20 Training as provided in section four, article thirteen-aa, chapter
21 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.