

H. B. 2020

(By Delegates Skaiff, Hamilton and Hall)

[Introduced January 12, 2011; referred to the

Committee on Energy, Industry and Labor, Economic
Development and Small Business then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §11-13BB-1,
§11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6,
§11-13BB-7, §11-13BB-8, §11-13BB-9, §11-13BB-10, §11-13BB-11,
§11-13BB-12, §11-13BB-13 and §11-13BB-14; to amend and reenact
§22A-1-4 of said code; and to amend and reenact §22A-11-3 of
said code, all relating to providing a tax credit for purchase
of innovative mine safety technology; specifying short title;
specifying legislative findings and purpose; specifying
definitions; specifying requirements for list of approved
innovative mine safety technology; specifying amount of tax
credit allowed; specifying criteria for qualified investment;
specifying forfeiture of unused tax credits; specifying
treatment for transfer of certified eligible safety property
to successors; setting forth requirements for identification

of investment credit property; prescribing treatment for failure to keep records of certified eligible safety property; specifying tax credit review and accountability requirements; specifying requirement for disclosure of tax credits; authorizing issuance of rules; amending the duties of the Director of the West Virginia Office of Miners' Health, Safety and Training; and amending the duties of the Mine Safety Technology Task Force.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 11. TAXATION.

ARTICLE 13BB. WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY TAX

CREDIT ACT.

§11-13BB-1. Short title.

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

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

1 The Legislature finds that the encouragement of new investment
2 in innovative coal mine safety technology in this state is in the
3 public interest and promotes the general welfare of the people of
4 this state.

5 **§11-13BB-3. Definitions.**

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

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

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

13 (2) "Coal mining company" means:

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

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

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

24 (4) "Eligible safety property" means safety technology

1 equipment, that at the time of acquisition, is on the list of
2 approved innovative mine safety technology.

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

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

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

13 (8) "Person" includes any corporation, limited liability
14 company, or partnership.

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

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

20 (A) A lease of eligible safety property may constitute a
21 qualified purchase if the lease was entered into and became
22 effective at a time when the equipment is on the list of approved
23 innovative mine safety technology, and if the primary term of the
24 lease for the eligible safety property is five years or more.

1 Leases having a primary term of less than five years do not
2 qualify.

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

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

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

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

12 (iv) Motor vehicles licensed by the Department of Motor
13 Vehicles;

14 (v) Clothing;

15 (vi) Airplanes;

16 (vii) Off-premises transportation equipment;

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

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

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

1 (B) Acquisitions (including leases) of eligible safety
2 property may constitute qualified purchases for purposes of this
3 article only if:

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

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

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

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

23 (12) "Taxpayer" means any person subject to any of the taxes
24 imposed by article thirteen-a, twenty-three or twenty-four of this

1 chapter (or any combination of those articles of this chapter).

2 **§11-13BB-4. List of approved innovative mine safety technology.**

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

24 (b) It is the intent of the Legislature that the list of

1 approved innovative mine safety technologies include only safety
2 equipment that is depreciable tangible personal property for
3 federal income tax purposes, which is so new to the industry and so
4 innovative in concept, design, operation or performance that, in
5 the fiscal year when it is added to the list of approved innovative
6 mine safety technologies, the equipment has not yet been adopted by
7 the Federal Mine Safety and Health Administration or the West
8 Virginia Office of Mine Safety or any other state or federal agency
9 as required equipment to be used in a coal mine or on a mine site
10 or on any other industrial site.

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

22 (2) If it is determined by the director that any item of
23 equipment or any line of equipment or class of equipment that is
24 listed on the list of approved innovative mine safety technology

1 has ceased to be innovative in concept, design, operation or
2 performance, or is ineffective, or has failed to meet the
3 expectations of the Mine Safety Technology Task Force, or has
4 failed to prove its value in directly minimizing workplace injuries
5 and fatalities in coal mines, such equipment shall be removed from
6 the list of approved innovative mine safety technologies that is
7 compiled and issued for the next succeeding periodic issuance of
8 the list of approved innovative mine safety technologies after such
9 determination has been reached.

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

18 **§11-13BB-5. Amount of credit allowed.**

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

23 (b) Amount of credit allowable. -- The amount of allowable
24 credit under this article is equal to fifty percent of the

1 qualified investment (as determined in section six of this
2 article), and shall reduce the business franchise tax imposed under
3 article twenty-three of this chapter and the corporation net income
4 tax imposed under article twenty-four of this chapter, in that
5 order, subject to the following conditions and limitations:

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

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

20 (3) *Corporation net income tax.* -- After application of
21 subdivision (2) of this subsection, any unused credit is next
22 applied to reduce the corporation net income tax imposed under
23 article twenty-four of this chapter (determined before application
24 of any other allowable credits against tax). The amount of annual

1 credit allowed will not reduce corporation net income tax, imposed
2 under article twenty-four of this chapter, below fifty percent of
3 the amount which would be imposed for such taxable year in the
4 absence of this credit against tax.

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

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

21 (5) Small business corporations, limited liability companies,
22 partnerships and other unincorporated organizations shall allocate
23 any unused credit (after application of subdivisions (2) and (3) of
24 this subsection) among their members in the same manner as profits

1 and losses are allocated for the taxable year; and

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) The taxable year in which, under the taxpayer's
24 depreciation practice, the period for federal income tax

1 depreciation with respect to the property begins; or

2 (2) The taxable year in which the property is placed in a
3 condition or state of readiness and availability for a specifically
4 assigned function.

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

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

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

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

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

1 **§11-13BB-7. Forfeiture of unused tax credits.**

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

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

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

14 **§11-13BB-8. Transfer of certified eligible safety property to**
15 **successors.**

16 (a) Mere change in form of business. -- Certified eligible
17 safety property may not be treated as disposed of under section
18 seven of this article, by reason of a mere change in the form of
19 conducting the business as long as the certified eligible safety
20 property is retained in a business in this state for use in a coal
21 mine in West Virginia, and the taxpayer retains a controlling
22 interest in the successor business. In this event, the successor
23 business is allowed to claim the amount of credit still available

1 with respect to the certified eligible safety property transferred,
2 and the taxpayer (transferor) may not be required to forfeit the
3 credit for the years remaining at the time of transfer in the
4 original ten-year credit period.

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

23 **§11-13BB-9. Identification of investment credit property.**

24 Every taxpayer who claims credit under this article shall

1 maintain sufficient records to establish the following facts for
2 each item of certified eligible safety property:

3 _____ (1) Its identity;

4 _____ (2) Its actual or reasonably determined cost;

5 _____ (3) Its straight-line depreciation life;

6 _____ (4) The month and taxable year in which it was placed in
7 service;

8 _____ (5) The amount of credit taken; and

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

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

13 _____ A taxpayer who does not keep the records required for
14 certified eligible safety property and the credit authorized under
15 this article, is subject to the following rules:

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

20 _____ (2) If a taxpayer cannot establish when certified eligible
21 safety property reported for purposes of claiming this credit
22 returned during the taxable year was placed in service, the
23 taxpayer is treated as having placed it in service in the most
24 recent prior year in which similar property was placed in service,

1 unless the taxpayer can establish that the property placed in
2 service in the most recent year is still on hand and used in a coal
3 mine in this state at the end of that year. In that event, the
4 taxpayer will be treated as having placed the returned property in
5 service in the next most recent year.

6 **§11-13BB-11. Tax credit review and accountability.**

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

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

16 (2) The cost of the credit;

17 (b) Taxpayers claiming the credit shall provide whatever
18 information the Tax Commissioner may require to prepare the report:

19 Provided, That the information is subject to the confidentiality
20 and disclosure provisions of sections five-d and five-s, article
21 ten of this chapter. If, in any reporting period under this
22 section, fewer than ten eligible taxpayers have taken or applied
23 for the credit authorized under this article, then no report shall
24 be filed for that reporting period under this section.

1 **§11-13BB-12. Disclosure of tax credits.**

2 Notwithstanding section five-d, article ten of this chapter or
3 any other provision in this code to the contrary, the Tax
4 Commissioner shall annually publish in the State Register the name
5 and address of every eligible taxpayer and the amount of any tax
6 credit asserted under this article.

7 **§11-13BB-13. Rules.**

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

14 **§11-13BB-14. Severability.**

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

23 (b) If any provision of this article or the application
24 thereof shall be made invalid or inapplicable by reason of the

1 failure of the Legislature to enact any statute therein addressed
2 or referred to, or by reason of the repeal or any other
3 invalidation of any statute therein addressed or referred to, such
4 failure to reenact on such repeal or invalidation of any such
5 statute shall not affect, impair or invalidate the remainder of the
6 said article, but shall be confined in its operation to the
7 provision thereof directly involved with, pertaining to, addressing
8 or referring to the said statute, and the application of such
9 provision with regard to other statutes or in other instances not
10 affected by any such invalid or repealed statute shall not be
11 abrogated or diminished in any way.

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

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

15 **§22A-1-4. Powers and duties of the Director of the Office of**
16 **Miners' Health, Safety and Training.**

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

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

4 (1) Supervise and direct the execution and enforcement of the
5 provisions of this article.

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

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

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

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

23 (6) Hear and determine applications made by mine operators for
24 the annulment or revision of orders made by mine inspectors, and to

1 make inspections of mines, in accordance with the provisions of
2 this article.

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

5 (8) Make annually a full and complete written report of the
6 administration of the office to the Governor and the Legislature of
7 the state for the year ending June 30. The report shall include
8 the number of visits and inspections of mines in the state by mine
9 inspectors, the quantity of coal, coke and other minerals
10 (excluding oil and gas) produced in the state, the number of
11 individuals employed, number of mines in operation, statistics with
12 regard to health and safety of persons working in the mines
13 including the causes of injuries and deaths, improvements made,
14 prosecutions, the total funds of the office from all sources
15 identifying each source of such funds, the expenditures of the
16 office, the surplus or deficit of the office at the beginning and
17 end of the year, the amount of fines collected, the amount of fines
18 imposed, the value of fines pending, the number and type of
19 violations found, the amount of fines imposed, levied and turned
20 over for collection, the total amount of fines levied but not paid
21 during the prior year, the titles and salaries of all inspectors
22 and other officials of the office, the number of inspections made
23 by each inspector, the number and type of violations found by each
24 inspector. ~~Provided, That~~ However, no inspector may be identified

1 by name in this report. Such reports shall be filed with the
2 Governor and the Legislature on or before December 31 of the same
3 year for which it was made, and shall upon proper authority be
4 printed and distributed to interested persons.

5 (9) Call or subpoena witnesses, for the purpose of conducting
6 hearings into mine fires, mine explosions or any mine accident; to
7 administer oaths and to require production of any books, papers,
8 records or other documents relevant or material to any hearing,
9 investigation or examination of any mine permitted by this chapter.
10 Any witness so called or subpoenaed shall receive \$40 per diem and
11 shall receive mileage at the rate of \$0.15 For each mile actually
12 traveled, which shall be paid out of the State Treasury upon a
13 requisition upon the State Auditor, properly certified by such
14 witness.

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

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

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

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

3 (14) Prepare study guides and other forms of publications
4 relating to mine safety and charge a reasonable fee for the sale of
5 the publications.

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

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

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

18 **§22A-11-3. Task force powers and duties.**

19 (a) The task force shall provide technical and other
20 assistance to the office related to the implementation of the new
21 technological requirements set forth in the provisions of section
22 fifty-five, article two, of this chapter, as amended and reenacted
23 during the regular session of the Legislature in the year 2006, and
24 requirements for other mine safety technologies.

1 (b) The task force, working in conjunction with the director,
2 shall continue to study issues regarding the commercial
3 availability, the functional and operational capability and the
4 implementation, compliance and enforcement of the following
5 protective equipment:

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

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

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

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

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

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

20 (2) Opportunities for improving the integration of
21 technologies and procedures to increase the performance and
22 survivability of coal mine health and safety systems;

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

1 (4) Market forces impacting the development of new
2 technologies, including issues regarding the costs of research and
3 development, regulatory certification and incentives designed to
4 stimulate the marketplace.

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

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

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

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

17 (4) Any other information the task force considers
18 appropriate.

19 (e) In performing its duties, the task force shall, where
20 possible, consult with, among others, mine engineering and mine
21 safety experts, radiocommunication and telemetry experts and
22 relevant state and federal regulatory personnel.

23 (f) Appropriations to the task force commission and to
24 effectuate the purposes of this article shall be made to one or

1 more budget accounts established for that purpose.

2 (g) The task force shall annually compile a proposed list of
3 approved innovative mine safety technologies and transmit the list
4 to the Director of the Office of Miners' Health, Safety and
5 Training as provided in section four, article thirteen-bb, chapter
6 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, it has been completely underscored.