

SB 507 (veto)

FILED
2010 MAR 25 PM 3:40
OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 507

(SENATORS K. FACEMYER, CARUTH,
STOLLINGS AND SYPOLT, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

FILED
2010 MAR 25 PM 3:40
CLARENCE M. BROWN
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 507

(Senators K. Facemyer, Caruth, Stollings
and Sypolt, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13AA-1, §11-13AA-2, §11-13AA-3, §11-13AA-4, §11-13AA-5, §11-13AA-6, §11-13AA-7, §11-13AA-8, §11-13AA-9, §11-13AA-10, §11-13AA-11, §11-13AA-12, §11-13AA-13, §11-13AA-14 and §11-13AA-15; 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; legislative findings and purpose; definitions; requirements for list of approved innovative mine safety technology; amount of tax credit allowed; criteria for qualified investment; forfeiture of unused tax credits; 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 rules; amending the duties of the Director of the West Virginia Office of Miners' Health, Safety and Training; amending the duties of the Mine Safety Technology Task Force; and specifying termination date.

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 §11-13AA-1, §11-13AA-2, §11-13AA-3, §11-13AA-4, §11-13AA-5, §11-13AA-6, §11-13AA-7, §11-13AA-8, §11-13AA-9, §11-13AA-10, §11-13AA-11, §11-13AA-12, §11-13AA-13 and §11-13AA-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 13AA. WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY TAX CREDIT ACT.

§11-13AA-1. Short title.

1 This article may be cited as the "West Virginia Innova-
2 tive Mine Safety Technology Tax Credit Act."

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

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

§11-13AA-3. Definitions.

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

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

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

10 (2) “Coal mining company” means:

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

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

18 (3) “Director” means the Director of the Office of Min-
19 ers’ Health, Safety and Training or West Virginia Office of
20 Miners’ Health, Safety and Training established under
21 article one, chapter 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.

25 (5) “Eligible taxpayer” means a coal mining company
26 which purchases eligible safety property.

27 (6) “List of approved innovative mine safety technology”
28 means the list required to be compiled and maintained by
29 the Mine Safety Technology Task Force and approved and
30 published by the director under this article.

31 (7) “Office of Miners’ Health, Safety and Training” or
32 “West Virginia Office of Miners’ Health, Safety and
33 Training” means the Office of Miners’ Health, Safety and
34 Training established under article one, chapter twenty
35 two-a of this code.

36 (8) "Person" includes any corporation, limited liability
37 company, or partnership.

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

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

44 (A) A lease of eligible safety property may constitute a
45 qualified purchase if the lease was entered into and
46 became effective at a time when the equipment is on the
47 list of approved innovative mine safety technology, and if
48 the primary term of the lease for the eligible safety
49 property is five years or more. Leases having a primary
50 term of less than five years do not qualify.

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

52 (i) Purchases or leases of realty or any cost for, or related
53 to, the construction of any building, facility or structure
54 attached to realty;

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

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

60 (iv) Motor vehicles licensed by the Department of Motor
61 Vehicles;

62 (v) Clothing;

63 (vi) Airplanes;

64 (vii) Off-premises transportation equipment;

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

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

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

74 (C) Acquisitions, including leases, of eligible safety
75 property may constitute qualified purchases for purposes
76 of this article only if:

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

82 (ii) The property is not acquired from a related person or
83 by one component member of a controlled group from
84 another component member of the same controlled group.
85 The Tax Commissioner may waive this requirement if the
86 property was acquired from a related party for its then
87 fair market value; and

88 (iii) The basis of the property for federal income tax
89 purposes, in the hands of the person acquiring it, is not
90 determined, in whole or in part, by reference to the federal
91 adjusted basis of the property in the hands of the person
92 from whom it was acquired; or under Section 1014(e) of
93 the United States Internal Revenue Code of 1986, as
94 amended.

95 (11) "Safety technology" means depreciable tangible
96 personal property and equipment, other than clothing,

97 principally designed to directly minimize workplace
98 injuries and fatalities in coal mines.

99 (12) "Taxpayer" means any person subject to any of the
100 taxes imposed by article thirteen-a, twenty-three or
101 twenty-four of this chapter.

§11-13AA-4. List of approved innovative mine safety technology.

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

25 (b) It is the intent of the Legislature that the list of
26 approved innovative mine safety technologies include only
27 safety equipment that is depreciable tangible personal
28 property for federal income tax purposes, which is so new

29 to the industry and so innovative in concept, design,
30 operation or performance that, in the fiscal year when it is
31 added to the list of approved innovative mine safety
32 technologies, the equipment has not yet been adopted by
33 the Federal Mine Safety and Health Administration or the
34 West Virginia Office of Miners Health, Safety and Train-
35 ing or any other state or federal agency as required
36 equipment to be used in a coal mine or on a mine site or on
37 any other industrial site.

38 (c) *Delisting.* – (1) If any item of equipment or any line
39 of equipment or class of equipment is listed on the list of
40 approved innovative mine safety technologies in any fiscal
41 year, but then is subsequently adopted by the Federal
42 Mine Safety and Health Administration or the West
43 Virginia Office of Mine Safety or any other state or federal
44 agency as required equipment to be used in a coal mine or
45 on a mine site or on any other industrial site, the equip-
46 ment shall be removed from the list of approved innova-
47 tive mine safety technologies compiled and issued for the
48 next succeeding periodic issuance thereafter of the list of
49 approved innovative mine safety technologies.

50 (2) If it is determined by the director that any item of
51 equipment or any line of equipment or class of equipment
52 that is listed on the list of approved innovative mine safety
53 technology has ceased to be innovative in concept, design,
54 operation or performance, or is ineffective, or has failed to
55 meet the expectations of the Mine Safety Technology Task
56 Force, or has failed to prove its value in directly minimiz-
57 ing workplace injuries and fatalities in coal mines, the
58 equipment shall be removed from the list of approved
59 innovative mine safety technologies that is compiled and
60 issued for the next succeeding periodic issuance of the list
61 of approved innovative mine safety technologies after the
62 determination has been reached.

63 (3) However, any eligible taxpayer who invested in the
64 equipment as certified eligible safety property during the

65 time the equipment was lawfully listed on the list of
66 approved innovative mine safety technologies, shall not
67 forfeit the credit authorized by this article as a result of
68 the delisting of the equipment under either subdivision (1)
69 or subdivision (2) of this subsection, so long as the require-
70 ments of this article are otherwise fulfilled by the taxpayer
71 for entitlement to the credit.

§11-13AA-5. Amount of credit allowed.

1 (a) *Credit allowed.* – For tax years beginning after
2 December 31, 2010, there is allowed to eligible taxpayers
3 a credit against the taxes imposed by articles twenty-three
4 and twenty-four of this chapter. The amount of credit
5 shall be determined as provided in this section.

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

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

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

27 imposed for the taxable year in the absence of this credit
28 against tax.

29 (3) *Corporation net income tax.* – After application of
30 subdivision (2) of this subsection, any unused credit is next
31 applied to reduce the corporation net income tax imposed
32 under article twenty-four of this chapter determined
33 before application of any other allowable credits against
34 tax. The amount of annual credit allowed will not reduce
35 corporation net income tax, imposed under article twenty-
36 four of this chapter, below fifty percent of the amount
37 which would be imposed for the taxable year in the
38 absence of this credit against tax.

39 (4) *Pass-through entities.* – (A) If the eligible taxpayer
40 is a limited liability company, small business corporation
41 or a partnership, then any unused credit after application
42 of subdivisions (2) and (3) of this subsection is allowed as
43 a credit against the taxes imposed by article twenty-four
44 of this chapter on owners of the eligible taxpayer on the
45 conduit income directly derived from the eligible taxpayer
46 by its owners. Only those portions of the tax imposed by
47 article twenty-four of this chapter that are imposed on
48 income directly derived by the owner from the eligible
49 taxpayer are subject to offset by this credit.

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

56 (5) Small business corporations, limited liability compa-
57 nies, partnerships and other unincorporated organizations
58 shall allocate any unused credit after application of
59 subdivisions (2) and (3) of this subsection) among their
60 members in the same manner as profits and losses are
61 allocated for the taxable year; and

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

64 (c) No carryover to a subsequent taxable year or
65 carryback to a prior taxable year is allowed for the
66 amount of any unused portion of any annual credit
67 allowance. Any unused credit is forfeited.

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

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

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

77 (e) No more than \$2 million of the tax credits allowed
78 under this article shall be allocated by the Office of
79 Miners' Health, Safety and Training during any fiscal
80 year. The Office of Miners' Health, Safety and Training
81 shall allocate the tax credits in the order the applications
82 therefor are received.

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

87 (g) Applications for certification of the proposed tax
88 credit shall contain such information and be in such detail
89 and in such form as required by the Office of Miners'
90 Health, Safety and Training.

91 (h) The Tax Commissioner may prescribe the forms and
92 schedules as necessary or appropriate for effective,
93 efficient and lawful administration of this article.

94 (i) Notwithstanding the provisions of section five-d,
95 article ten of this chapter, and notwithstanding any other
96 provision of this code, the Tax Commissioner and Office of
97 Miners' Health, Safety and Training may exchange tax
98 information and other information as determined by the
99 Tax Commissioner to be useful and necessary for the
100 effective oversight and administration of the credit
101 authorized pursuant to this article.

§11-13AA-6. Qualified investment.

1 (a) *General.* – The qualified investment is one hundred
2 percent of the cost for eligible safety property pursuant to
3 a qualified purchase, which is placed in service or use in
4 this state by the eligible taxpayer during the tax year.

5 (b) *Placed in service or use.* – For purposes of the credit
6 allowed by this article, property is considered placed in
7 service or use in the earlier of the following taxable years:

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

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

14 (c) *Cost.* – For purposes of this article, the cost for
15 eligible safety property pursuant to a qualified purchase
16 is determined under the following rules:

17 (1) *Trade-ins.* – Cost for eligible safety property will not
18 include the value of property given in trade or exchange
19 for eligible safety property pursuant to a qualified pur-
20 chase;

21 (2) *Damaged, destroyed or stolen property.* – If eligible
22 safety property is damaged or destroyed by fire, flood,
23 storm or other casualty, or is stolen, then the cost for

24 replacement of the eligible safety property, will not
25 include any insurance proceeds received in compensation
26 for the loss;

27 (3) *Rental property.* – The cost for eligible safety
28 property acquired by lease for a term of at least five years
29 or longer is one hundred percent of the rent reserved for
30 the primary term of the lease, not to exceed ten years; and

31 (4) *Property purchased for multiple use.* – Any cost of
32 acquisition of property that is not principally and directly
33 used to minimize workplace injuries and fatalities in a
34 coal mine does not qualify as qualified investment for
35 purposes of this article.

§11-13AA-7. Forfeiture of unused tax credits.

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

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

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

§11-13AA-8. Transfer of certified eligible safety property to successors.

1 (a) *Mere change in form of business.* – Certified eligible
2 safety property may not be treated as disposed of under
3 section seven of this article, by reason of a mere change in
4 the form of conducting the business as long as the certified

5 eligible safety property is retained in a business in this
6 state for use in a coal mine in West Virginia, and the
7 taxpayer retains a controlling interest in the successor
8 business. In this event, the successor business is allowed
9 to claim the amount of credit still available with respect
10 to the certified eligible safety property transferred, and
11 the taxpayer (transferor) may not be required to forfeit the
12 credit for the years remaining at the time of transfer in the
13 original five year credit period.

14 (b) *Transfer or sale to successor.* – Certified eligible
15 safety property will not be treated as disposed of under
16 section seven of this article by reason of any transfer or
17 sale to a successor business which continues to use the
18 certified eligible safety property in a coal mine in West
19 Virginia. Upon transfer or sale, the successor shall acquire
20 the amount of credit that remains available under this
21 article in the original five year credit period for each
22 subsequent taxable year, and the transferor shall not be
23 required to forfeit the credit for subsequent years. Upon
24 transfer or sale, the successor shall acquire the amount of
25 credit that remains available under this article for each
26 taxable year subsequent to the taxable year of the trans-
27 feror during which the transfer occurred and, for the year
28 of transfer, an amount of annual credit for the year in the
29 same proportion as the number of days remaining in the
30 transferor's taxable year bears to the total number of days
31 in the taxable year and the transferor shall not be required
32 to redetermine the amount of credit allowed in earlier
33 years.

§11-13AA-9. Identification of investment credit property.

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

4 (1) Its identity;

- 5 (2) Its actual or reasonably determined cost;
- 6 (3) Its straight-line depreciation life;
- 7 (4) The month and taxable year in which it was placed in
8 service;
- 9 (5) The amount of credit taken; and
- 10 (6) The date it was disposed of or otherwise ceased to be
11 actively and directly used in a coal mine in this state.

§11-13AA-10. Failure to keep records of certified eligible safety property.

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

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

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

§11-13AA-11. Tax credit review and accountability.

1 (a) Beginning on August 1, 2011, and August 1 of every
2 year thereafter, the Tax Commissioner shall submit to the

3 Governor, the President of the Senate and the Speaker of
4 the House of Delegates a tax credit review and account-
5 ability report evaluating the cost of the credit allowed
6 under this article during the most recent period for which
7 information is available. The criteria to be evaluated
8 includes, but is not limited to, for each year:

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

10 (2) The cost of the credit.

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

§11-13AA-12. Disclosure of tax credits.

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

§11-13AA-13. Rules.

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

§11-13AA-14. Termination.

- 1 The tax credit authorized in this article shall terminate
- 2 December 31, 2013.

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

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

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

1 (a) The Director of the Office of Miners' Health, Safety
2 and Training is hereby empowered and it is his or her duty
3 to administer and enforce such provisions of this chapter
4 relating to health and safety inspections and enforcement
5 and training in surface and underground coal mines,
6 underground clay mines, open pit mines, cement manufac-
7 turing plants and underground limestone and sandstone
8 mines.

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

12 (1) Supervise and direct the execution and enforcement
13 of the provisions of this article.

14 (2) Employ such assistants, clerks, stenographers and
15 other employees as may be necessary to fully and effec-
16 tively carry out his or her responsibilities and fix their
17 compensation, except as otherwise provided in this article.

18 (3) Assign mine inspectors to divisions or districts in
19 accordance with the provisions of section eight of this
20 article as may be necessary to fully and effectively carry
21 out the provisions of this law, including the training of
22 inspectors for the specialized requirements of surface
23 mining, shaft and slope sinking and surface installations

24 and to supervise and direct such mine inspectors in the
25 performance of their duties.

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

29 (5) Prepare report forms to be used by mine inspectors in
30 making their findings, orders and notices, upon inspec-
31 tions made in accordance with this article.

32 (6) Hear and determine applications made by mine
33 operators for the annulment or revision of orders made by
34 mine inspectors, and to make inspections of mines, in
35 accordance with the provisions of this article.

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

39 (8) Make annually a full and complete written report of
40 the administration of the office to the Governor and the
41 Legislature of the state for the year ending June 30. The
42 report shall include the number of visits and inspections of
43 mines in the state by mine inspectors, the quantity of coal,
44 coke and other minerals (excluding oil and gas) produced
45 in the state, the number of individuals employed, number
46 of mines in operation, statistics with regard to health and
47 safety of persons working in the mines including the
48 causes of injuries and deaths, improvements made, prose-
49 cutions, the total funds of the office from all sources
50 identifying each source of such funds, the expenditures of
51 the office, the surplus or deficit of the office at the begin-
52 ning and end of the year, the amount of fines collected, the
53 amount of fines imposed, the value of fines pending, the
54 number and type of violations found, the amount of fines
55 imposed, levied and turned over for collection, the total
56 amount of fines levied but not paid during the prior year,
57 the titles and salaries of all inspectors and other officials

58 of the office, the number of inspections made by each
59 inspector, the number and type of violations found by each
60 inspector. However, no inspector may be identified by
61 name in this report. The reports shall be filed with the
62 Governor and the Legislature on or before December 31 of
63 the same year for which it was made, and shall upon
64 proper authority be printed and distributed to interested
65 persons.

66 (9) Call or subpoena witnesses, for the purpose of
67 conducting hearings into mine fires, mine explosions or
68 any mine accident; to administer oaths and to require
69 production of any books, papers, records or other docu-
70 ments relevant or material to any hearing, investigation or
71 examination of any mine permitted by this chapter. Any
72 witness so called or subpoenaed shall receive \$40 per diem
73 and shall receive mileage at the rate of \$0.15 for each mile
74 actually traveled, which shall be paid out of the State
75 Treasury upon a requisition upon the State Auditor,
76 properly certified by such witness.

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

83 (11) Perform all other duties which are expressly im-
84 posed upon him or her by the provisions of this chapter.

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

87 (13) Impose reasonable fees for the issuance of certifica-
88 tions required under this chapter.

89 (14) Prepare study guides and other forms of publica-
90 tions relating to mine safety and charge a reasonable fee
91 for the sale of the publications.

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

94 (c) The Director of the Office of Miners' Health, Safety
95 and Training, or his or her designee, upon receipt of the
96 list of approved innovative mine safety technologies from
97 the Mine Safety Technology Task force, has thirty days to
98 approve or amend the list as provided in section four,
99 article thirteen-aa, chapter eleven of this code. At the
100 expiration of the time period, the director shall publish the
101 list of approved innovative mine safety technologies as
102 provided in section four, article thirteen-aa, chapter
103 eleven of this code.

ARTICLE 11. MINE SAFETY TECHNOLOGY.

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

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

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

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

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

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

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

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

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

28 (2) Opportunities for improving the integration of
29 technologies and procedures to increase the performance
30 and survivability of coal mine health and safety systems;

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

33 (4) Market forces impacting the development of new
34 technologies, including issues regarding the costs of
35 research and development, regulatory certification and
36 incentives designed to stimulate the marketplace.

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

41 (1) A comprehensive overview of issues regarding the
42 implementation of the new technological requirements set
43 forth in the provisions of section fifty-five, article two, of
44 this chapter, or rules promulgated in accordance with the
45 law;

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

48 (3) Recommendations, if any, for the enactment, repeal
49 or amendment of any statute which would enhance

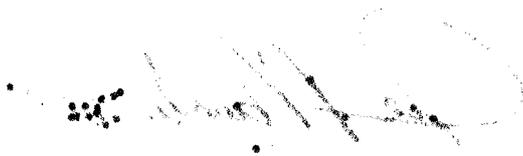
50 technological advancement in coal mine health and safety;
51 and

52 (4) Any other information the task force considers
53 appropriate.

54 (e) In performing its duties, the task force shall, where
55 possible, consult with, among others, mine engineering
56 and mine safety experts, radiocommunication and teleme-
57 try experts and relevant state and federal regulatory
58 personnel.

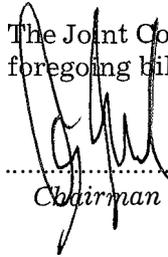
59 (f) The task force shall annually compile a proposed list
60 of approved innovative mine safety technologies and
61 transmit the list to the Director of the Office of Miners'
62 Health, Safety and Training as provided in section four,
63 article thirteen-aa, chapter eleven of this code. The list
64 shall be approved by a unanimous vote of the task force.

65 (g) Appropriations to the task force to effectuate the
66 purposes of this article shall be made to one or more
67 budget accounts established for that purpose.



Enr. Com. Sub. for S. B. No. 507] 22

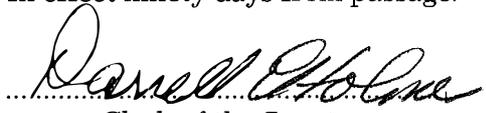
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

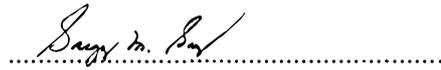

.....
Chairman Senate Committee


.....
Chairman House Committee

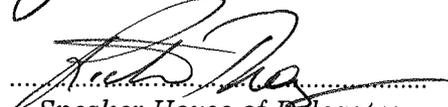
Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is disapproved* this the *25th*
May
Day of, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 19 2010

Time 3:55 pm