

SB 507 (veto)

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OFFICE WEST VIRGINIA  
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**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.]

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CLARENCE M. BROWN  
SECRETARY OF STATE

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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

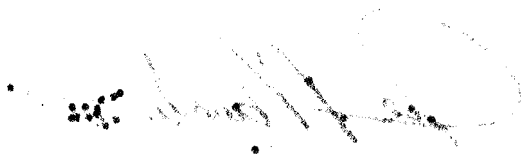
50 technological advancement in coal mine health and safety;  
51 and

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.

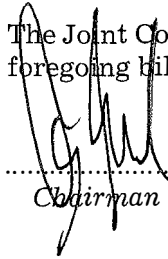
59 (f) The task force shall annually compile a proposed list  
60 of approved innovative mine safety technologies and  
61 transmit the list to the Director of the Office of Miners'  
62 Health, Safety and Training as provided in section four,  
63 article thirteen-aa, chapter eleven of this code. The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

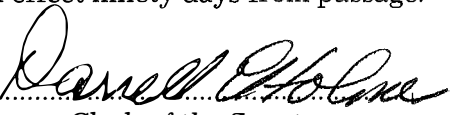
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

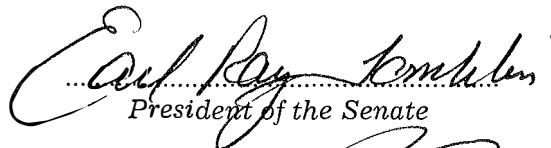
  
.....  
Chairman House Committee

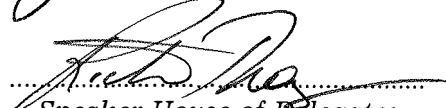
Originated in the Senate.

In effect ninety days from passage.


  
.....  
Clerk of the Senate

  
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Clerk of the House of Delegates

  
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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