

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 238**

5 (BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL, BY REQUEST OF THE  
6 EXECUTIVE)

7 \_\_\_\_\_  
8 [Passed March 18, 2011; in effect from passage.]  
9 \_\_\_\_\_

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11  
12 AN ACT to amend and reenact §4-10-8 of the Code of West Virginia,  
13 1931, as amended; to amend and reenact §5F-1-2 of said code;  
14 to amend and reenact §5F-2-1 of said code; to amend and  
15 reenact §6-7-2a of said code; to amend and reenact §9A-1-1,  
16 §9A-1-2 and §9A-1-4 of said code; and to amend said code by  
17 adding thereto four new sections, designated §9A-1-1a, §9A-1-  
18 1b, §9A-1-1c and §9A-1-1d, all relating to organization and  
19 authority of state agencies generally; clarifying agencies'  
20 structures; redesignating the Division of Veterans' Affairs as  
21 the Department of Veterans' Assistance within the executive  
22 branch; establishing the office of the secretary and setting  
23 forth the powers and duties of the secretary; establishing the  
24 time period for review of the Department of Veterans'

1 Assistance by the Joint Standing Committee on Government  
2 Organization and the Joint Committee on Government Operations;  
3 providing that the Veterans' Council be part of the Department  
4 of Veterans' Assistance; changing name of division from  
5 Division of Veteran Affairs to Department of Veterans'  
6 Assistance; changing name of council from Veterans' Council to  
7 Veterans Council; revising membership requirements for the  
8 Veterans' Council; providing that the Department of Veterans'  
9 Assistance be supervised by a secretary-level administrator;  
10 establishing the salary of the secretary; providing an  
11 effective date for redesignation; clarifying the purpose of  
12 the Department of Veterans' Assistance; making other changes  
13 to the code to comport with the amendment; establishing the  
14 salaries of certain public officers and public employees  
15 requiring some salary increases to be incremental;  
16 establishing internal effective dates related to positions and  
17 salary pending transition to department level agency; and  
18 providing technical and clerical cleanup.

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

20 That §4-10-8 of the Code of West Virginia, 1931, as amended,  
21 be amended and reenacted; that §5F-1-2 of said code be amended and  
22 reenacted; that §5F-2-1 of said code be amended and reenacted; that  
23 §6-7-2a of said code be amended and reenacted; that §9A-1-1, §9A-1-  
24 2 and §9A-1-4 of said code be amended and reenacted; and that said

1 code be amended by adding thereto four new sections, designated  
2 §9A-1-1a, §9A-1-1b, §9A-1-1c and §9A-1-1d, all to read as follows:

3 **CHAPTER 4. THE LEGISLATURE.**

4 **ARTICLE 10. PERFORMANCE REVIEW ACT.**

5 **§4-10-8. Schedule of departments for agency review.**

6 (a) Each department shall make a presentation pursuant to the  
7 provisions of this article, to the Joint Standing Committee and the  
8 committee during the first interim meeting after the regular  
9 session of the year in which the department is to be reviewed  
10 pursuant to the schedule set forth in subsection (b) of this  
11 section.

12 (b) An agency review shall be performed on one or more  
13 agencies under the purview of each department at least once every  
14 six years, commencing as follows:

15 (1) 2008, the Department of Administration;

16 (2) 2009, the Department of Education and the Arts, and the  
17 Department of Education, including the Higher Education Policy  
18 Commission and the West Virginia Council for Community and  
19 Technical College Education;

20 (3) 2010, the Department of Revenue and the Department of  
21 Commerce;

22 (4) 2011, the Department of Environmental Protection and the  
23 Department of Military Affairs and Public Safety;

24 (5) 2012, the Department of Health and Human Resources,

1 including the Bureau of Senior Services;

2 (6) 2013, the Department of Transportation; and

3 (7) 2016, the Department of Veterans' Assistance.

4 **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE**

5 **GOVERNMENT.**

6 **ARTICLE 1. GENERAL PROVISIONS.**

7 **§5F-1-2. Executive departments created; offices of secretary**  
8 **created.**

9 (a) There are created, within the executive branch of the  
10 state government, the following departments:

11 (1) Department of Administration;

12 (2) Department of Education and the Arts;

13 (3) Department of Environmental Protection;

14 (4) Department of Health and Human Resources;

15 (5) Department of Military Affairs and Public Safety;

16 (6) Department of Revenue;

17 (7) Department of Transportation;

18 (8) Department of Commerce; and

19 (9) Effective July 1, 2011, Department of Veterans'  
20 Assistance.

21 (b) Each department will be headed by a secretary appointed by  
22 the Governor with the advice and consent of the Senate. Each  
23 secretary serves at the will and pleasure of the Governor.

24 **ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

1 **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

2 (a) The following agencies and boards, including all of the  
3 allied, advisory, affiliated or related entities and funds  
4 associated with any agency or board, are incorporated in and  
5 administered as a part of the Department of Administration:

6 (1) Building Commission provided in article six, chapter five  
7 of this code;

8 (2) Public Employees Insurance Agency provided in article  
9 sixteen, chapter five of this code;

10 (3) Governor's Mansion Advisory Committee provided in article  
11 five, chapter five-a of this code;

12 (4) Commission on Uniform State Laws provided in article  
13 one-a, chapter twenty-nine of this code;

14 (5) West Virginia Public Employees Grievance Board provided in  
15 article three, chapter six-c of this code;

16 (6) Board of Risk and Insurance Management provided in article  
17 twelve, chapter twenty-nine of this code;

18 (7) Boundary Commission provided in article twenty-three,  
19 chapter twenty-nine of this code;

20 (8) Public Defender Services provided in article twenty-one,  
21 chapter twenty-nine of this code;

22 (9) Division of Personnel provided in article six, chapter  
23 twenty-nine of this code;

24 (10) The West Virginia Ethics Commission provided in article

1 two, chapter six-b of this code;

2 (11) Consolidated Public Retirement Board provided in article  
3 ten-d, chapter five of this code; and

4 (12) Real Estate Division provided in article ten, chapter  
5 five-a of this code.

6 (b) The following agencies and boards, including all of the  
7 allied, advisory, affiliated or related entities and funds  
8 associated with any agency or board, are incorporated in and  
9 administered as a part of the Department of Commerce:

10 (1) Division of Labor provided in article one, chapter  
11 twenty-one of this code, which includes:

12 (A) Occupational Safety and Health Review Commission provided  
13 in article three-a, chapter twenty-one of this code; and

14 (B) Board of Manufactured Housing Construction and Safety  
15 provided in article nine, chapter twenty-one of this code.

16 (2) Office of Miners' Health, Safety and Training provided in  
17 article one, chapter twenty-two-a of this code. The following  
18 boards are transferred to the Office of Miners' Health, Safety and  
19 Training for purposes of administrative support and liaison with  
20 the Office of the Governor:

21 (A) Board of Coal Mine Health and Safety and Coal Mine Safety  
22 and Technical Review Committee provided in article six, chapter  
23 twenty-two-a of this code;

24 (B) Board of Miner Training, Education and Certification

1 provided in article seven, chapter twenty-two-a of this code; and  
2 (C) Mine Inspectors' Examining Board provided in article nine,  
3 chapter twenty-two-a of this code.  
4 (3) The West Virginia Development Office provided in article  
5 two, chapter five-b of this code;  
6 (4) Division of Natural Resources and Natural Resources  
7 Commission provided in article one, chapter twenty of this code;  
8 (5) Division of Forestry provided in article one-a, chapter  
9 nineteen of this code;  
10 (6) Geological and Economic Survey provided in article two,  
11 chapter twenty-nine of this code; and  
12 (7) Workforce West Virginia provided in chapter twenty-one-a  
13 of this code, which includes:  
14 (A) Division of Unemployment Compensation;  
15 (B) Division of Employment Service;  
16 (C) Division of Workforce Development; and  
17 (D) Division of Research, Information and Analysis.  
18 (8) Division of Energy provided in article two-f, chapter  
19 five-b of this code.  
20 (9) Division of Tourism Commission provided in article two-h,  
21 chapter five-b of this code.  
22 (c) The Economic Development Authority provided in article  
23 fifteen, chapter thirty-one of this code is continued as an  
24 independent agency within the executive branch.

1 (d) The Water Development Authority and the Water Development  
2 Authority Board provided in article one, chapter twenty-two-c of  
3 this code is continued as an independent agency within the  
4 executive branch.

5 (e) The following agencies and boards, including all of the  
6 allied, advisory and affiliated entities, are transferred to the  
7 Department of Environmental Protection for purposes of  
8 administrative support and liaison with the office of the Governor:

9 (1) Air Quality Board provided in article two, chapter  
10 twenty-two-b of this code;

11 (2) Solid Waste Management Board provided in article three,  
12 chapter twenty-two-c of this code;

13 (3) Environmental Quality Board, or its successor board,  
14 provided in article three, chapter twenty-two-b of this code;

15 (4) Surface Mine Board provided in article four, chapter  
16 twenty-two-b of this code;

17 (5) Oil and Gas Inspectors' Examining Board provided in  
18 article seven, chapter twenty-two-c of this code;

19 (6) Shallow Gas Well Review Board provided in article eight,  
20 chapter twenty-two-c of this code; and

21 (7) Oil and Gas Conservation Commission provided in article  
22 nine, chapter twenty-two-c of this code.

23 (f) The following agencies and boards, including all of the  
24 allied, advisory, affiliated or related entities and funds



1 associated with any agency or board, are incorporated in and  
2 administered as a part of the Department of Education and the Arts:

3 (1) Library Commission provided in article one, chapter ten of  
4 this code;

5 (2) Division of Culture and History provided in article one,  
6 chapter twenty-nine of this code; and

7 (3) Division of Rehabilitation Services provided in article  
8 ten-a, chapter eighteen of this code.

9 (g) The Educational Broadcasting Authority provided in article  
10 five, chapter ten of this code is part of the Department of  
11 Education and the Arts for the purposes of administrative support  
12 and liaison with the office of the Governor.

13 (h) The following agencies and boards, including all of the  
14 allied, advisory, affiliated or related entities and funds  
15 associated with any agency or board, are incorporated in and  
16 administered as a part of the Department of Health and Human  
17 Resources:

18 (1) Human Rights Commission provided in article eleven,  
19 chapter five of this code;

20 (2) Division of Human Services provided in article two,  
21 chapter nine of this code;

22 (3) Bureau for Public Health provided in article one, chapter  
23 sixteen of this code;

24 (4) Office of Emergency Medical Services and the Emergency

1 Medical Service Advisory Council provided in article four-c,  
2 chapter sixteen of this code;

3 (5) Health Care Authority provided in article twenty-nine-b,  
4 chapter sixteen of this code;

5 (6) Commission on Mental Retardation provided in article  
6 fifteen, chapter twenty-nine of this code;

7 (7) Women's Commission provided in article twenty, chapter  
8 twenty-nine of this code; and

9 (8) The Child Support Enforcement Division provided in chapter  
10 forty-eight of this code.

11 (h) The following agencies and boards, including all of the  
12 allied, advisory, affiliated or related entities and funds  
13 associated with any agency or board, are incorporated in and  
14 administered as a part of the Department of Military Affairs and  
15 Public Safety:

16 (1) Adjutant General's Department provided in article one-a,  
17 chapter fifteen of this code;

18 (2) Armory Board provided in article six, chapter fifteen of  
19 this code;

20 (3) Military Awards Board provided in article one-g, chapter  
21 fifteen of this code;

22 (4) West Virginia State Police provided in article two,  
23 chapter fifteen of this code;

24 (5) Division of Homeland Security and Emergency Management and

1 Disaster Recovery Board provided in article five, chapter fifteen  
2 of this code and Emergency Response Commission provided in article  
3 five-a of said chapter;

4 (6) Sheriffs' Bureau provided in article eight, chapter  
5 fifteen of this code;

6 (7) Division of Justice and Community Services provided in  
7 article nine-a, chapter fifteen of this code;

8 (8) Division of Corrections provided in chapter twenty-five of  
9 this code;

10 (9) Fire Commission provided in article three, chapter  
11 twenty-nine of this code;

12 (10) Regional Jail and Correctional Facility Authority  
13 provided in article twenty, chapter thirty-one of this code; and

14 (11) Board of Probation and Parole provided in article twelve,  
15 chapter sixty-two of this code.

16 (i) The following agencies and boards, including all of the  
17 allied, advisory, affiliated or related entities and funds  
18 associated with any agency or board, are incorporated in and  
19 administered as a part of the Department of Revenue:

20 (1) Tax Division provided in chapter eleven of this code;

21 (2) Racing Commission provided in article twenty-three,  
22 chapter nineteen of this code;

23 (3) Lottery Commission and position of Lottery Director  
24 provided in article twenty-two, chapter twenty-nine of this code;

1 (4) Insurance Commissioner provided in article two, chapter  
2 thirty-three of this code;

3 (5) West Virginia Alcohol Beverage Control Commissioner  
4 provided in article sixteen, chapter eleven of this code and  
5 article two, chapter sixty of this code;

6 (6) Board of Banking and Financial Institutions provided in  
7 article three, chapter thirty-one-a of this code;

8 (7) Lending and Credit Rate Board provided in chapter  
9 forty-seven-a of this code;

10 (8) Division of Banking provided in article two, chapter  
11 thirty-one-a of this code;

12 (9) The State Budget Office provided in article two of this  
13 chapter;

14 (10) The Municipal Bond Commission provided in article three,  
15 chapter thirteen of this code;

16 (11) The Office of Tax Appeals provided in article ten-a,  
17 chapter eleven of this code; and

18 (12) The State Athletic Commission provided in article five-a,  
19 chapter twenty-nine of this code.

20 (j) The following agencies and boards, including all of the  
21 allied, advisory, affiliated or related entities and funds  
22 associated with any agency or board, are incorporated in and  
23 administered as a part of the Department of Transportation:

24 (1) Division of Highways provided in article two-a, chapter

1 seventeen of this code;

2 (2) Parkways, Economic Development and Tourism Authority  
3 provided in article sixteen-a, chapter seventeen of this code;

4 (3) Division of Motor Vehicles provided in article two,  
5 chapter seventeen-a of this code;

6 (4) Driver's Licensing Advisory Board provided in article two,  
7 chapter seventeen-b of this code;

8 (5) Aeronautics Commission provided in article two-a, chapter  
9 twenty-nine of this code;

10 (6) State Rail Authority provided in article eighteen, chapter  
11 twenty-nine of this code; and

12 (7) Public Port Authority provided in article sixteen-b,  
13 chapter seventeen of this code.

14 (k) Effective July 1, 2011, the Veterans' Council provided in  
15 article one, chapter nine-a of this code, including all of the  
16 allied, advisory, affiliated or related entities and funds  
17 associated with it, is incorporated in and administered as a part  
18 of the Department of Veterans' Assistance.

19 (l) Except for powers, authority and duties that have been  
20 delegated to the secretaries of the departments by the provisions  
21 of section two of this article, the position of administrator and  
22 the powers, authority and duties of each administrator and agency  
23 are not affected by the enactment of this chapter.

24 (m) Except for powers, authority and duties that have been

1 delegated to the secretaries of the departments by the provisions  
2 of section two of this article, the existence, powers, authority  
3 and duties of boards and the membership, terms and qualifications  
4 of members of the boards are not affected by the enactment of this  
5 chapter. All boards that are appellate bodies or are independent  
6 decision makers shall not have their appellate or independent  
7 decision-making status affected by the enactment of this chapter.

8       (n) Any department previously transferred to and incorporated  
9 in a department by prior enactment of this section means a division  
10 of the appropriate department. Wherever reference is made to any  
11 department transferred to and incorporated in a department created  
12 in section two, article one of this chapter, the reference means a  
13 division of the appropriate department and any reference to a  
14 division of a department so transferred and incorporated means a  
15 section of the appropriate division of the department.

16       (o) When an agency, board or commission is transferred under  
17 a bureau or agency other than a department headed by a secretary  
18 pursuant to this section, that transfer is solely for purposes of  
19 administrative support and liaison with the Office of the Governor,  
20 a department secretary or a bureau. Nothing in this section  
21 extends the powers of department secretaries under section two of  
22 this article to any person other than a department secretary and  
23 nothing limits or abridges the statutory powers and duties of  
24 statutory commissioners or officers pursuant to this code.

1           **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

2 **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

3 **§6-7-2a. Terms of certain appointive state officers; appointment;**  
4           **qualifications; powers and salaries of such officers.**

5           (a) Each of the following appointive state officers named in  
6 this subsection shall be appointed by the Governor, by and with the  
7 advice and consent of the Senate. Each of the appointive state  
8 officers serves at the will and pleasure of the Governor for the  
9 term for which the Governor was elected and until the respective  
10 state officers' successors have been appointed and qualified. Each  
11 of the appointive state officers are subject to the existing  
12 qualifications for holding each respective office and each has and  
13 is hereby granted all of the powers and authority and shall perform  
14 all of the functions and services heretofore vested in and  
15 performed by virtue of existing law respecting each office.

16           The annual salary of each named appointive state officer is as  
17 follows:

18           Commissioner, Division of Highways, \$92,500; Commissioner,  
19 Division of Corrections, \$80,000; Director, Division of Natural  
20 Resources, \$75,000; Superintendent, State Police, \$85,000;  
21 Commissioner, Division of Banking, \$75,000; Commissioner, Division  
22 of Culture and History, \$65,000; Commissioner, Alcohol Beverage  
23 Control Commission, \$75,000; Commissioner, Division of Motor  
24 Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000;

1 members, Health Care Authority, \$70,000; Director, Human Rights  
2 Commission, \$55,000; Commissioner, Division of Labor, \$70,000;  
3 Prior to July 1, 2011, Director, Division of Veterans Affairs,  
4 \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of  
5 Parole, \$50,000; members, Employment Security Review Board, \$17,000;  
6 and Commissioner, Workforce West Virginia, \$75,000. Secretaries of  
7 the departments shall be paid an annual salary as follows: Health  
8 and Human Resources, \$95,000; Transportation, \$95,000: *Provided,*  
9 That if the same person is serving as both the Secretary of  
10 Transportation and the Commissioner of Highways, he or she shall be  
11 paid \$120,000; Revenue, \$95,000; Military Affairs and Public  
12 Safety, \$95,000; Administration, \$95,000; Education and the Arts,  
13 \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and  
14 Environmental Protection, \$95,000: *Provided, however,* That any  
15 officer specified in this subsection whose salary is increased by  
16 more than \$5,000 as a result of the amendment and reenactment of  
17 this section during the 2011 regular session of the legislature  
18 shall be paid the salary increase in increments of \$5,000 per  
19 fiscal year beginning July 1, 2011 up to the maximum salary  
20 provided in this subsection.

21 (b) Each of the state officers named in this subsection shall  
22 continue to be appointed in the manner prescribed in this code, and  
23 shall be paid an annual salary as follows:

24 Director, Board of Risk and Insurance Management, \$80,000;



1 Director, Division of Rehabilitation Services, \$70,000; Director,  
2 Division of Personnel, \$70,000; Executive Director, Educational  
3 Broadcasting Authority, \$75,000; Secretary, Library Commission,  
4 \$72,000; Director, Geological and Economic Survey, \$75,000;  
5 Executive Director, prosecuting attorneys Institute, \$70,000;  
6 Executive Director, Public Defender Services, \$70,000;  
7 Commissioner, Bureau of Senior Services, \$75,000; Director, State  
8 Rail Authority, \$65,000; Executive Director, Women's Commission,  
9 \$45,000; Director, Hospital Finance Authority, \$35,000; member,  
10 Racing Commission, \$12,000; Chairman, Public Service Commission,  
11 \$85,000; members, Public Service Commission, \$85,000; Director,  
12 Division of Forestry, \$75,000; Director, Division of Juvenile  
13 Services, \$80,000; and Executive Director, Regional Jail and  
14 Correctional Facility Authority, \$80,000.

15 (c) Each of the following appointive state officers named in  
16 this subsection shall be appointed by the Governor, by and with the  
17 advice and consent of the Senate. Each of the appointive state  
18 officers serves at the will and pleasure of the Governor for the  
19 term for which the Governor was elected and until the respective  
20 state officers' successors have been appointed and qualified. Each  
21 of the appointive state officers are subject to the existing  
22 qualifications for holding each respective office and each has and  
23 is hereby granted all of the powers and authority and shall perform  
24 all of the functions and services heretofore vested in and

1 performed by virtue of existing law respecting each office.

2 The annual salary of each named appointive state officer shall  
3 be as follows:

4 Commissioner, State Tax Division, \$92,500; Insurance  
5 Commissioner, \$92,500; Director, Lottery Commission, \$92,500;  
6 Director, Division of Homeland Security and Emergency Management,  
7 \$65,000; and Adjutant General, \$125,000.

8 (d) No increase in the salary of any appointive state officer  
9 pursuant to this section may be paid until and unless the  
10 appointive state officer has first filed with the State Auditor and  
11 the Legislative Auditor a sworn statement, on a form to be  
12 prescribed by the Attorney General, certifying that his or her  
13 spending unit is in compliance with any general law providing for  
14 a salary increase for his or her employees. The Attorney General  
15 shall prepare and distribute the form to the affected spending  
16 units.

17 **CHAPTER 9A. VETERANS' AFFAIRS.**

18 **ARTICLE 1. DEPARTMENT OF VETERANS' ASSISTANCE.**

19 **§9A-1-1. Creation and general purposes.**

20 (a) Effective July 1, 2011, the West Virginia Division of  
21 Veterans' Affairs is redesignated the Department of Veterans'  
22 Assistance.

23 (b) The purpose of the department is to aid, assist, counsel  
24 and advise, and to encourage competition among counties and

1 municipalities to develop, improve and enhance veteran-friendly  
2 services, benefits and assistance to, veterans who have served in  
3 and been honorably discharged or separated under honorable  
4 conditions from the Armed Forces of the United States and their  
5 widows, widowers and dependents, including populations of veterans  
6 who may have special needs as a result of homelessness,  
7 incarceration or physical or mental disabilities.

8 (c) All references in this code to the West Virginia Division  
9 of Veterans' Affairs and the Director of the West Virginia Division  
10 of Veterans' Affairs shall mean the Department of Veterans'  
11 Assistance and the Secretary of the Department of Veterans'  
12 Assistance, respectively.

13 **§9A-1-1a. Department of Veterans' Assistance; office of Secretary**  
14 **of Department of Veterans' Assistance.**

15 (a) The Secretary of the Department of Veterans' Assistance is  
16 the chief executive officer of the department. Subject to the  
17 requirements for the qualification and appointment of the secretary  
18 provided in section four of this article, the Governor shall  
19 appoint the secretary, by and with the advice and consent of the  
20 Senate, for the term for which the Governor is elected and until a  
21 successor shall have been appointed and qualified. The Secretary  
22 shall serve at the will and pleasure of the Governor. Any  
23 reference in this code to the Division of Veterans' Affairs or to  
24 the Department of Veterans' Affairs means the Department of

1 Veterans' Assistance. Any reference in this code to the Director  
2 of the Division of Veterans' Affairs means the Secretary of the  
3 Department of Veterans' Assistance. As used in this chapter,  
4 "secretary" means the Secretary of Veterans' Assistance and  
5 "division" means Department of Veterans' Assistance.

6 (b) The department may receive federal funds.

7 (c) The secretary serves at the will and pleasure of the  
8 Governor. The annual compensation of the secretary shall be as  
9 specified in section two-a, article seven, chapter six of this  
10 code.

11 **§9A-1-1b. Powers and duties of the secretary.**

12 (a) The secretary controls and supervises the department and  
13 is responsible for the work of each department employee.

14 (b) The secretary has the power and authority specified in  
15 this article, in article two, chapter five-f of this code and as  
16 otherwise specified in this chapter.

17 (c) The secretary may employ staff, assistants and employees  
18 as necessary for the efficient operation of the department.

19 (d) The secretary may delegate his or her powers and duties to  
20 assistants and employees, but the secretary is responsible for all  
21 official acts of the department.

22 **§9A-1-1c. Reports by secretary.**

23 The secretary shall report annually to the Governor concerning  
24 the conduct of the department and make other reports as the

1 Governor may require.

2 **§9A-1-1d. Right of appeal from interference with functioning of**  
3 **agency.**

4 Any governmental entity may appeal to the Governor for review  
5 upon a showing that application of the secretary's authority may  
6 interfere with the successful functioning of that entity. The  
7 Governor's decision controls on appeal.

8 **§9A-1-2. Veterans' Council; administration of department.**

9 There is continued the "Veterans' Council" consisting of nine  
10 members who must be citizens and residents of this state and who  
11 have served in and been honorably discharged or separated under  
12 honorable conditions from the Armed Forces of the United States and  
13 whose service was within a time of war as defined by the laws of  
14 the United States, either Public Law No. 2 -- 73rd Congress, or  
15 Public Law No. 346 -- 78th Congress, and amendments thereto.  
16 Where feasible, two members of the council shall be veterans of  
17 either World War II or the Korean Conflict, at least two members of  
18 the council shall be veterans of the Vietnam era, at least one  
19 member shall be a veteran of the first Gulf War and at least one  
20 member shall be a veteran of the Afghanistan or Iraqi Conflicts.  
21 The members of the veterans' council shall be selected with special  
22 reference to their ability and fitness to effectuate the purposes  
23 of this article. If an eligible veteran is not available or cannot  
24 be selected, a veteran who is a citizen and resident of this state,

1 who served in and was honorably discharged or separated under  
2 honorable conditions from the Armed Forces of the United States and  
3 who served during any time of war or peace may be selected.

4 A secretary and such veterans' affairs officers, assistants  
5 and employees as the secretary considers advisable, shall  
6 administer the West Virginia Department of Veterans' Assistance.

7 **§9A-1-4. Duties and functions of Veterans' Council; appointment of**  
8 **secretary; honoring academic achievement at military**  
9 **academies.**

10 (a) It is the duty and function of the Veterans' Council to  
11 advise the secretary on the general administrative policies of the  
12 department, to select, at their first meeting in each fiscal year  
13 commencing on July 1, a chairperson to serve one year, to advise  
14 the secretary on rules as may be necessary, to advise the Governor  
15 and the Legislature with respect to legislation affecting the  
16 interests of veterans, their widows, dependents and orphans and to  
17 make annual reports to the Governor respecting the service of the  
18 department. The secretary has the same eligibility and  
19 qualifications prescribed for members of the Veterans' Council.  
20 The secretary ex officio shall maintain all records of the  
21 Veterans' Council.

22 (b) The Veterans' Council may annually honor each West  
23 Virginian graduating from the U.S. Military Academy, the U.S.  
24 Naval Academy, the U.S. Air Force Academy and the U.S. Coast

1 Guard Academy with the highest grade point average by bestowing  
2 upon him or her the "West Augusta Award." The award shall be in a  
3 design and form established by the council and include the famous  
4 Revolutionary War phrase from which the award's name is derived:  
5 "Once again our brethren from West Augusta have answered the call  
6 to duty." The council shall coordinate the manner of recognition of  
7 the recipient at graduation ceremonies with each academy.