

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

2 That §4-10-8 of the Code of West Virginia, 1931, as amended,
3 be amended and reenacted; that §5F-1-2 of said code be amended and
4 reenacted; that §5F-2-1 of said code be amended and reenacted; that
5 §6-7-2a of said code be amended and reenacted; and that said code
6 be amended by adding thereto a new chapter, designated §25A-1-1,
7 all to read as follows:

8 **CHAPTER 4. THE LEGISLATURE.**

9 **ARTICLE 10. PERFORMANCE REVIEW ACT.**

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

11 (a) Each department shall make a presentation, pursuant to the
12 provisions of this article, to the joint standing committee and the
13 committee during the first interim meeting after the regular
14 session of the year in which the department is to be reviewed
15 pursuant to the schedule set forth in subsection (b) of this
16 section.

17 (b) An agency review shall be performed on one or more
18 agencies under the purview of each department at least once every
19 seven years, as follows:

20 (1) 2013, the Department of Transportation;

21 (2) 2014, the Department of Administration;

22 (3) 2015, the Department of Education, including the Higher
23 Education Policy Commission and the West Virginia Council for

1 Community and Technical College Education;

2 (4) 2016, the Department of Veterans' Assistance and the
3 Department of Education and the Arts;

4 (5) 2017, the Department of Revenue and the Department of
5 Commerce;

6 (6) 2018, the Department of Environmental Protection and the
7 Department of Military Affairs and Public Safety;

8 (7) 2019, the Department of Health and Human Resources,
9 including the Bureau of Senior Services; ~~and~~

10 (8) 2020, the Department of Transportation; and

11 (9) 2021, the Department of Corrections.

12 **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE**
13 **GOVERNMENT.**

14 **ARTICLE 1. GENERAL PROVISIONS.**

15 **§5F-1-2. Executive departments created; offices of secretary**
16 **created.**

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

19 (1) Department of Administration;

20 (2) Department of Education and the Arts;

21 (3) Department of Environmental Protection;

22 (4) Department of Health and Human Resources;

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

1 (6) Department of Revenue;

2 (7) Department of Transportation;

3 (8) Department of Commerce; ~~and~~

4 (9) Effective July 1, 2011, Department of Veterans'
5 Assistance; and

6 (10) Effective January 1, 2015, Department of Corrections.

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

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

11 **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

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

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

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

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

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

24 (5) West Virginia Public Employees Grievance Board provided in

1 article three, chapter six-c of this code;

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

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

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

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

10 (10) The West Virginia Ethics Commission provided in article
11 two, chapter six-b of this code;

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

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

16 (b) 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 Commerce:

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

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

24 (B) Board of Manufactured Housing Construction and Safety

1 provided in article nine, chapter twenty-one of this code.

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

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

10 (B) Board of Miner Training, Education and Certification
11 provided in article seven, chapter twenty-two-a of this code; and

12 (C) Mine Inspectors' Examining Board provided in article nine,
13 chapter twenty-two-a of this code.

14 (3) The West Virginia Development Office provided in article
15 two, chapter five-b of this code;

16 (4) Division of Natural Resources and Natural Resources
17 Commission provided in article one, chapter twenty of this code;

18 (5) Division of Forestry provided in article one-a, chapter
19 nineteen of this code;

20 (6) Geological and Economic Survey provided in article two,
21 chapter twenty-nine of this code; and

22 (7) Workforce West Virginia provided in chapter twenty-one-a
23 of this code, which includes:

24 (A) Division of Unemployment Compensation;

- 1 (B) Division of Employment Service;
- 2 (C) Division of Workforce Development; and
- 3 (D) Division of Research, Information and Analysis.
- 4 (8) Division of Energy provided in article two-f, chapter
5 five-b of this code.
- 6 (9) Division of Tourism Commission provided in article two-h,
7 chapter five-b of this code.
- 8 (c) The Economic Development Authority provided in article
9 fifteen, chapter thirty-one of this code is continued as an
10 independent agency within the executive branch.
- 11 (d) The Water Development Authority and the Water Development
12 Authority Board provided in article one, chapter twenty-two-c of
13 this code is continued as an independent agency within the
14 executive branch.
- 15 (e) The following agencies and boards, including all of the
16 allied, advisory and affiliated entities, are transferred to the
17 Department of Environmental Protection for purposes of
18 administrative support and liaison with the office of the Governor:
- 19 (1) Air Quality Board provided in article two, chapter twenty-
20 two-b of this code;
- 21 (2) Solid Waste Management Board provided in article three,
22 chapter twenty-two-c of this code;
- 23 (3) Environmental Quality Board, or its successor board,
24 provided in article three, chapter twenty-two-b of this code;

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

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

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

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

9 (f) The following agencies and boards, including all of the
10 allied, advisory, affiliated or related entities and funds
11 associated with any agency or board, are incorporated in and
12 administered as a part of the Department of Education and the Arts:

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

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

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

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

23 (h) 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 Health and Human
3 Resources:

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

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

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

10 (4) Office of Emergency Medical Services and the Emergency
11 Medical Service Advisory Council provided in article four-c,
12 chapter sixteen of this code;

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

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

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

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

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

1 Public Safety:

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

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

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

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

10 (5) Division of Homeland Security and Emergency Management and
11 Disaster Recovery Board provided in article five, chapter fifteen
12 of this code and Emergency Response Commission provided in article
13 five-a of said chapter;

14 (6) Sheriffs' Bureau provided in article eight, chapter
15 fifteen of this code; and

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

18 ~~(8) Division of Corrections provided in chapter twenty-five of~~
19 ~~this code;~~

20 ~~(9)~~ (7) Fire Commission provided in article three, chapter
21 twenty-nine of this code.

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

24 ~~(11) Board of Probation and Parole provided in article twelve,~~

1 ~~chapter sixty-two of this code.~~

2 (j) 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 Revenue:

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

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

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

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

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

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

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

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

22 (9) The State Budget Office provided in article two of this
23 chapter;

24 (10) The Municipal Bond Commission provided in article three,

1 chapter thirteen of this code;

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

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

6 (k) 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 Transportation:

10 (1) Division of Highways provided in article two-a, chapter
11 seventeen of this code;

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

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

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

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

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

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

24 (1) Effective July 1, 2011, the Veterans' Council provided in

1 article one, chapter nine-a of this code, including all of the
2 allied, advisory, affiliated or related entities and funds
3 associated with it, is incorporated in and administered as a part
4 of the Department of Veterans' Assistance.

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

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

11 (2) Division of Corrections provided in chapter twenty-five of
12 this code;

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

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

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

22 ~~(n)~~ (o) Except for powers, authority and duties that have been
23 delegated to the secretaries of the departments by the provisions
24 of section two of this article, the existence, powers, authority

1 and duties of boards and the membership, terms and qualifications
2 of members of the boards are not affected by the enactment of this
3 chapter. All boards that are appellate bodies or are independent
4 decision makers shall not have their appellate or independent
5 decision-making status affected by the enactment of this chapter.

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

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

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

1 **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

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

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

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

17 Commissioner, Division of Highways, \$92,500; Commissioner,
18 Division of Corrections, \$80,000; Director, Division of Natural
19 Resources, \$75,000; Superintendent, State Police, \$85,000;
20 Commissioner, Division of Banking, \$75,000; Commissioner, Division
21 of Culture and History, \$65,000; Commissioner, Alcohol Beverage
22 Control Commission, \$75,000; Commissioner, Division of Motor
23 Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000;
24 members, Health Care Authority, \$70,000; Director, Human Rights

1 Commission, \$55,000; Commissioner, Division of Labor, \$70,000;
2 prior to July 1, 2011, Director, Division of Veterans Affairs,
3 \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of
4 Parole, \$50,000; members, Employment Security Review Board,
5 \$17,000; and Commissioner, Workforce West Virginia, \$75,000.
6 Secretaries of the departments shall be paid an annual salary as
7 follows: Health and Human Resources, \$95,000: *Provided*, That
8 effective July 1, 2013, the Secretary of the Department of Health
9 and Human Resources shall be paid an annual salary not to exceed
10 \$175,000; Transportation, \$95,000: *Provided*, That if the same
11 person is serving as both the Secretary of Transportation and the
12 Commissioner of Highways, he or she shall be paid \$120,000;
13 Revenue, \$95,000; Military Affairs and Public Safety, \$95,000;
14 Administration, \$95,000; Education and the Arts, \$95,000; Commerce,
15 \$95,000; Veterans' Assistance, \$95,000; Corrections \$95,000:
16 *Provided*, That if the same person is serving as both the Secretary
17 of Corrections and the Commissioner of Corrections, he or she shall
18 be paid \$120,000; and Environmental Protection, \$95,000: *Provided*,
19 however, That any officer specified in this subsection whose salary
20 is increased by more than \$5,000 as a result of the amendment and
21 reenactment of this section during the 2011 regular session of the
22 Legislature shall be paid the salary increase in increments of
23 \$5,000 per fiscal year beginning July 1, 2011 up to the maximum
24 salary provided in this subsection.

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

4 Director, Board of Risk and Insurance Management, \$80,000;
5 Director, Division of Rehabilitation Services, \$70,000; Director,
6 Division of Personnel, \$70,000; Executive Director, Educational
7 Broadcasting Authority, \$75,000; Secretary, Library Commission,
8 \$72,000; Director, Geological and Economic Survey, \$75,000;
9 Executive Director, Prosecuting Attorneys Institute, \$70,000;
10 Executive Director, Public Defender Services, \$70,000;
11 Commissioner, Bureau of Senior Services, \$75,000; Director, State
12 Rail Authority, \$65,000; Executive Director, Women's Commission,
13 \$45,000; Director, Hospital Finance Authority, \$35,000; member,
14 Racing Commission, \$12,000; Chairman, Public Service Commission,
15 \$85,000; members, Public Service Commission, \$85,000; Director,
16 Division of Forestry, \$75,000; Director, Division of Juvenile
17 Services, \$80,000; and Executive Director, Regional Jail and
18 Correctional Facility Authority, \$80,000.

19 (c) Each of the following appointive state officers named in
20 this subsection shall be appointed by the Governor, by and with the
21 advice and consent of the Senate. Each of the appointive state
22 officers serves at the will and pleasure of the Governor for the
23 term for which the Governor was elected and until the respective
24 state officers' successors have been appointed and qualified. Each

1 of the appointive state officers are subject to the existing
2 qualifications for holding each respective office and each has and
3 is hereby granted all of the powers and authority and shall perform
4 all of the functions and services heretofore vested in and
5 performed by virtue of existing law respecting each office.

6 The annual salary of each named appointive state officer shall
7 be as follows:

8 Commissioner, State Tax Division, \$92,500; Insurance
9 Commissioner, \$92,500; Director, Lottery Commission, \$92,500;
10 Director, Division of Homeland Security and Emergency Management,
11 \$65,000; and Adjutant General, \$125,000.

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

21 **CHAPTER 25A. DEPARTMENT OF CORRECTIONS.**

22 **ARTICLE 1. DEPARTMENT OF CORRECTIONS.**

23 **§25A-1-1. Creation and general purpose.**

24 Effective January 1, 2015, the West Virginia Division of

1 Corrections is hereby redesignated the Department of Corrections
2 for the purpose of enhancing public safety by providing safe,
3 secure and humane correctional facilities, operating an effective
4 system of offender reentry and community supervision, reducing
5 offender recidivism and assisting victims of crime.

6 References in this code to the West Virginia Division of
7 Corrections, Regional Jail and Correctional Facility Authority,
8 Division of Justice and Community Services and Board of Probation
9 and Parole shall mean the Department of Corrections and the
10 Secretary of the Department of Corrections.

NOTE: The purpose of this bill is to redesignate the Division of Corrections as the Department of Corrections and to provide that the department be supervised by a secretary level administrator.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§25A-1-1 is new; therefore strike-throughs and underscoring have been omitted.