

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2019

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

[BY REQUEST OF THE EXECUTIVE]

[Introduced February 12, 2021; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §5B-2-1, §5B-2-2, §5B-2-3, §5B-2-3b, §5B-2-4, §5B-2-4a, §5B-2-5, §5B-2-6,
3 §5B-2-6a, §5B-2-9a, §5B-2-10, §5B-2-14, §5B-2-15, §5B-2-16, and §5B-2-17 of said
4 code; to amend and reenact §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7,
5 and §5B-2I-8 of said code; to amend and reenact §5F-1-2 of said code; and to amend and
6 reenact §5F-2-1 of said code, all relating to reorganizing and redesignating certain
7 agencies of the Department of Commerce; clarifying the divisions that report to the cabinet
8 secretary of the Department of Commerce; removing the West Virginia Development
9 Office from the Department of Commerce and redesignating the West Virginia
10 Development Office as the Department of Economic Development; removing reference to
11 the Division of Energy under the Department of Commerce; removing the West Virginia
12 Tourism Office from the Department of Commerce and redesignating the West Virginia
13 Tourism Office as the Department of Tourism; removing the Tourism Commission from
14 the Department of Commerce and redesignating the Tourism Commission as the Tourism
15 Advisory Council; redesignating the executive director of the Development Office as the
16 secretary of the Department of Economic Development and providing for his or her
17 appointment and term of office; providing that the Department of Economic Development
18 will utilize existing resources of the Department of Commerce to the fullest extent
19 practicable and efficient; providing that the Secretary of the Department of Economic
20 Development may exempt employees from coverage under the state's classified service;
21 providing that the Department of Economic Development is exempt from of §5A-3-1 *et*
22 *seq.* of this code; redesignating the Development Office Promotion Fund as the Economic
23 Development Promotion and Closing Fund and allowing further uses of such fund;
24 redesignating the executive director of the Tourism Office as the secretary of the
25 Department of Tourism and providing for his or her appointment and term of office;
26 providing that the Department of Tourism will utilize existing resources of the Department

27 of Commerce to the fullest extent practicable and efficient; providing that the Department
28 of Tourism is exempt from §5A-3-1 *et seq.*; adding the Secretary of the Department of
29 Economic Development to the membership of the Tourism Advisory Council; updating
30 references to the secretary and Department of Economic Development; and updating
31 references to the secretary and Department of Tourism.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-2. Agencies, boards, commissions, divisions, and offices comprising the Department of Commerce.

1 The Department of Commerce consists of the following agencies, boards, commissions,
2 divisions, and offices, including all of the allied, advisory, affiliated, or related entities, which are
3 incorporated in and administered as part of the Department of Commerce:

4 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

5 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
6 this code; and

7 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
8 of this code;

9 (2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code.

10 The following boards are transferred to the Office of Miners' Health, Safety and Training for
11 purposes of administrative support and liaison with the Office of the Governor:

12 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
13 Committee provided in §22A-6-1 *et seq.* of this code;

14 (B) Board of Miner Training, Education and Certification provided in §22A-7-1 *et seq.* of
15 this code; and

- 16 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code;
- 17 ~~(3) The West Virginia Development Office provided in article two, chapter five b of this~~
- 18 ~~code~~
- 19 ~~(4)~~ (3) Division of Natural Resources and Natural Resources Commission provided in
- 20 §20-1-1 *et seq.* of this code;
- 21 ~~(5)~~ (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;
- 22 ~~(6)~~ (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; and
- 23 ~~(7)~~ (6) Workforce West Virginia provided in Chapter 21 of this code, which includes:
- 24 (A) Division of Unemployment Compensation;
- 25 (B) Division of Employment Service;
- 26 (C) Division of Workforce Development; and
- 27 (D) Division of Research, Information and Analysis.
- 28 ~~(8) Division of Energy provided in article two-f, chapter five-b of this code;~~ and
- 29 ~~(9) West Virginia Tourism Office and the Tourism Commission provided in article two-i,~~
- 30 ~~chapter five-b of this code~~

ARTICLE 2. ~~WEST VIRGINIA DEVELOPMENT OFFICE~~ DEPARTMENT OF
ECONOMIC DEVELOPMENT.

§5B-2-1. West Virginia Department of Economic Development Office; confidentiality.

- 1 (a) The West Virginia Development Office, previously continued from the Governor's office
- 2 of community and industrial development, is hereby continued but is hereafter raised to a separate
- 3 and distinct department of the executive branch of state government and is designated and shall
- 4 be known as the West Virginia Department of Economic Development Office. All references in
- 5 this code to the West Virginia Development Office, the office of community and industrial
- 6 development, or the Governor's office of community and industrial development shall be

7 construed as references to the West Virginia Department of Economic Development Office. As
8 used in this article, "Department" means the Department of Economic Development.

9 (b) Any documentary material, data or other writing made or received by the West Virginia
10 Development Office Department of Economic Development or other public body, whose primary
11 responsibility is economic development, for the purpose of furnishing assistance to a new or
12 existing business shall be exempt from ~~the provisions of §29B-1-1 et seq. of this code: Provided,~~
13 That any agreement entered into or signed by the Department of Economic Development Office
14 or other public body which obligates public funds shall be subject to inspection and copying
15 pursuant to ~~the provisions of said article §29B-1-1 et seq. of this code~~ as of the date the agreement
16 is entered into, signed or otherwise made public.

~~§5B-2.2. Appointment and compensation of the Executive Director of the West Virginia~~
~~Development Office~~ Office of Secretary of Department of Economic Development.

1 ~~(a) The Governor shall appoint the Executive Director of the West Virginia Development~~
2 ~~Office who is qualified for the position by reason of his or her extensive education and experience~~
3 ~~in the field of professional economic development. The executive director serves at the will and~~
4 ~~pleasure of the Governor. The executive director shall have overall management responsibility~~
5 ~~and administrative control and supervision within the West Virginia Development Office. It is the~~
6 ~~intention of the Legislature that the executive director provide professional and technical expertise~~
7 ~~in the field of professional economic and tourism development~~

8 (a) The Secretary of the Department of Economic Development is the chief executive
9 officer of the department. The Governor shall appoint the secretary, by and with the advice and
10 consent of the Senate, for the term for which the Governor is elected, and the secretary shall
11 serve at the will and pleasure of the Governor. Any reference in this code to the Executive Director
12 of the West Virginia Development Office means the Secretary of the Department of Economic
13 Development. As used in this article, "secretary" means the Secretary of the Department of
14 Economic Development. Subject to the provisions of the contract provided in §5B-2-4 of this code,

15 the ~~executive director~~ secretary may hire, and fire economic development representatives
16 employed pursuant to ~~the provisions of~~ §5B-2-5 of this code.

17 (b) The ~~Executive Director of the West Virginia Development Office~~ secretary may
18 promulgate rules to carry out the purposes and programs of the ~~West Virginia Development Office~~
19 Department of Economic Development to include generally the programs available and the
20 procedure and eligibility of applications relating to assistance under the programs. These rules
21 are not subject to ~~the provisions of~~ Chapter 29A of this code, but shall be filed with the Secretary
22 of State. The ~~executive director~~ secretary may adopt any of the rules previously promulgated by
23 the West Virginia Development Office or the council for community and economic development.

§5B-2-3. Powers and duties of the ~~executive director~~ secretary.

1 (a) The ~~executive director~~ secretary shall enhance economic growth and development
2 through the development of a comprehensive economic development strategy for West Virginia.
3 “Comprehensive economic development strategy” means a plan that outlines strategies and
4 activities designed to continue, diversify or expand the economic base of the state as a whole;
5 create jobs; develop a highly skilled workforce; facilitate business access to capital, including
6 venture capital; advertise and market the resources offered by the state with respect to the needs
7 of business and industry; facilitate cooperation among local, regional and private economic
8 development enterprises; improve infrastructure on a state, regional and community level;
9 improve the business climate generally; and leverage funding from sources other than the state,
10 including federal and private sources.

11 (b) The Department of Economic Development shall utilize, to the fullest extent practicable
12 and efficient, existing resources of the Department of Commerce for functions necessary for the
13 operation of the department but which functions are not directly related to the purposes of the
14 department listed in subsection (a) of this section. The Department of Economic Development
15 may enter into such agreements with the Department of Commerce or other agencies of this state
16 as may be necessary or advisable to utilize existing resources of this state.

17 (c) The Secretary of the Department of Economic Development may designate, in writing,
18 a list of positions within the department that shall be exempt from coverage under the state's
19 classified service.

20 (d) The Department of Economic Development shall be exempt from §5A-3-1 et seq. of
21 this code.

§5B-2-3b. Economic development office promotion and closing fund.

1 There is hereby established in the state Treasury a special revenue fund known as The
2 previously created fund known as the “Development Office promotion fund” is hereby continued
3 but shall hereafter be known as the “Economic Development Promotion and Closing Fund”.
4 Moneys deposited in this fund shall be administered by the Department of Economic Development
5 Office and used solely to promote business formation, expansion, recruitment and retention
6 through aggressive marketing and international development and export assistance, and to
7 provide a fund from which moneys may be drawn to offer certain incentives for business formation
8 or expansion, to provide assistance with respect to site development or other concerns identified
9 by the secretary, and to further facilitate economic development in this state, all of which together
10 economic development efforts and initiatives lead to more and better jobs with higher wages for
11 all geographic regions and communities of the state, including rural areas and urban core areas,
12 and for all residents, including minorities.

§5B-2-4. Public-private partnerships.

1 The ~~West Virginia Development Office~~ Department of Economic Development is
2 ~~authorized to~~ may enter into contractual or joint venture agreements with a nonprofit corporation
3 organized pursuant to the corporate laws of the state, organized to permit qualification pursuant
4 to section 501(c) of the Internal Revenue Code and for purposes of the economic development
5 of West Virginia, and funded from sources other than the state. The contract shall include
6 provisions relating to the employment of economic development representatives assigned to the
7 ~~West Virginia Development Office~~ Department of Economic Development to be paid a base salary

8 by the state and performance-based economic incentives from private funds of the nonprofit
9 corporation. Provisions relating to hiring practices with respect to economic development
10 representatives, job descriptions, accountability, public-private liaison, and performance
11 standards may be the subject of contract negotiations. The contract ~~shall~~may include provisions
12 for continuing education and certification in the field of economic or industrial development for
13 persons employed as economic development representatives. Agreements providing for the
14 payment of performance-based incentives to the ~~Executive Director of the West Virginia~~
15 ~~Development Office~~ secretary are authorized. Agreements providing for the payment of travel and
16 other expenses of the ~~Executive Director of the West Virginia Development Office~~ of or to the
17 secretary or of or to economic development representatives from private funds by the nonprofit
18 corporation are authorized. The prohibitions of §6B-2-5 (b) and §6B-2-5 (d) of this code are not
19 applicable to the receipt by economic development representatives or by the ~~executive director~~
20 secretary of performance-based incentives and other payments made by the nonprofit corporation
21 and specifically authorized pursuant to this section.

22 From time to time the ~~executive director~~ secretary may enter into joint ventures wherein
23 the ~~West Virginia Development Office~~ department and the nonprofit corporation share in the
24 development and funding of economic development programs.

25 All contracts and joint venture agreements must be approved by the ~~executive director~~
26 secretary. Contracts entered into pursuant to this section for longer than one fiscal year shall
27 contain, in substance, a provision that the contract shall be considered cancelled without further
28 obligation on the part of the state if the State Legislature or, where appropriate, the federal
29 government, shall fail to appropriate sufficient funds therefor or shall act to impair the contract or
30 cause it to be cancelled.

§5B-2-4a. State allocation to regional councils.

1 The ~~West Virginia Development Office~~ Department of Economic Development may enter
2 into contractual agreements with the regional councils formed under the ~~provisions of~~ §8-25-5 of

3 this code to provide funding to the regional councils to be used to obtain federal matching grants
4 and for other purposes determined to be appropriate by the ~~Development Office~~ department. The
5 maximum state allocation to each eligible regional council shall be \$40,000: *Provided*, That the
6 amount of the allocation shall be determined by dividing the number of eligible regional councils
7 into the total amount of funds made available for allocation by the Legislature. The ~~West Virginia~~
8 ~~Development Office~~ Department of Economic Development shall develop criteria to determine a
9 regional council's eligibility for the state allocation.

§5B-2-5. Economic development representatives.

1 (a) The ~~executive director~~ secretary may employ economic development representatives
2 to be paid a base salary within legislative appropriations to the ~~West Virginia Development Office~~
3 department, subject to applicable contract provisions pursuant to §5B-2-4 of this code. Economic
4 development representatives may receive performance-based incentives and expenses paid from
5 private funds from a nonprofit corporation contracting with the ~~West Virginia Development Office~~
6 department pursuant to ~~the provisions of~~ §5B-2-4 of this code. The ~~executive director~~ secretary
7 shall establish job descriptions and responsibilities of economic development representatives,
8 subject to the provisions of any contract with a nonprofit corporation entered into pursuant to §5B-
9 2-4 of this code.

10 (b) Notwithstanding any provision of this code to the contrary, economic development
11 representatives employed within the ~~West Virginia Development Office~~ department are not
12 subject to the procedures and protections provided by §29-6-1 *et seq.* and §29-6A-1 *et seq.* of
13 this code. Any employee of the ~~West Virginia Development Office~~ department on the effective
14 date of this article who applies for employment as an economic development representative is
15 not entitled to the protections of by §29-6-1 *et seq.* of this code with respect to hiring procedures
16 and qualifications; and upon accepting employment as an economic development representative,
17 the employee relinquishes the protections provided for in §6C-2-1 *et seq.* and §29-6-1 *et seq.* of
18 this code.

19 (c) On the last Monday in January, in years 2017, 2019 and 2021, the ~~executive director~~
20 secretary shall submit to the Legislature a written report. The ~~executive director~~ secretary shall
21 provide copies of his or her report to the President of the Senate, the Speaker of the House of
22 Delegates, the chair of the Senate Committee on Economic Development and the chair of the
23 House Committee on Small Business, Entrepreneurship and Economic Development. The
24 ~~executive director's~~ secretary's report shall do the following:

25 (1) Identify and describe loans, grants or other funding sources that economic
26 development representatives have assisted small businesses acquire during the immediately
27 preceding reporting cycle;

28 (2) Identify and describe generally inquiries, requests for assistance or other matters that
29 other state or federal agencies have presented to the ~~West Virginia Development Office~~
30 department in the immediately preceding reporting cycle in connection with those agencies' efforts
31 to regulate or assist small businesses;

32 (3) Identify and describe issues with formation, registration and licensure requirements
33 that state law imposes on small businesses that small businesses have identified to the ~~West~~
34 ~~Virginia Development Office~~ department in the immediately preceding reporting cycle as
35 burdensome;

36 (4) Identify specific forms, processes or requirements imposed by state law that small
37 businesses have identified to the ~~West Virginia Development Office~~ department in the
38 immediately preceding reporting cycle that may be streamlined, simplified, combined, or
39 eliminated in order to reduce unnecessary costs, delays, or other burdens on small businesses;

40 (5) Propose and describe concrete and specific steps that any branch, agency or level of
41 state government may take to streamline, simplify, combine, or eliminate the forms, processes or
42 requirements identified in subdivision (4) of this subsection; and

43 (6) Provide the following information:

44 (A) The number of small businesses counseled by the ~~West Virginia Development Office~~
45 department during the immediately preceding reporting cycle;

46 (B) The number of new businesses created while being counseled by the ~~West Virginia~~
47 ~~Development Office~~ department during the immediately preceding reporting cycle;

48 (C) The number of jobs created by businesses counseled by the ~~West Virginia~~
49 ~~Development Office~~ department during the immediately preceding reporting cycle; and

50 (D) Any other information that, in the opinion of the executive director, demonstrates the
51 performance of the ~~West Virginia Development Office~~ department or economic development
52 representatives during the immediately preceding reporting cycle.

§5B-2-6. Transition; savings provision.

1 All programs, orders, determinations, rules, permits, grants, contracts, certificates, bonds,
2 authorizations and privileges which have been issued, made, granted or allowed to become
3 effective pursuant to any prior enactments of this article or by the Governor, the Governor's Office
4 of Community and Industrial Development or its director, or by a court of competent jurisdiction,
5 and which are in effect on February 1, 1992, shall continue in effect according to their terms until
6 modified, terminated, superseded, set aside or revoked by the Governor or the ~~Executive Director~~
7 secretary of the ~~West Virginia Development Office~~ department pursuant to this article, by a court
8 of competent jurisdiction or by operation of law.

§5B-2-6a. Brownfield economic development districts; applications; fees; rules.

1 (a) Any property owner of a tract of land that is a brownfield or voluntary remediated site
2 pursuant to §22-22-1 *et seq.* of this code may, if the site and surrounding area were involved in
3 the extraction and processing of coal, limestone, or other natural resources, apply to the
4 ~~Development Office~~ department to become a brownfield economic development district.

5 (1) Applicants for a brownfield economic development district must demonstrate that the
6 district when designated will create significant economic development activity;

7 (2) Applicants shall submit a development plan that provides specific details on proposed
8 financial investment, direct and indirect jobs to be created and the viability of the district;

9 (3) Brownfield economic development districts:

10 (A) May not contain single-family housing;

11 (B) Shall provide all the infrastructure within the district without cost to the state, county,
12 public service district or local municipal government;

13 (4) Applicants shall demonstrate that were it not for this designation, the contemplated
14 development would not be possible, and that the development is in the best interest of the state;

15 (5) The applicant shall own or control the property within the district;

16 (6) All costs for the application process shall be borne by the applicant;

17 (7) An applicant shall demonstrate that the applicant has attempted to work in good faith
18 with local officials in regard to land-use issues;

19 (8) Beginning July 1, 2011, an application for a brownfield economic development district
20 may not be approved unless the district conforms to a county's or municipality's planning and
21 zoning laws established pursuant to ~~the provisions of~~ §8A-7-1 *et seq.*, §8A-8-1 *et seq.*, and §8A-
22 9-1 *et seq.* of this code.

23 (9) Prior to granting a designation of brownfield economic development district, the
24 applicant shall provide documentation that the applicant has met all the requirements set forth in
25 §22-22-1 *et seq.* of this code to be designated as a brownfield site or voluntary remediated site
26 and is in compliance with the remediation plan;

27 (10) Nothing may be construed by this section to exempt brownfield economic districts
28 from environmental regulation that would pertain to the development;

29 (11) The decision of the development office in regard to an application is final; and

30 (12) Once designated, the district shall work in conjunction with the regional brownfield
31 assistance centers of Marshall University and West Virginia University as specified in §18B-11-7
32 of this code.

33 (b) The ~~development office~~ department shall propose rules for legislative approval in
34 accordance with the provisions of §29-3-1 *et seq.* of this code to implement this section and the
35 rules shall include, but not be limited to, the application and time line process, notice provisions,
36 additional application consideration criteria and application fees sufficient to cover the costs of
37 the consideration of an application. ~~The department development office shall promulgate~~
38 ~~emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty nine a~~
39 ~~of this code by October 1, 2008, to facilitate the initial implementation of this section.~~

**§5B-2-9a. Powers and duties of ~~Commissioner~~ Secretary of the Division Department of
Tourism and Tourism Commission Advisory Council for improving Cardinal
Passenger Train Service; declaration of public policy and Legislative intent.**

1 (a) It is hereby declared the public policy of the State of West Virginia and the intent of the
2 Legislature to facilitate, advance and improve the availability of interstate passenger rail service
3 to the state, the contributions of such service to local tourism development including the Boy
4 Scouts of America Summit Bechtel Reserve in Fayette County, the marketing of such services for
5 both interstate rail travel for the benefit of the state's citizens, businesses and local tourism and
6 to improve the quality and frequency of such service, including the provision of a daily passenger
7 train service at the earliest opportunity, of the Cardinal Passenger Train operated by the National
8 Railroad Passenger Corporation, doing business as AMTRAK, on railroad lines crossing the
9 south-central region of the state from Huntington eastward to White Sulphur Springs, being that
10 same route historically and continuously used by the passenger train and its predecessors since
11 the year 1871.

12 (b) Notwithstanding any other provision of this code to the contrary, the ~~Commissioner~~
13 Secretary of the Division Department of Tourism, with the advice of the tourism ~~commission~~
14 advisory council, and ~~under the supervision of~~ in consultation with the Secretary of the West
15 Virginia Department of ~~Commerce~~ Economic Development, is ~~authorized and~~ directed to
16 coordinate and supervise the activities of the state, to coordinate and cooperate with the political

17 subdivisions and municipalities of the state, to cooperate with the National Railroad Passenger
18 Corporation and with the other states served by the Cardinal Passenger Train to achieve the
19 public policy set forth in subsection (a) of this section. The ~~commissioner~~ secretary ~~is authorized~~
20 ~~to~~ may conduct such studies, and make such investigations, as may be reasonable and
21 appropriate to advance the public policy set forth in subsection (a) of this section.

22 (c) The ~~commissioner~~ secretary ~~is hereby authorized to~~ may enter into contracts and
23 memoranda of understanding with the National Railroad Passenger Corporation, with the other
24 states served by the Cardinal Passenger Train, and with the political subdivisions and
25 municipalities of this state, to achieve the public policy set forth in subsection (a) of this section.
26 The ~~commissioner~~ secretary is further authorized to cooperate with the aforesaid other states and
27 National Railroad Passenger Corporation in the formation of an interstate committee for the
28 purpose of achieving the public policy set forth in subsection (a) of this section, to participate in
29 said committee and appoint other designees thereto.

30 (d) In the exercise of their powers and duties under this section, the ~~commissioner~~
31 secretary and tourism ~~commission~~ advisory council shall consult with the West Virginia
32 Department of Transportation and the West Virginia State Rail Authority. The West Virginia
33 Department of Transportation and the West Virginia State Rail Authority shall cooperate with the
34 ~~commissioner~~ secretary and the tourism ~~commission~~ advisory council, and shall provide the
35 ~~commissioner~~ secretary and the tourism ~~commission~~ advisory council with such reasonable and
36 necessary assistance as may be possible based on available staff and funds to achieve the public
37 policy set forth in subsection (a) of this section.

38 (e) There is hereby created a special revenue account, designated the "Cardinal
39 Passenger Train Enhancement Fund" into which all moneys intended to advance the purposes of
40 this section shall be deposited. Moneys in this account shall be expended solely for the public
41 policy and purposes set forth in this section. Funds paid into this account may also be derived
42 from the following sources: (1) All interest or return on investment accruing to this account; (2)

43 any gifts, grants, bequests, transfers, appropriations, or other donations which may be received
44 from any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any
45 appropriations by the Legislature which may be made for the purposes of this section. Any
46 balance including accrued interest and other earnings at the end of any fiscal year shall not revert
47 to the general fund but shall remain in the fund for the purposes set forth in this section. The
48 moneys in the fund shall be paid out, at the sole discretion and direction of the ~~commissioner~~
49 secretary, to advance the purposes of this section.

§5B-2-10. Program and policy action statement; submission to joint committee on government and finance.

1 The tourism ~~commission~~ advisory council, the ~~West Virginia Development Office~~
2 Department of Economic Development, and any other authorities, boards, commissions,
3 corporations or other entities created or amended under this chapter and §18B-11-1 *et seq.* of
4 this code, shall prepare and submit to the Joint Committee on Government and Finance on or
5 before December 1, 1995, and each year thereafter, a program and policy action statement which
6 shall outline in specific detail according to the purpose, powers and duties of the office or section,
7 its procedure, plan and program to be used in accomplishing its goals and duties as required
8 under this article.

§5B-2-14. Certified development community program.

1 The certified development community program is continued and is transferred to,
2 incorporated in and administered as a program of the ~~West Virginia Development Office~~
3 Department of Economic Development. The program shall provide funding assistance to the
4 participating economic development corporations or authorities through a matching grant
5 program. The ~~West Virginia Development Office~~ department shall establish criteria for awarding
6 matching grants to the corporations or authorities within the limits of funds appropriated by the
7 Legislature for the program. The matching grants to eligible corporations or authorities are in the
8 amount of \$30,000 for each fiscal year, if sufficient funds are appropriated by the Legislature. The

9 ~~West Virginia Development Office~~ department shall recognize existing county, regional or
10 multicounty corporations or authorities where appropriate.

11 In developing its plan, the ~~West Virginia Development Office~~ department shall consider
12 resources and technical support available through other agencies, both public and private,
13 including, but not limited to, the state college and university systems; the West Virginia Housing
14 Development Fund; the West Virginia Economic Development Authority; the West Virginia
15 Parkways, Economic Development and Tourism Authority; the West Virginia Round Table; the
16 West Virginia Chamber of Commerce; Regional Planning and Development Councils; Regional
17 Partnership for Progress Councils; and state appropriations.

§5B-2-15. Upper Kanawha Valley Resiliency and Revitalization Program.

1 (a) *Definitions.* —

2 (1) *General.* — Terms defined in this section have the meanings ascribed to them by this
3 section, unless a different meaning is clearly required by either the context in which the term is
4 used, or by specific definition in this section.

5 (2) *Terms Defined.* —

6 “Contributing partners” means those entities or their representatives described in
7 subsection (f) of this section.

8 “Prioritize” means, with regard to resources, planning, and technical assistance, that the
9 members of the revitalization council are required to waive their discretionary program guidelines
10 to allow funding requests that may fall outside of the program’s guidelines but address the Upper
11 Kanawha Valley communities’ goals for revitalization: *Provided*, That properly filed funding
12 applications by Upper Kanawha Valley communities shall be given preferential treatment.

13 “Program” means the Upper Kanawha Valley Resiliency and Revitalization Program
14 established in this section.

15 “Revitalization council” means those entities or their representatives described in
16 subsection (d) of this section.

17 “Technical assistance” means resources provided by the state, revitalization council,
18 contributing partners, or any other individuals or entities providing programming, funding, or other
19 support to benefit the Upper Kanawha Valley under the program.

20 “Upper Kanawha Valley” means an area historically known as the Upper Kanawha Valley
21 including municipalities and surrounding areas from the Charleston city limits to Gauley Bridge or
22 other communities in the vicinity of the West Virginia University Institute of Technology.

23 “Upper Kanawha Valley Resiliency and Revitalization Program” means the entire process
24 undertaken to further the goals of this section, including collaboration development and
25 implementation between the members, contributors, and technical assistance resource providers.

26 ***(b) Legislative purpose, findings, and intent. —***

27 (1) The decision to relocate the historic campus of the West Virginia University Institute of
28 Technology from Montgomery, West Virginia, to Beckley, West Virginia, will have a dramatic
29 economic impact on the Upper Kanawha Valley.

30 (2) The purpose of this section is to establish the Upper Kanawha Valley Resiliency and
31 Revitalization Program. To further this purpose, this program creates a collaboration among state
32 government, higher education, and private and nonprofit sectors to streamline technical
33 assistance capacity, existing services, and other resources to facilitate community revitalization
34 in the Upper Kanawha Valley.

35 (3) It is the intent of the Legislature to identify existing state resources that can be
36 prioritized to support the Upper Kanawha Valley, generate thoughtful and responsible ideas to
37 mitigate the negative effects of the departure of the West Virginia Institute of Technology from the
38 Upper Kanawha Valley, and help chart a new course and prosperous future for the Upper
39 Kanawha Valley.

40 ***(c) Upper Kanawha Valley Resiliency and Revitalization Program established; duration of***
41 ***program. —***

42 (1) The Development Office shall establish the Upper Kanawha Valley Resiliency and
43 Revitalization Program in accordance with the provisions of this section. The program shall
44 inventory existing assets and resources, prioritize planning and technical assistance, and
45 determine such other assistance as might be available to revitalize communities in the Upper
46 Kanawha Valley.

47 (2) The program shall remain active until it concludes its work on June 30, 2024, and
48 delivers a final report to the Joint Committee on Government and Finance no later than October
49 1, 2024.

50 (d) *Revitalization council created.* — There is hereby created a revitalization council to
51 fulfill the purposes of this section. The revitalization council shall be coordinated by the
52 Development Office in the Department of Commerce and be subject to oversight by the secretary
53 of the department. The following entities shall serve as members of the revitalization council:

54 (1) The ~~Executive Director~~ Secretary of the ~~Development Office~~ Department of Economic
55 Development or their designee, who shall serve as chairperson of the council;

56 (2) The Secretary of the Department of Health and Human Resources or their designee;

57 (3) The Commissioner of the Department of Agriculture or their designee;

58 (4) The Executive Director of the West Virginia Housing Development Fund or their
59 designee;

60 (5) A representative from the Kanawha County Commission;

61 (6) A representative from the Fayette County Commission;

62 (7) The mayor, or their designee, from the municipalities of Montgomery, Smithers, Pratt,
63 and Gauley Bridge;

64 (8) A representative from Bridge Valley Community and Technical College; and

65 (9) A representative from West Virginia University.

66 (e) *Duties of the revitalization council.* —

67 (1) The council shall identify existing state resources that can be prioritized to support
68 economic development efforts in the Upper Kanawha Valley.

69 (2) The council shall direct existing resources in a unified effort and in conjunction with
70 contributing partners, as applicable, to support the Upper Kanawha Valley.

71 (3) The council shall develop a rapid response strategy to attract or develop new
72 enterprises and job-creating opportunities in the Upper Kanawha Valley.

73 (4) The council shall conduct or commission a comprehensive assessment of assets
74 available at the campus of the West Virginia Institute of Technology and determine how those
75 assets will be preserved and repurposed.

76 (5) The council shall assist communities in the Upper Kanawha Valley by developing an
77 economic plan to diversify and advance the community.

78 (6) Members of the council shall support both the planning and implementation for the
79 program and shall give priority wherever possible to programmatic activity and discretionary,
80 noncompetitive funding during the period the program remains in effect.

81 (7) Members of the council shall work together to leverage funding or other agency
82 resources to benefit efforts to revitalize the Upper Kanawha Valley.

83 (f) *Contributing partners.* — To the extent possible, the revitalization council shall
84 incorporate the resources and expertise of additional providers of technical assistance to support
85 the program, which shall include but not be limited to:

86 (1) The West Virginia Small Business Development Center;

87 (2) The Center for Rural Health Development;

88 (3) The West Virginia University Brickstreet Center for Entrepreneurship;

89 (4) The West Virginia University Land Use and Sustainability Law Clinic;

90 (5) The West Virginia University Center for Big Ideas;

91 (6) The New River Gorge Regional Development Authority;

92 (7) The Appalachian Transportation Institute;

- 93 (8) The Marshall University Center for Business and Economic Research;
94 (9) TechConnect;
95 (10) The West Virginia Community Development Hub;
96 (11) The West Virginia University Northern Brownfields Assistance Center;
97 (12) West Virginia State University Extension Service; and
98 (13) West Virginia University Extension Service, Community, Economic and Workforce
99 Development.

100 (g) *Reporting and agency accountability.* — The revitalization council, in coordination with
101 its contributing partners, as applicable, shall report annually to the Governor and the Legislature
102 detailing the progress of the technical assistance support provided by the program, the strategic
103 plan for the Upper Kanawha Valley, and the results of these efforts. The annual report to the
104 Legislature shall be made to the Joint Committee on Government and Finance regarding the
105 previous fiscal year no later than October 1 of each year. Copies of the annual report to the
106 Legislature shall be provided to the county commissions and the mayors of the Upper Kanawha
107 Valley.

108 (h) *Economic incentives for businesses investing in the Upper Kanawha Valley.* — The
109 ~~Development Office~~ Department of Economic Development and the revitalization council, as
110 applicable, ~~will~~ shall work to educate businesses investing, or interested in investing, in the Upper
111 Kanawha Valley, about the availability of, and access to, economic development assistance,
112 including but not limited to, the economic opportunity tax credit provided in §11-13Q-19 of this
113 code; the manufacturing investment tax credit provided under §11-13S-1 *et seq.* of this code; and
114 any other applicable tax credit or development assistance.

115 (i) *Use of state property and equipment; faculty.* — The ~~Development Office~~ Department
116 of Economic Development or other owner of state property and equipment in the Upper Kanawha
117 Valley is authorized to provide for the low cost and economical use and sharing of state property
118 and equipment, including computers, research labs, and other scientific and necessary equipment

119 to assist any business within the Upper Kanawha Valley at a nominal or reduced-cost
120 reimbursements to the state for ~~such~~ that use.

§5B-2-16. Entrepreneurship and Innovation Investment Fund.

1 (a) The Entrepreneurship and Innovation Investment Fund is hereby created. The fund
2 shall be administered by the ~~West Virginia Development Office~~ Department of Economic
3 Development and shall consist of all moneys made available for the purposes and from the
4 sources set forth in this section of the code.

5 (b) The fund consists of moneys received from the following sources:

6 (1) All appropriations provided by the Legislature;

7 (2) Any moneys available from external sources; and

8 (3) All interest and other income earned from investment of moneys in the fund.

9 (c) The ~~West Virginia Development Office~~ Department of Economic Development shall
10 use moneys in the fund to support entrepreneurship, creation of business startups, improvements
11 in workforce participation, and attracting individuals to relocate to West Virginia.

12 (d) Any balance, including accrued interest and any other returns, in the Entrepreneurship
13 and Innovation Investment Fund at the end of each fiscal year ~~shall~~ may not expire to the General
14 Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

15 (e) Fund balances may be invested with the state's Consolidated Investment Fund.
16 Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this
17 code.

§5B-2-17. West Virginia Motorsport Committee.

1 (a) The West Virginia Motorsport Committee is hereby created.

2 (b) The committee consists of five members, including its chairperson, appointed by the
3 Governor to serve at his or her will and pleasure.

4 (c) The ~~Commissioner~~ Secretary of the Department of Tourism and the ~~Director~~ Secretary
5 of the ~~West Virginia Development Office~~ Department of Economic Development shall also serve
6 on the committee, ex officio.

7 (d) The committee shall:

8 (1) Work with the existing facilities within the state to enhance existing racing;

9 (2) Develop a strategy that creates further opportunities, such as encouraging racing
10 training schools, conducting special events, and encouraging special events and the construction
11 of larger in-state racing facilities; and

12 (3) Seek opportunities to promote economic growth and manufacturing jobs related to
13 motorsports.

14 (e) The committee shall hold regular meetings, at least quarterly, and conduct public
15 hearings as it ~~deems~~ considers necessary.

16 (f) Members of the committee will receive no compensation but are entitled to
17 reimbursement for mileage expenses while attending meetings of the committee to the extent that
18 funds are available through the ~~Development Office~~ Department of Economic Development.

19 (g) The committee shall report on the status of its duties, goals, accomplishments, and
20 recommendations to the Legislature on at least an annual basis.

ARTICLE 21. WEST VIRGINIA TOURISM OFFICE DEPARTMENT OF TOURISM.

§5B-21-2. West Virginia Department of Tourism Office.

1 The West Virginia Tourism Office, previously continued from the Division of Tourism, is
2 continued ~~within the Department of Commerce but is hereafter~~ but is hereafter raised to a
3 separate and distinct department of the executive branch of state government and is designated
4 and shall be known as the West Virginia Department of Tourism Office. All references in this
5 code to the Division of Tourism or to the West Virginia Tourism Office shall be construed as
6 references to the West Virginia Department of Tourism Office. As used in this article, "department"
7 means the Department of Tourism.

~~§5B-2I-3. Appointment and compensation of the Executive Director of the West Virginia Tourism Office~~ Office of Secretary of Department of Tourism.

1 ~~(a) The West Virginia Tourism Office is under the direction and charge of the Executive~~
2 ~~Director of the West Virginia Tourism Office.~~

3 ~~(b) The Executive Director shall be appointed by the Governor: *Provided*, That the person~~
4 ~~-serving as Commissioner of Tourism at the time of enactment of this section in 2017, shall be the~~
5 ~~Executive Director of the West Virginia Tourism Office and serve at the will and pleasure of the~~
6 ~~Governor. The executive director's salary shall be set by the Governor. The executive director~~
7 ~~shall be a competent person, having executive ability and knowledge of publicity, advertising and~~
8 ~~tourism promotion.~~

9 (a) The Secretary of the Department of Tourism is the chief executive officer of the
10 department. The Governor shall appoint the secretary, by and with the advice and consent of the
11 Senate, for the term for which the Governor is elected, and the secretary shall serve at the will
12 and pleasure of the Governor. Any reference in this code to the "Executive Director" or
13 "Commissioner" of the West Virginia Tourism Office means the Secretary of the Department of
14 Tourism. As used in this article, "secretary" means the Secretary of the Department of Tourism.

~~§5B-2I-4. Powers and duties of the West Virginia Tourism Office~~ Department of Tourism.

1 ~~(a) The West Virginia Tourism Office~~ Department of Tourism, under the direction and
2 charge of the ~~Executive Director~~ secretary of the West Virginia Tourism Office, shall develop and
3 implement a comprehensive tourism advertising, promotion, and development strategy for West
4 Virginia. "Comprehensive tourism advertising, promotion and development strategy" means a
5 plan that outlines strategies and activities designed to continue, diversify and expand the tourism
6 base of the state as a whole; create tourism jobs; develop a highly skilled tourism workforce;
7 facilitate business access to capital for tourism; advertise and market the resources offered by
8 the state with respect to tourism advertising, promotion and development; facilitate cooperation
9 among local, regional and private tourism enterprises; improve infrastructure on a state, regional

10 and community level in order to facilitate tourism development; improve the tourism business
11 climate generally; and leverage funding from sources other than the state, including local, federal
12 and private sources. In addition to all other power and duties of the ~~West Virginia Tourism Office~~
13 department by other provisions of this code, the ~~West Virginia Tourism Office~~ department shall:

14 (1) Coordinate media events to promote a positive image of West Virginia and new
15 investment in the ~~tourist industry~~ state;

16 (2) Provide comprehensive strategic planning services to existing tourism enterprises;

17 (3) Promote attractions of West Virginia in other states;

18 (4) Provide advertising, marketing and communications goods and services, including,
19 without limitation, a cooperative advertising program to facilitate and allow participation in the
20 ~~West Virginia Tourism Office's~~ department's advertising and marketing campaigns and activities,
21 to state agencies, departments, units of state or local government, private tourism enterprises
22 and other persons, entities, or private enterprises, including, without limitation, convention and
23 visitors' bureaus; and

24 (5) Distribute West Virginia informational publications and manage the West Virginia
25 Welcome Centers; and-

26 (6) Coordinate programs, initiatives, and production of materials relating to the branding
27 and marketing of the state, and its departments and agencies, and to provide greater coherence
28 in such programs, initiatives, and materials across the departments and agencies of the state.

29 (b) In developing its strategies, plans and campaigns, the ~~West Virginia Tourism Office~~
30 department shall consider the following:

31 (1) Improvement and expansion of existing tourism marketing and promotion activities;

32 (2) Promotion of cooperation among municipalities, counties and the West Virginia
33 Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the
34 potential for tourism development.

35 (c) The ~~West Virginia Tourism Office~~ Department of Tourism shall have the following
36 ~~power powers~~ and ~~duty duties~~:

37 (1) To acquire for the state in the name of the ~~West Virginia Tourism Office~~ department by
38 purchase, lease, or agreement, or to accept or reject for the state, in the name of the ~~West Virginia~~
39 ~~Tourism Office~~ department, gifts, donations, contributions, bequests or devises of money, security
40 or property, both real and personal, and any interest in such property, to effectuate or support the
41 purposes of this article;

42 (2) To make recommendations to the Governor and the Legislature of any legislation
43 deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to
44 exercise any other power that may be necessary or proper for the orderly conduct of the business
45 of the ~~West Virginia Tourism Office~~ department and the effective discharge of the duties of the
46 ~~West Virginia Tourism Office~~ department;

47 (3) To cooperate and assist in the production of motion pictures and television and other
48 communications;

49 (4) To purchase advertising time or space in or upon any medium generally engaged or
50 employed for said purpose to advertise and market the resources of the state or to inform the
51 public at large or any specifically targeted group or industry about the benefits of living in, investing
52 in, producing in, buying from, contracting with, or in any other way related to, the State of West
53 Virginia or any business, industry, agency, institution, or other entity therein;

54 (5) To promote and disseminate information related to the attractions of the state through
55 the operation of the state's telemarketing initiative, which telemarketing initiative shall include a
56 centralized reservation and information system for state parks and recreational facilities;

57 (6) To take such additional ~~factors~~ actions as may be necessary to carry out the powers,
58 duties and programs described in this article; and

59 (7) To provide assistance to and assist with retention and expansion of existing tourism-
60 related enterprises in the state and to recruit or assist in the recruitment of new tourism-related
61 enterprises to the state.

62 (d) The ~~West Virginia Tourism Office~~ Department of Tourism may contract with the
63 Division of Highways to sell advertising space on the WV511 website to promote in-state tourism
64 and raise capital for technological improvements to the website: *Provided*, That 50 percent of the
65 money collected for sale of advertising space is deposited into the Tourism Promotion Fund and
66 the other 50 percent of the money collected from the sale of advertising space is remitted to the
67 Division of Highways pursuant to the contract.

68 (e) The ~~West Virginia Tourism Office~~ Department of Tourism may charge and collect
69 reasonable fees for goods and services it provides to state agencies, departments, units of state
70 or local government or other person, entity, or enterprise. All moneys collected by the ~~West~~
71 ~~Virginia Tourism Office~~ department shall be deposited in the Tourism Promotion Fund and used
72 in accordance with the provisions of this article.

73 (f) The ~~West Virginia Tourism Office~~ Department of Tourism may engage and retain one
74 or more advertising and marketing agencies, consultants, enterprises, firms, or persons, as
75 deemed by the ~~Executive Director of the West Virginia Tourism Office~~ secretary, in his or her sole
76 discretion, necessary or advisable to assist the ~~West Virginia Tourism Office~~ department in
77 carrying out its powers and duties as set forth in this article. In the procurement of advertising
78 agencies, consultants, enterprises, or persons, from time to time, estimated to cost \$250,000 or
79 more, the ~~Executive Director of the West Virginia Tourism Office~~ secretary shall encourage such
80 advertising and marketing agencies, consultants, enterprises, firms, or persons to submit an
81 expression of interest, which shall include a statement of qualifications, including anticipated
82 concepts and proposed advertising, marketing and advertising campaigns. All potential contracts
83 shall be announced by public notice published as a Class II legal advertisement in compliance
84 with ~~the provisions of~~ §59-3-3 of this code. A committee of three to five representatives of the

85 ~~West Virginia Tourism Office~~ department or the Tourism ~~Commission~~ Advisory Council, as
86 selected by the ~~chair of the Tourism Commission~~ secretary, shall evaluate the statements of
87 qualifications and other materials submitted by interested firms and select three firms which, in
88 their opinion, are best qualified to perform the desired service. The committee shall then rank, in
89 order of preference, the three firms selected and shall commence scope of service and price
90 negotiations with the first-ranked firm. If the ~~West Virginia Tourism Office~~ department is unable
91 to negotiate a satisfactory contract with the first-ranked firm, at a fee determined to be fair and
92 reasonable, price negotiations with the firm of second choice shall commence. Failing accord with
93 the second-ranked firm, the committee shall undertake price negotiations with the third-ranked
94 firm. If the ~~West Virginia Tourism Office~~ department is unable to negotiate a satisfactory contract
95 with any of the selected firms, the office shall select additional firms in order of their competence
96 and qualifications and it shall continue negotiations in accordance with this section until an
97 agreement is reached.

98 If the procurement of the services is estimated by the ~~executive director~~ secretary to cost
99 less than \$250,000, the ~~West Virginia Tourism Office~~ department shall conduct discussions with
100 three or more firms solicited on the basis of known or submitted qualifications for the assignment
101 prior to the awarding of any contract: *Provided*, That if a judgment is made that special
102 circumstances exist and that seeking competition is not practical, the ~~West Virginia Tourism Office~~
103 department may, ~~with the prior written approval of the Secretary of Commerce~~, select a firm on
104 the basis of previous satisfactory performance and knowledge of the ~~West Virginia Tourism~~
105 ~~Office's~~ department's needs. After selection, the ~~West Virginia Tourism Office~~ department and
106 selected firm shall develop the scope of desired services and negotiate a contract.

107 (g) The ~~Executive Director~~ secretary of the ~~West Virginia Tourism Office~~ Department of
108 Tourism may, in order to carry out the powers and duties of the ~~West Virginia Tourism Office~~
109 department described in this article, employ necessary personnel, contract with professional or

110 technical experts or consultants and purchase or contract for the necessary equipment or
111 supplies.

112 (h) The ~~Executive Director~~ secretary of the ~~West Virginia Tourism Office~~ Department of
113 Tourism may designate, in writing, ~~with the written consent of the Secretary of Commerce~~, a list
114 of positions within the ~~West Virginia Tourism Office~~ department that shall be exempt from
115 coverage under the state's classified service.

116 (i) The ~~West Virginia Tourism Office~~ Department of Tourism shall submit a report annually
117 to the Governor, ~~Secretary of Commerce~~ and the Legislature about the development of the
118 tourism industry in the state and the necessary funding required by the state to continue the
119 development of the tourism industry.

120 (j) The ~~West Virginia Tourism Office~~ Department of Tourism and the ~~Executive Director of~~
121 ~~the West Virginia Tourism Office~~ secretary shall engage, collaborate, assist, and cooperate with
122 the ~~West Virginia Development Office~~ Department of Economic Development, when and as
123 appropriate, to facilitate retention, expansion, recruitment, and location of existing and new
124 tourism-related enterprises.

125 (k) The Department of Tourism shall utilize, to the fullest extent practicable and efficient,
126 existing resources of the Department of Commerce for functions necessary for the operation of
127 the department but which functions are not directly related to the purposes of the department
128 listed above. The Department of Tourism may enter into such agreements with the Department
129 of Commerce or other agencies of this state as may be necessary or advisable to utilize existing
130 resources of this state.

131 (l) The Department of Tourism shall be exempt from §5A-3-1 et seq. of this code.

§5B-2I-5. Public-private partnerships.

1 (a) The ~~West Virginia Tourism Office~~ Department of Tourism may enter into contractual or
2 joint venture agreements with one or more nonprofit corporations organized pursuant to the
3 corporate laws of the state, organized to permit qualification pursuant to Section 501(c) of the

4 Internal Revenue Code and organized for purposes of the promotion and development of tourism
5 in West Virginia, and funded from sources other than the state. Members of the Tourism
6 ~~Commission~~ Advisory Council provided in this article are authorized to sit on the board of directors
7 of such private nonprofit corporations.

8 (b) From time to time the ~~West Virginia Tourism Office~~ department may enter into joint
9 ventures wherein the ~~West Virginia Development Office~~ Department of Economic Development
10 and one or more said nonprofit corporations share in the development and funding of tourism
11 advertising, promotion and development programs and campaigns.

12 (c) All contracts and joint venture agreements entered into pursuant to this section for
13 longer than one fiscal year shall contain, in substance, a provision that the contract shall be
14 considered canceled without further obligation on the part of the state if the Legislature, or, where
15 appropriate, the federal government shall fail to appropriate sufficient funds therefor or shall act
16 to impair the contract or cause it to be canceled.

§5B-2I-6. Tourism Promotion Fund; use of funds.

1 (a) There is continued in the State Treasury the special revenue fund known as the
2 Tourism Promotion Fund created under prior enactment of §5B-1-9 of this code.

3 (b) Moneys deposited in the fund each year shall be used solely for marketing, direct
4 advertising, business development and public relations promoting travel and tourism within the
5 state ~~and~~ or the state's image and brand identity at the discretion and direction of the ~~Executive~~
6 ~~Director~~ secretary of the ~~West Virginia Tourism Office~~ Department of Tourism. "Direct advertising"
7 means advertising which includes, but is not limited to, television, radio, mailings, newspaper,
8 magazines, digital marketing, including the Internet and social media, and outdoor billboards or
9 any combination thereof. Any balance remaining at the end of any fiscal year does not revert to
10 the General Revenue Fund, but shall remain in the fund for expenditures in accordance with ~~the~~
11 ~~provisions~~ of this section.

12 (c) Effective July 1, 2017, the Tourism Advertising Partnership Program and all related
13 legislative or procedural rules shall cease, except as necessary for the Tourism ~~Commission~~
14 Advisory Council to settle, finalize and conclude all outstanding advertising grants or other
15 financial obligations of the Tourism ~~Commission~~ Advisory Council respecting funds in the Tourism
16 Promotion Fund previously approved, expended or obligated by the Tourism Advisory Council
17 ~~Commission~~ as of the effective date of this article pursuant to §5B-2I-7(e) (2) of this code and be
18 replaced by a cooperative advertising program to be created and established by the ~~West Virginia~~
19 ~~Tourism Office-Department of Tourism~~, under and pursuant to §5B-2I-4 of this code, to offer,
20 facilitate and allow participation in the ~~West Virginia Tourism Office's~~ department's advertising
21 and marketing campaigns and activities, to state agencies, departments, units of state or local
22 government, private tourism enterprises and other persons, entities or private enterprises,
23 including, without limitation, convention and visitors' bureaus. The ~~Executive Director~~ secretary
24 of the ~~West Virginia Tourism Office-Department of Tourism~~ shall establish and publish a fee
25 schedule, which shall include a match of state funds to program participant's funds, for
26 participation in the cooperative advertising program.

§5B-2I-7. Tourism ~~Commission~~ Advisory Council; members, appointment and expenses.

1 (a) There is continued within the Department of ~~Commerce~~ Tourism an independent
2 Tourism ~~Commission~~ Advisory Council. ~~which is a body corporate and politic, constituting~~
3 ~~a public corporation and government instrumentality.~~

4 (b) The Tourism ~~Commission~~ Advisory Council consists of the following ~~fifteen~~ 16
5 members:

6 (1) The Secretary of Commerce or his or her designee, ex officio;

7 (2) The Secretary of the Department of Economic Development or his or her designee, ex
8 officio;

9 ~~(2)~~ (3) The Secretary of Transportation or his or her designee, ex officio;

10 ~~(3)~~ (4) Twelve members appointed by the Governor, with the advice and consent of the
11 Senate, representing participants in the state's tourism industry. Ten of the members shall be
12 from the private sector, one shall be a director employed by a convention and visitors bureau and
13 one shall be a member of a convention and visitors bureau. In making the appointments, the
14 Governor may select from a list provided by the West Virginia Hospitality and Travel Association
15 of qualified applicants. Of the 12 members so appointed, no less than three shall be from each
16 congressional district within the state and shall be appointed to provide the broadest geographic
17 distribution which is feasible;

18 ~~(4)~~(5) One member to be appointed by the Governor to represent public sector nonstate
19 participants in the tourism industry within the state.

20 (c) Each member appointed by the Governor serves a staggered term of four years. Any
21 member whose term has expired serves until his or her successor has been appointed. Any
22 person appointed to fill a vacancy serves only for the unexpired term. Any member is eligible for
23 reappointment. In case of a vacancy in the office of a member, the vacancy shall be filled by the
24 Governor in the same manner as the original appointment.

25 (d) The chair of the Tourism ~~Commission~~ Advisory Council shall be appointed by the
26 Governor from members then serving on the commission, and serves at the will and pleasure of
27 the Governor.

28 (e) The Tourism ~~Commission~~ Advisory Council shall:

29 (1) ~~Assist~~ Advise the ~~Executive Director~~ secretary of the ~~West Virginia Tourism Office~~
30 Department of Tourism in the development and implementation of the state's comprehensive
31 tourism advertising, marketing, promotion, and development strategy; and

32 (2) Take all actions, in consultation with the secretary, necessary to settle, finalize and
33 conclude all outstanding advertising grants or other financial obligations of the Tourism
34 ~~Commission~~ Advisory Council respecting funds in the Tourism Promotion Fund previously

35 approved, expended or obligated by the Tourism ~~Commission~~ Advisory Council as of the effective
36 date of this article.

37 (f) Members of the Tourism ~~Commission~~ Advisory Council are not entitled to compensation
38 for services performed as members. Each member from the private sector is entitled to
39 reimbursement for reasonable expenses incurred in the discharge of their official duties. All
40 expenses incurred by members from the private sector shall be paid in a manner consistent with
41 guidelines of the Travel Management Office of the Department of Administration and are payable
42 solely from the funds of the ~~West Virginia Tourism Office~~ Department of Tourism or from funds
43 appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the ~~West~~
44 ~~Virginia Tourism Office~~ Department of Tourism beyond the extent to which moneys are available
45 from funds of the authority or from the appropriations.

46 (g) Members shall meet quarterly as designated by the chair.

§5B-2I-8. Confidentiality.

1 Any documentary material, data or other writing made or received by the ~~West Virginia~~
2 ~~Tourism Office~~ Department of Tourism, the West Virginia ~~Development Office~~ Department of
3 Economic Development, or the Tourism ~~Commission~~ Advisory Council, for the purpose of
4 furnishing assistance to a new or existing business, or of developing or implementing a
5 comprehensive tourism advertising, promotion, and development strategy pursuant to §5B-2I-4
6 of this code, are exempt from the provisions of §29B-1-1 *et seq.* of this code: *Provided*, That any
7 agreement entered into or signed by the ~~West Virginia Tourism Office~~ Department of Tourism or
8 the ~~Development Office~~ Department of Economic Development which obligates public funds is
9 subject to inspection and copying pursuant to the provisions of that article §29B-1-1 et seq. of this
10 code as of the date the agreement is entered into, signed or otherwise made public.

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS

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

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

- 3 (1) Department of Administration;
- 4 (2) Department of Environmental Protection;
- 5 (3) Department of Health and Human Resources;
- 6 (4) Department of Homeland Security;
- 7 (5) Department of Revenue;
- 8 (6) Department of Transportation;
- 9 (7) Department of Commerce; ~~and~~
- 10 (8) Department of Veterans' Assistance;
- 11 (9) Department of Economic Development; and
- 12 (10) Department of Tourism.

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

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

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

- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- 6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- 7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this
8 code;
- 9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

- 10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- 11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- 12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- 13 (9) The West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- 14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- 15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

- 19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:
20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of

21 this code; and

- 22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
23 of this code.

- 24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

- 27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
28 Committee provided in §22A-6-1 *et seq.* of this code;

- 29 (B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of
30 this code; and

- 31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 ~~(3) The West Virginia Development Office provided in §5B-2-1 *et seq.* of this code;~~

- 33 ~~(4)~~ (3) Division of Natural Resources and Natural Resources Commission provided in §20-
34 1-1 *et seq.* of this code;

- 35 ~~(5)~~ (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

36 ~~(6)~~ (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; ~~and~~

37 ~~(7)~~ (6) Workforce West Virginia provided in chapter 21A of this code, which includes:

38 (A) Division of Unemployment Compensation;

39 (B) Division of Employment Service;

40 (C) Division of Workforce Development; and

41 (D) Division of Research, Information and Analysis; and

42 ~~(8) Office of Energy, within the Development Office, provided in §5B-2F-1 *et seq.* of this~~
43 ~~code;~~

44 ~~(9) West Virginia Tourism Office and Tourism Commission provided in §5B-2I-1 *et seq.* of~~
45 ~~this code; and~~

46 ~~(10)~~ (7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

47 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is
48 continued as an independent agency within the executive branch.

49 (d) The Water Development Authority and the Water Development Authority Board
50 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the
51 executive branch.

52 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
53 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
54 continued as separate independent agencies within the Department of Arts, Culture, and History,
55 which shall provide administrative support for both entities.

56 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
57 continued as a separate independent agency within the Executive Branch as the Department of
58 Arts, Culture, and History. All references throughout this code to the “Division of Culture and
59 History” means the “Department of Arts, Culture, and History”.

60 (g) The following agencies and boards, including all of the allied, advisory, and affiliated
61 entities, are transferred to the Department of Environmental Protection for purposes of
62 administrative support and liaison with the Office of the Governor:

63 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

64 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

65 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of
66 this code;

67 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

68 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

69 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

70 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

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

74 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

75 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

76 (3) Office of Emergency Medical Services and the Emergency Medical Service Advisory
77 Council provided in §16-4C-1 *et seq.* of this code;

78 (4) Health Care Authority provided in §16-29B *et seq.* of this code;

79 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;

80 (6) Women's Commission provided in §29-20-1 *et seq.* of this code; and

81 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.

82 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or
83 related entities and funds associated with any agency or board, are incorporated in and
84 administered as a part of the Department of Homeland Security:

85 (1) West Virginia State Police;

86 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and
87 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That
88 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule
89 promulgated thereunder, a reference is made to the Division of Homeland Security and
90 Emergency Management, it shall be construed to mean the Division of Emergency Management;

91 (3) Division of Administrative Services;

92 (4) Division of Corrections and Rehabilitation;

93 (5) Fire Commission;

94 (6) The State Fire Marshal;

95 (7) Board of Probation and Parole;

96 (8) The West Virginia Fusion Center;

97 (9) The Division of Protective Services; and

98 (10) Any other agency or entity hereinafter established within the Department of Homeland
99 Security by an act of the Legislature.

100 (j) The following agencies and boards, including all of the allied, advisory, affiliated, or
101 related entities and funds associated with any agency or board, are incorporated in and
102 administered as a part of the Department of Revenue:

103 (1) Tax Division provided in chapter 11 of this code;

104 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

105 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

106 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

107 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
108 this code and §60-2-1 *et seq.* of this code;

109 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

110 (7) Lending and Credit Rate Board provided in chapter 47A of this code;

111 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

112 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

113 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

114 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

115 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

116 (k) The following agencies and boards, including all of the allied, advisory, affiliated, or
117 related entities and funds associated with any agency or board, are incorporated in and
118 administered as a part of the Department of Transportation:

119 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

120 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

121 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

122 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

123 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

124 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

125 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

126 (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,
127 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is
128 incorporated in and administered as a part of the Department of Veterans' Assistance.

129 (m) Except for powers, authority, and duties that have been delegated to the secretaries
130 of the departments by ~~the provisions~~ of §5F-2-2 of this code, the position of administrator and the
131 powers, authority, and duties of each administrator and agency are not affected by the enactment
132 of this chapter.

133 (n) Except for powers, authority, and duties that have been delegated to the secretaries
134 of the departments by ~~the provisions of~~ §5F-2-2 of this code, the existence, powers, authority,
135 and duties of boards and the membership, terms, and qualifications of members of the boards
136 are not affected by the enactment of this chapter. All boards that are appellate bodies or are

137 independent decision makers ~~shall~~ may not have their appellate or independent decision-making
138 status affected by the enactment of this chapter.

139 (o) Any department previously transferred to and incorporated in a department by prior
140 enactment of this section means a division of the appropriate department. Wherever reference is
141 made to any department transferred to and incorporated in a department created in §5F-1-2 of
142 this code, the reference means a division of the appropriate department and any reference to a
143 division of a department so transferred and incorporated means a section of the appropriate
144 division of the department.

145 (p) When an agency, board, or commission is transferred under a bureau or agency other
146 than a department headed by a secretary pursuant to this section, that transfer is solely for
147 purposes of administrative support and liaison with the Office of the Governor, a department
148 secretary, or a bureau. Nothing in this section extends the powers of department secretaries
149 under §5F-2-2 of this code to any person other than a department secretary and nothing limits or
150 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
151 code.

152 (q) The Department of Economic Development as established in §5B-2-1 et seq. of this
153 code is continued as a separate independent agency within the Executive Branch.

154 (r) The Department of Tourism as established in §5B-2I-1 et seq. of this code is continued
155 as a separate independent agency within the Executive Branch.

NOTE: The purpose of this bill is to reorganize and redesignate the Development Office as the Department of Economic Development and the Tourism Office as the Department of Tourism to reflect the importance of economic development and of tourism programs and initiatives in this state.

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