

Senate Bill No. 225

(By Senators McCabe, Browning, Unger, Foster, Jenkins, Stollings,
Wells, Minard and Klempa)

[Introduced January 20, 2011; referred to the Committee on
Economic Development; then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §5E-3-1, §5E-3-2,
§5E-3-3, §5E-3-4, §5E-3-5, §5E-3-6, §5E-3-7, §5E-3-8, §5E-3-9,
§5E-3-10 and §5E-3-11; and to amend and reenact §31-15-6 of
said code, all relating to the creation of an innovation and
development program; providing a short title; declaration of
policy; setting forth purposes; providing definitions;
authorizing and directing the Economic Development Authority
to propose rules to implement its provisions and provide for
the effective and efficient administration of the program;
authorizing the authority to provide technical and
professional assistance to entrepreneurs in the state;
authorizing the authority to make qualified investments and
loans; authorizing recoverable revenue credits to private
investors for investments in qualified investment companies

1 pursuant to rules to be promulgated by the authority;
2 authorizing tax credits to investors in qualified community
3 development entities; creating a revolving fund to deposit all
4 profits collected by the Economic Development Authority; and
5 specifying disclosure, conflict of interest and
6 confidentiality standards for the operation of the innovation
7 and development program.

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

9 That the Code of West Virginia, 1931, as amended, be amended
10 by adding thereto a new article, designated §5E-3-1, §5E-3-2,
11 §5E-3-3, §5E-3-4, §5E-3-5, §5E-3-6, §5E-3-7, §5E-3-8, §5E-3-9,
12 §5E-3-10 and §5E-3-11; and that §31-15-6 of said code be amended
13 and reenacted, all to read as follows:

14 **CHAPTER 5E. VENTURE CAPITAL COMPANY.**

15 **ARTICLE 3. INNOVATION AND DEVELOPMENT ACT.**

16 **§5E-3-1. Short title.**

17 This article may be cited as the "West Virginia Innovation and
18 Development Act."

19 **§5E-3-2. Declaration of policy.**

20 (a) The Legislature finds and declares that the West Virginia
21 economy can be strengthened by the establishment of a technology
22 based economic development program that is tailored to West
23 Virginia's specific markets, opportunities and challenges in
24 establishing innovation driven enterprises.

1 (b) The Legislature further finds that West Virginia's
2 specific markets, opportunities and challenges in establishing
3 innovation driven enterprises can best be addressed by the
4 establishment and operation of a technology based economic
5 development program as set forth in this article.

6 **§5E-3-3. Purposes.**

7 (a) The purpose of this article is to promote the development
8 of the human resources and the diversification of the economy of
9 West Virginia by strengthening the foundations of West Virginia's
10 distinctive market environment, by building on West Virginia's
11 established industrial and economic base and establishing a long
12 term program that will result in a strong, viable and high-growth
13 economy in West Virginia.

14 (b) This article establishes an economic development program
15 that is designed to:

16 (1) Help build and nurture entrepreneurial support structures
17 and attract executives to lead West Virginia-based companies;

18 (2) Support the formation and deployment of private equity at
19 all stages of the business development life cycle including seed
20 capital, venture capital and other equity and normal bank debt that
21 can help emerging as well as mature businesses remain, adapt and
22 grow in West Virginia;

23 (3) Be flexible in terms of who may access program resources;
24 how it is accessed;

25 (4) Operate according to clearly expressed standards designed

1 to grow, build and keep businesses in West Virginia;

2 (5) Provide measurable results and hold participants
3 accountable;

4 (6) Leverage existing programs and resources in all regions of
5 West Virginia;

6 (7) Operate as a "fund of funds" by investing in qualified
7 investment companies and receiving a return on such investments
8 from distributions from participating companies;

9 (8) Support angel networks and the funding of seed and venture
10 capital funds, specifically including community development venture
11 capital companies; and

12 (9) Provide for a return on the state's investment by sharing
13 the return of capital and profits with private limited partners.

14 **§5E-3-4. Definitions.**

15 As used in this article, the following terms have the meanings
16 ascribed to them in this article unless the context in which the
17 term is used clearly requires another meaning or a specific
18 different definition is provided:

19 (1) "Applicable percentage" means seven percent for the first
20 credit allowance date and eight percent for the next four credit
21 allowance dates.

22 (2) "Authority" means the West Virginia Economic Development
23 Authority established under article fifteen, chapter thirty-one of
24 this code or any successor to all or any substantial part of its
25 powers and duties.

1 (3) "Credit allowance date" means, with respect to any
2 investment in a qualified community development entity:

3 (a) The date on which such investment is initially made; and

4 (b) Each of the next four anniversary dates of such date.

5 (4) "Qualified community development entity" has the same
6 meaning given such term in Section 45D of the Internal Revenue Code
7 of 1986, as amended, so long as such entity has entered into, or is
8 controlled by an entity that has entered into, an allocation
9 agreement with the Community Development Financial Institutions
10 Fund of the United State's Treasury Department regarding credits
11 authorized by Section 45D of the Internal Revenue Code of 1986, as
12 amended.

13 (5) "Qualified Investment Company" means an angel network,
14 seed capital, venture capital or other private equity fund that has
15 been qualified by the authority.

16 (6) "Recoverable revenue credits" means credits awarded by the
17 authority pursuant to section seven of this article and entitles
18 the state to receive not less than forty percent of the profits
19 allocable to the tax-advantage portions of the investment.

20 (7) "State" means the State of West Virginia.

21 **§5E-3-5. Rules - Report of findings to Joint Committee on**
22 **Government and Finance.**

23 The authority shall propose rules for legislative approval in
24 accordance with article three, chapter twenty-nine-a of this code
25 to carry out the policy and purposes of this article, to provide

1 any necessary clarification of the provisions of this article and
2 to efficiently provide for the general administration of this
3 article. The authority may propose additional rules for
4 legislative approval in accordance with article three, chapter
5 twenty-nine-a of this code that it considers necessary to provide
6 for the efficient administration of the recoverable revenue credits
7 awarded to qualified investment companies under this article. The
8 authority shall propose rules in conjunction with the Department of
9 Commerce to require persons receiving any money or recoverable tax
10 credits pursuant to this article to submit information that is
11 necessary to determine the effectiveness of this act and whether
12 the act shall be continued. Beginning July 1, 2012, and on July 1
13 of each succeeding year, the authority shall report its findings
14 obtained from such information to the Joint Committee on Government
15 and Finance.

16 **§5E-3-6. Investments and technical assistance.**

17 (a) From moneys appropriated for such purposes to the
18 authority, the authority is authorized to provide or pay for
19 technical and professional assistance to entrepreneurs in the state
20 under rules proposed by the authority pursuant to provisions of
21 section five of this article and the policies and procedures
22 adopted by the authority to effectuate the purposes of this
23 article.

24 (b) From moneys appropriated for such purposes, the authority
25 is authorized to make seed capital, venture capital and other

1 equity investments in qualified investment companies operating in
2 the state under rules proposed by the authority pursuant to
3 provisions of section five of this article and the policies and
4 procedures adopted by the authority to effectuate the purposes of
5 this article.

6 (c) The authority is authorized to award a total of \$1 million
7 in each fiscal year to fulfill the purposes of this section. Funds
8 disbursed or awarded under this section shall be awarded by a
9 competitive selection and award process designed to further the
10 purposes of this article under rules proposed by the authority
11 pursuant to provisions of section five of this article and the
12 policies and procedures adopted by the authority to effectuate the
13 purposes of this article.

14 **§5E-3-7. Recoverable revenue credits.**

15 (a) To encourage private investors to invest in qualified
16 investment companies, including seed capital, venture capital and
17 other private equity funds to build and support innovative
18 businesses across the state, the authority is authorized to award
19 a total of \$5 million each fiscal year in recoverable revenue
20 credits. The total amount of recoverable revenue credits
21 authorized for a single qualified investment company may not exceed
22 \$2 million in any single round of credits allocated by the
23 authority.

24 (b) Recoverable revenue credits authorized by this section are
25 intended to provide the state with the opportunity to benefit from

1 the success of all qualified investment companies authorized under
2 this article and consists of: (1) A tax credit for private
3 investors in qualified investment companies equal to fifty percent
4 of the investor's investment to be calculated and applied as set
5 forth in this article, coupled with; (2) the right in the state to
6 receive not less than forty percent of the profits allocable to the
7 tax-advantaged portion of investments in a qualified investment
8 company authorized under this article, all pursuant to rules
9 proposed by the authority under section five of this article and
10 pursuant to policies and procedures adopted by the authority to
11 effectuate the purposes of this article.

12 (c) Recoverable revenue credits authorized by this section
13 shall be allocated pursuant to rules proposed by the authority
14 under the provisions of section five of this article and pursuant
15 to policies and procedures adopted by the authority to effectuate
16 the purposes of this article.

17 (d) Any investor, including an individual, partnership,
18 limited liability company, corporation or other entity, who makes
19 an investment in a qualified investment company authorized by the
20 authority under this article, which is independently operated by
21 qualified managers and is not directly or indirectly operated or
22 managed by the investors, is entitled to a recoverable revenue
23 credit equal to no more than fifty percent of the investor's
24 investment in the qualified investment company. No investor may
25 receive the recoverable revenue credit without the approval of the

1 authority. The other terms and conditions of the credit shall be
2 established by the authority pursuant to rules proposed by the
3 authority under section five of this article and pursuant to
4 policies and procedures adopted by the authority to effectuate the
5 purposes of this article.

6 (e) The recoverable revenue credits allowed by this article
7 shall be taken after all other credits allowed by chapter eleven of
8 this code have been taken. The credits shall be taken against the
9 same taxes and in the same order as set forth in subsections (c)
10 through (i), inclusive, section five, article thirteen-c, chapter
11 eleven of this code. The credit for investments by a partnership,
12 a limited liability company, a corporation electing to be treated
13 as a subchapter S corporation or other entity which is treated as
14 a pass through entity under federal and state income tax laws may
15 be divided pursuant to election of the partners, members,
16 shareholders or owners.

17 (f) The recoverable revenue credits allowed under this section
18 are to be credited against the taxpayer's tax liability for the
19 taxable year in which the investment is made. If the amount of the
20 recoverable revenue credit exceeds the taxpayer's tax liability for
21 the taxable year, the amount of the credit which exceeds the tax
22 liability for the taxable year may be carried to succeeding taxable
23 years until used in full or until forfeited. Recoverable revenue
24 credits may not be carried forward more than fifteen years.
25 Recoverable revenue credits may not be carried back to prior

1 taxable years. Any recoverable revenue credit remaining after the
2 fifteenth taxable year is forfeited.

3 (g) Recoverable revenue credits allowed under this section may
4 not be used against any liability the taxpayer may have for
5 interest, penalties or additions to tax.

6 (h) Notwithstanding any provision in this code to the
7 contrary, the Tax Commissioner shall publish in the State Register
8 the name and address of every taxpayer and the amount, by category,
9 of any recoverable revenue credit awarded under this article. The
10 categories by dollar amount of credit received are as follows:

- 11 (1) More than ~~one-dollar~~ but not more than \$50,000;
- 12 (2) More than \$50,000 but not more than \$100,000;
- 13 (3) More than \$100,000 but not more than \$250,000;
- 14 (4) More than \$250,000 but not more than \$500,000;
- 15 (5) More than \$500,000 but not more than \$1 million; and
- 16 (6) More than \$1 million.

17 **§5E-3-8. Credit for investors in a qualified community**
18 **development entity.**

19 (a) Any investor, including an individual, partnership,
20 limited liability company, corporation or other entity, who makes
21 an investment in a qualified community development entity is
22 entitled to a revenue credit equal to no more than thirty-nine
23 percent of the purchase price of the investor's investment in the
24 qualified investment community development entity. No investor
25 receives the revenue credit without the approval of the authority.

1 The tax credit may be utilized as follows:

2 (1) The holder of the investment in the qualified community
3 development entity on a particular credit allowance date of such
4 investment, whether it be the original purchaser or subsequent
5 holder, may utilize a portion of the tax credit against its tax
6 liability for the taxable year that includes such credit allowance
7 date equal to the applicable percentage for such credit allowance
8 date multiplied by the purchase price paid for such investment; and

9 (2) Any tax credit that a taxpayer may not utilize during a
10 particular year may be carried forward for use in any subsequent
11 tax year.

12 (b) No tax credit claimed under this section may be sold or
13 transferred. Tax credits that a partnership, limited liability
14 company, S corporation or other "pass-through" entity claim may be
15 allocated to the partners, members, or shareholders of such entity
16 for their direct use in accordance with the provisions of any
17 agreement among such partners members or shareholders.

18 (c) The credits allowed under this section shall be taken
19 after all other credits allowed by chapter eleven of this code have
20 been taken. The credits must be taken against the same taxes and
21 in the same order as set forth in subsections (c) through (i),
22 inclusive, section five, article thirteen-c, chapter eleven of this
23 code.

24 (d) Credits allowed under this section may not be used against
25 any liability the taxpayer may have for interest, penalties or

1 additions to tax.

2 (e) The total amount of tax credits that may be awarded by the
3 authority pursuant to this section is limited to \$2 million in each
4 fiscal year.

5 (f) Credits authorized by this section shall be allocated
6 pursuant to rules proposed by the authority under the provisions of
7 section five of this article and pursuant to policies and
8 procedures adopted by the authority to effectuate the purposes of
9 this article.

10 **§5E-3-9. Creation of revolving fund.**

11 (a) The authority shall deposit all profits collected from
12 investors receiving recoverable revenue credits, pursuant to
13 section seven of this article, into a special State Treasury Fund
14 to be known as "The Innovation and Development Revolving Fund."
15 The revolving fund is a permanent and perpetual fund administered
16 by the economic development authority on behalf of the development
17 office. Expenditures from the fund shall be for the purposes set
18 forth in this section and made in accordance with appropriations
19 from the Legislature and pursuant to the provisions of article
20 three, chapter twelve of this code and after the fulfillment of the
21 provisions of article two, chapter eleven-b of this code:
22 *Provided*, That for the fiscal year ending June 30, 2012,
23 expenditures are authorized from collections and not Legislative
24 appropriations.

25 (b) (1) The revolving fund shall be governed, administered and

1 accounted for by the directors, officers and managerial staff of
2 the Economic Development Authority as a special revenue account,
3 separate and distinct from any other moneys, funds or funds owned
4 and managed by the Economic Development Authority. The revolving
5 fund shall consist of sub-accounts, as deemed necessary by the
6 Economic Development Authority, for the deposit of:

7 (A) All profits collected from investors receiving recoverable
8 revenue credits pursuant to section seven of this article; and

9 (B) All income earned on moneys held in the revolving fund.

10 (2) Revolving fund amounts not expended at the close of the
11 fiscal year do not lapse or revert to the General Fund but are
12 carried forward to the next fiscal year. Interest earnings on the
13 revolving fund becomes a part of the revolving fund and do not
14 lapse or revert to the General Fund.

15 (c) Revolving fund moneys shall be used by the Economic
16 Development Authority to award moneys for the purposes of section
17 six of this article in an amount not to exceed \$2 million annually
18 and then to reimburse the state for any recoverable tax credits
19 awarded pursuant to section seven of this article.

20 **§5E-3-10. Conflict of interest.**

21 No officer, member or employee of the authority may be
22 financially interested, directly or indirectly, in any company or
23 business receiving technical assistance, investments or recoverable
24 revenue credits pursuant to the provisions of this article.

25 **§5E-3-11. Confidentiality.**

1 (a) The authority shall, by rule, determine which records,
2 reports or information obtained from any person or entity under
3 this article are to be treated by the agency as confidential and
4 not subject to disclosure, except as hereinafter provided in
5 subsection (c) of this section. Notwithstanding any other provision
6 of law to the contrary, the authority shall make available to the
7 public the identity of all qualified investment companies receiving
8 technical assistance or investments under this article.

9 (b) Any other records, reports or information obtained from a
10 person or entity under this article shall be made available to the
11 public except that upon a showing at the time of submission,
12 satisfactory to the authority, by a person or entity, that records,
13 reports or information, or a particular part thereof, to which the
14 authority or any officer, employee or representative thereof has or
15 will have access under this section, if made public, would divulge
16 information entitled to protection under 18 U.S.C. §1905 as that
17 section read on December 20, 1999, such information or particular
18 portion is confidential in accordance with the purposes of this
19 section. In submitting data under this article, a person required
20 to provide such data may designate the data which he or she
21 believes is entitled to protection under this subsection and submit
22 such designated data separately from other data submitted under
23 this article. A designation under this subsection shall be made in
24 writing and in such manner as the authority prescribes.

25 (c) Notwithstanding the foregoing provisions of this section,

1 any record, report, document, or information may be disclosed to
2 other officers, employees, or authorized representatives of this
3 state charged with administering the provisions of this article.
4 Notwithstanding the previous sentence, and notwithstanding any
5 provision of this article, the provisions of this code regarding
6 confidentiality and the disclosure of tax returns and tax
7 information, including specifically section five-d, article ten,
8 chapter eleven of this code, apply to the authority, its agents and
9 employees and to information submitted to the authority under this
10 article.

11 **CHAPTER 31. CORPORATIONS.**

12 **ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**

13 **§31-15-6. General powers of authority.**

14 The authority, as a public corporation and governmental
15 instrumentality exercising public powers of the state, shall have
16 and may exercise all powers necessary or appropriate to carry out
17 the purposes of this article, including the power:

18 (a) To cooperate with industrial development agencies in
19 efforts to promote the expansion of industrial, commercial,
20 manufacturing and tourist activity in this state.

21 (b) To determine, upon the proper application of an industrial
22 development agency or an enterprise, whether the declared public
23 purposes of this article have been or will be accomplished by the
24 establishment by such agency or enterprise of a project in this
25 state.

1 (c) To conduct examinations and investigations and to hear
2 testimony and take proof, under oath or affirmation, at public or
3 private hearings, on any matter relevant to this article and
4 necessary for information on the establishment of any project.

5 (d) To issue subpoenas requiring the attendance of witnesses
6 and the production of books and papers relevant to any hearing
7 before such authority or one or more members appointed by it to
8 conduct any hearing.

9 (e) To apply to the circuit court having venue of such offense
10 to have punished for contempt any witness who refuses to obey a
11 subpoena, to be sworn or affirmed, ~~or~~ to testify or who commits any
12 contempt after being summoned to appear.

13 (f) To authorize any member of the authority to conduct
14 hearings, administer oaths, take affidavits and issue subpoenas.

15 (g) To financially assist projects by insuring obligations in
16 the manner provided in this article through the use of the
17 insurance fund.

18 (h) To finance ~~any~~ projects by making loans to industrial
19 development agencies or enterprises upon such terms as the
20 authority ~~shall deem~~ deems appropriate: *Provided*, That nothing
21 contained in this subsection (h) or under any other provision in
22 this article shall be construed as permitting the authority to make
23 loans for working capital: *Provided, however*, That nothing
24 contained in this article shall be construed as prohibiting the
25 authority from insuring loans for working capital made to

1 industrial development agencies or to enterprises by financial
2 institutions: *Provided further,* That nothing contained in this
3 subsection or any other provision of this article shall be
4 construed as permitting the authority to refinance existing debt
5 except when such refinancing will result in the expansion of the
6 enterprise whose debt is to be refinanced or in the creation of new
7 jobs.

8 (i) To issue revenue bonds or notes to fulfill the purposes of
9 this article and to secure the payment of such bonds or notes, all
10 as hereinafter provided.

11 (j) To issue and deliver revenue bonds or notes in exchange
12 for a project.

13 (k) To borrow money for its purposes and issue bonds or notes
14 for the money and provide for the rights of the holders of the
15 bonds or notes or other negotiable instruments, to secure the bonds
16 or notes by a deed of trust on, or an assignment or pledge of, any
17 or all of its property and property of the project, including any
18 part of the security for loans. ~~and~~ The authority may issue and
19 sell its bonds and notes, by public or private sale, in such
20 principal amounts as it ~~shall deem~~ deems necessary to provide funds
21 for ~~any~~ purposes under this article including the making of loans.
22 ~~for the purposes set forth in this article.~~

23 (l) To maintain such sinking funds and reserves as the board
24 ~~shall determine~~ determines appropriate for the purposes of meeting
25 future monetary obligations and needs of the authority.

1 (m) To sue and be sued, implead and be impleaded and complain
2 and defend in any court.

3 (n) To adopt, use and alter, at will, a corporate seal.

4 (o) To make, amend, repeal and adopt both bylaws and rules ~~and~~
5 ~~regulations~~ for the management and regulation of its affairs.

6 (p) To appoint officers, agents and employees and to contract
7 for and engage the services of consultants.

8 (q) To make contracts of every kind and nature to execute all
9 instruments necessary or convenient for carrying on its business.

10 (r) To accept grants and loans from and enter into contracts
11 and other transactions with any federal agency.

12 (s) To take title by conveyance or foreclosure to any project
13 where acquisition is necessary to protect any loan previously made
14 by the authority and to sell, by public or private sale, transfer,
15 lease or convey such project to any enterprise.

16 (t) To participate in any reorganization proceeding pending
17 pursuant to the United States Code (being the act of Congress
18 establishing a uniform system of bankruptcy throughout the United
19 States, as amended) or in any receivership proceeding in a state or
20 federal court for the reorganization or liquidation of an
21 enterprise. The authority may file its claim against any such
22 enterprise in ~~any~~ of the foregoing proceedings, vote upon any
23 questions pending therein which requires the approval of the
24 creditors participating in ~~any~~ a reorganization proceeding or
25 receivership, exchange ~~any~~ evidence of such indebtedness for ~~any~~

1 property, security or evidence of indebtedness offered as a part of
2 the reorganization of such enterprise or of any other entity formed
3 to acquire the assets thereof and may compromise or reduce the
4 amount of any indebtedness owing to it as a part of any such
5 reorganization.

6 (u) To acquire, construct, maintain, improve, repair, replace
7 and operate projects within this state, as well as streets, roads,
8 alleys, sidewalks, crosswalks and other means of ingress and egress
9 to and from projects located within this state.

10 (v) To acquire, construct, maintain, improve, repair and
11 replace and operate pipelines, electric transmission lines,
12 waterlines, sewer lines, electric power substations, waterworks
13 systems, sewage treatment and disposal facilities and any
14 combinations thereof for the use and benefit of any enterprise
15 located within this state.

16 (w) To acquire watersheds, water and riparian rights,
17 rights-of-way, easements, licenses and ~~any~~ and all other property,
18 property rights and appurtenances for the use and benefit of any
19 enterprise located within this state.

20 (x) To acquire, by purchase, lease, donation or eminent domain,
21 ~~any~~ real or personal property, or ~~any~~ a right or interest therein,
22 as may be necessary or convenient to carry out the purposes of the
23 authority. Title to all property, property rights and interests
24 acquired by the authority shall be taken in the name of the
25 authority.

1 (y) To issue renewal notes or security interests, to issue
2 bonds to pay notes or security interests and, whenever it deems
3 refunding expedient, to refund ~~any~~ bonds or notes by the issuance
4 of new bonds or notes whether the bonds or notes to be refunded have
5 or have not matured and whether or not the authority originally
6 issued the bonds or notes to be refunded.

7 (z) To apply the proceeds from the sale of renewal notes,
8 security interests or refunding bonds or notes to the purchase,
9 redemption or payment of the notes, security interests or bonds or
10 notes to be refunded.

11 (aa) To accept gifts or grants of property, funds, security
12 interests, money, materials, labor, supplies or services from the
13 United States of America or from any governmental unit or any
14 person, firm or corporation, and to carry out the terms or
15 provisions of, or make agreements with respect to, or pledge, any
16 gifts or grants, and to do ~~any~~ and all things necessary, useful,
17 desirable or convenient in connection with the procuring, acceptance
18 or disposition of gifts or grants.

19 (bb) To the extent permitted under its contracts with the
20 holders of bonds, security interests or notes of the authority, to
21 consent to any modification of the rate of interest, time of payment
22 of any installment of principal or interest, security or any other
23 term of any bond, security interests, note or contract or agreement
24 of any kind to which the authority is a party.

25 (cc) To sell loans, security interests or other obligations in

1 the loan portfolio of the authority. Such security interests shall
2 be evidenced by instruments issued by the authority. Proceeds from
3 the sale of loans, security interests or other obligations may be
4 used in the same manner and for the same purposes as bond and note
5 revenues.

6 (dd) To procure insurance against ~~any~~ losses in connection with
7 its property, operations or assets in ~~such~~ amounts and from ~~such~~
8 insurers as the authority deems desirable.

9 (ee) To sell, license, lease, mortgage, assign, pledge or
10 donate its property, both real and personal, or ~~any~~ a right or
11 interest therein, to another or authorize the possession, occupancy
12 or use of such property or ~~any~~ a right or interest therein, by
13 another, ~~in such manner and upon such terms as~~ upon terms it deems
14 appropriate.

15 (ff) To participate with the state and federal agencies in
16 efforts to promote the expansion of commercial and industrial
17 development in this state.

18 (gg) To finance, organize, conduct, sponsor, participate and
19 assist in the conduct of special institutes, conferences,
20 demonstrations and studies relating to the stimulation and formation
21 of business, industry and trade endeavors.

22 (hh) To conduct, finance and participate in technological,
23 business, financial and other studies related to business and
24 economic development.

25 (ii) To conduct, sponsor, finance, participate and assist in

1 the preparation of business plans, financing plans and other
2 proposals of new or established businesses suitable for support by
3 the authority.

4 (jj) To prepare, publish and distribute, with or without charge
5 as the authority ~~may determine, such~~ determines, technical studies,
6 reports, bulletins and other materials ~~as~~ it deems appropriate
7 subject only to the maintenance and respect for confidentiality of
8 client proprietary information.

9 (kk) To exercise ~~such other and~~ additional powers as ~~may be~~
10 necessary or appropriate for the exercise of the powers herein
11 conferred.

12 (ll) To exercise all of the powers which a corporation may
13 lawfully exercise under the laws of this state.

14 (mm) To contract for the provision of legal services by private
15 counsel, and notwithstanding the provisions of article three,
16 chapter five, such counsel may, but is not limited to, represent the
17 authority in court, negotiate contracts and other agreements on
18 behalf of the authority, render advice to the authority on ~~any~~
19 ~~matter relating thereto,~~ a related matter, prepare contracts and
20 other agreements and provide such other legal services as ~~may be~~
21 requested by the authority.

22 (nn) To develop, maintain, operate and apply for the
23 establishment of foreign trade zones pursuant to and in accordance
24 with all applicable provisions of federal law.

25 (oo) To award funds, tax credits and recoverable revenue

1 credits and to collect profits on behalf of the state in accordance
2 with the recoverable revenue credits pursuant to article three,
3 chapter five-e of this code.

NOTE: The purpose of this bill is to establish a West Virginia innovation and development program, to attract and support capital investment in innovation-driven enterprises in West Virginia through a combination of direct annual investment by the state in seed capital, venture capital and other equity and debt investments in West Virginia; technical support and assistance to entrepreneurs in the state; and recoverable revenue credits to private investors to encourage private investment in seed capital, venture capital and other private equity funds, such program to be run and such funding to be awarded through a competitive selection process to be managed by the West Virginia Economic Development Authority.

§5E-3-1, §5E-3-2, §5E-3-3, §5E-3-4, §5E-3-5, §5E-3-6, §5E-3-7, §5E-3-8, §5E-3-9, §5E-3-10 and §5E-3-11 are new; therefore, strike-throughs and underscoring have been omitted.

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