

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2008**

By Delegates Hanshaw (Mr. Speaker) and  
Hornbuckle

[By Request of the Executive]

[Introduced February 18, 2025; referred to the  
Committee on Government Organization]

1 A BILL to repeal §12-1A-9 of the Code of West Virginia, 1931, as amended, and to amend and  
2 reenact §5B-1-1, §5B-1-2, §5B-2-1, §5B-2-2, §5B-2-3, §5B-2-3b, §5B-2-4, §5B-2-4a, §5B-  
3 2-5, §5B-2-6, §5B-2-6a, §5B-2-9a, §5B-2-10, §5B-2-14, §5B-2-16, §5B-2-17, §5B-2-18,  
4 §5B-2-19, §5B-2-20, §5B-2I-2, §5B-2I-4, §5F-1-2; §5F-1-3a, § 5F-1-6, §5F-2-1, §5F-3-2,  
5 §10-5-2, §15-1A-1, §15A-1-3, §15A-1-9, §29-1-1, §29-1-1a, §29-1-2, §29-1-3, §29-1-4,  
6 §29-1-6, §29-1-7, §29-1-8, §29-1-8c, §29-1-8d, §29-1-9, §29-1-10, §29-1-11, §29-1-12,  
7 §29-1-13, §29-1-14, §29-1-15, §31G-1A-1, §31G-1A-5, §31G-1A-6, §31G-1A-7 of the  
8 Code of West Virginia, 1931, as amended, all related to the merging and reorganizing of  
9 the executive branch including specifying the effective dates of the reorganization;  
10 specifying that starting on July 1, 2025, new hires and anyone who moves positions within  
11 the Department of Commerce shall be in the classified exempt service system and all  
12 employees shall be exempt from the state grievance procedures; redesignating the  
13 Department of Economic Development as the Division of Economic Development under  
14 the Department of Commerce; correcting titles of the Division of Economic Development  
15 and Department of Commerce in several sections of code; specifying that starting on July  
16 1, 2025, new hires and anyone who moves positions within the Division of Economic  
17 Development shall be in the classified exempt service system and all employees shall be  
18 exempt from the state grievance procedures; providing authority for the Governor to  
19 appoint the Adjutant General of the West Virginia National Guard to serve as Secretary of  
20 the West Virginia Department of Homeland Security; specifying that starting on July 1,  
21 2025, new hires and anyone who moves positions within the Department of Homeland  
22 Security, except the employees of the West Virginia State Police, shall be in the classified  
23 exempt service system and all employees, except the employees of the West Virginia  
24 State Police, shall be exempt from the state grievance procedures; correcting titles of  
25 affected departments and divisions based on the redesignations; abolishing the  
26 Department of Arts, Culture, and History and reorganizing its sections and commissions

27 under the Department of Tourism; specifying the authority of the Secretary of the  
28 Department of Tourism's over these sections and commissions; specifying that starting on  
29 July 1, 2025, new hires and anyone who moves positions within the Department of Tourism  
30 shall be in the classified exempt service system and all employees shall be exempt from  
31 the state grievance procedures; governing and providing for the Secretary of the  
32 Department of Tourism authority to appoint the directors of the sections listed in §29-1-1(b)  
33 of this code; substituting the title of Secretary of the Department of Tourism for the  
34 Secretary of the Department of Arts, Culture, and History in several sections of code;  
35 granting Secretary of Tourism authority to approve or repeal rules promulgated by sections  
36 and commissions listed in §29-1-1(b) of this code; specifying that starting on July 1, 2025,  
37 new hires and employee that moves positions within the sections and commissions shall  
38 be in the classified exempt service system and all employees shall be exempt from the  
39 state grievance procedures; granting the Secretary of the Department of Tourism  
40 discretion to allow a person to serving in multiple positions or professions within the  
41 sections listed in §29-1-1(b) of this code; removing certain specific qualifications for  
42 persons appointed as directors of the various sections listed in §29-1-1(b) of this code; and  
43 technical cleanup of amended and reenacted sections.

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

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 1. DEPARTMENT OF COMMERCE.**

#### **§5B-1-1. Department of Commerce; office of Secretary of Department of Commerce.**

1 (a) The Secretary of Commerce is the chief executive officer of the department. The  
2 Governor shall appoint the secretary, by and with the advice and consent of the Senate, for the  
3 term for which the Governor is elected. Any reference in this code to the Bureau of Commerce  
4 means the Department of Commerce. Any reference in this code to the Commissioner of the

Department of Commerce means the Secretary of Commerce. As used in this article, "secretary" means the Secretary of Commerce and "department" means Department of Commerce.

(b) The department may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor.-The annual salary of the secretary is ~~ninety thousand dollars~~ as provided in §6-7-2a of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Workforce West Virginia provided in Chapter 21 of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis;

(7) Division of Economic Development provided in §5B-2-1 *et seq.* of this code, which includes:

(A) Office of Broadband provided for in 31G-1A-1 *et seq.*; and

(B) Small Business Development Center provided for in §12-1A-1 *et seq.*

(b) Beginning on July 1, 2025, all employees of Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees the Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, who are currently members of the classified civil service system shall retain their status as long as they remain in their current position.

(2) Any employee Department of Commerce, or agency, board, commission, division, and office listed under subsection (a) of this section, that leaves his or her position and remains an employee within the Department of Commerce shall, at that time, be transfer to the classified-exempt service system as defined in §29-6-2(g).

(c) Subsection (b) of this section shall not apply to any position appointed by the Governor.

## **ARTICLE 2. ~~DEPARTMENT~~DIVISION OF ECONOMIC DEVELOPMENT.**

### **§5B-2-1. West Virginia ~~Department~~Division of Economic Development; confidentiality.**

(a) The West Virginia Division of Economic Development, formerly the Department of Economic Development and formerly the Development Office, ~~previously continued from the~~

3 ~~Governor's office of community and industrial development~~, is hereby continued but is hereafter  
4 ~~raised to a separate and distinct department of the executive branch of state government and is~~  
5 ~~designated and shall be known as the West Virginia Department of Economic Development as a~~  
6 division of the Department of Commerce.

7 (b) All references in this code to the West Virginia Department of Economic Development,  
8 West Virginia Development Office, the office of community and industrial development, or the  
9 Governor's office of community and industrial development shall be construed as references to the  
10 West Virginia Department Division of Economic Development. As used in this article,  
11 "Department" "Division" means the Department Division of Economic Development, "Department"  
12 means the Department of Commerce, and "secretary" means the Secretary of the Department of  
13 Commerce.

14 (c) Beginning on July 1, 2025, all employees of Division of Economic Development shall be  
15 exempt from the state grievance procedures as set forth in §6C-2-1 et seq. of this code and from  
16 the classified civil service system under §29-6-1 et seq. of this code except that:

17 (1) All employees the Division of Economic Development who are currently members of  
18 the classified civil service system shall retain their status as long as they remain in their current  
19 position.

20 (2) Any employee Division of Economic Development that leaves his or her position and  
21 remains an employee within the Department of Commerce shall, at that time, be transfer to the  
22 classified-exempt service system as defined in §29-6-2(g).

23 (d) Subsection (c) of this section shall not apply to any position appointed by the Governor.

24 (b) (e) Any documentary material, data or other writing made or received by the  
25 Department Division of Economic Development or other public body whose primary responsibility  
26 is economic development, for the purpose of furnishing assistance to a new or existing business  
27 shall be exempt from §29B-1-1 et seq. of this code: *Provided*, That any agreement entered into or  
28 signed by the Department Division of Economic Development or other public body which obligates

public funds shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed or otherwise made public.

**§5B-2-2. Office of ~~Secretary~~ Executive Director of ~~Department~~ Division of Economic Development.**

(a) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development is the chief executive officer of the ~~department~~ division. The Governor shall appoint the ~~secretary~~ the Executive Director who is qualified for the position by reason of his or her extensive education and experience in the field of professional economic development. ~~by and~~ with the advice and consent of the Senate, for the term for which the Governor is elected, and the ~~The Executive Director~~ secretary shall serve at the will and pleasure of the Governor. Any reference in this code to the secretary of the Department of Economic Development, or the Executive Director of the West Virginia Development Office means the ~~Secretary of the Department~~ Executive Director of the Division of Economic Development. As used in this article, "secretary" "executive director" means the ~~Secretary of the Department~~ the Executive Director of the Division of Economic Development. Subject to the provisions of the contract provided in §5B-2-4 of this code, the ~~secretary~~ executive director may hire, and fire economic development representatives employed pursuant to §5B-2-5 of this code.

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

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

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

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

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

1 The previously created fund known as the "Development Office promotion fund" is hereby  
2 continued but shall hereafter be known as the "Economic Development Promotion and Closing  
3 Fund". Moneys deposited in this fund shall be administered by the ~~Department~~ Division of  
4 Economic Development, with the approval of the Secretary of the Department of Commerce, and  
5 used solely to promote business formation, expansion, recruitment and retention through



6 aggressive marketing and international development and export assistance, and to provide a fund  
7 from which moneys may be drawn to offer certain incentives for business formation or expansion,  
8 to provide assistance with respect to site development or other concerns identified by the  
9 secretary, and to further facilitate economic development in this state, all of which economic  
10 development efforts and initiatives lead to more and better jobs with higher wages for all  
11 geographic regions and communities of the state, including rural areas and urban core areas, and  
12 for all residents, including minorities.

**§5B-2-4. Public-private partnerships.**

1 The ~~Department~~ Division of Economic Development may enter into contractual or joint  
2 venture agreements with a nonprofit corporation organized pursuant to the corporate laws of the  
3 state, organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code  
4 and for purposes of the economic development of West Virginia, and funded from sources other  
5 than the state. The contract shall include provisions relating to the employment of economic  
6 development representatives assigned to the ~~Department~~ Division of Economic Development to  
7 be paid a base salary by the state and performance-based economic incentives from private funds  
8 of the nonprofit corporation. Provisions relating to hiring practices with respect to economic  
9 development representatives, job descriptions, accountability, public-private liaison, and  
10 performance standards may be the subject of contract negotiations. The contract may include  
11 provisions for continuing education and certification in the field of economic or industrial  
12 development for persons employed as economic development representatives. Agreements  
13 providing for the payment of performance-based incentives to the secretary are authorized.  
14 Agreements providing for the payment of travel and other expenses of or to the secretary or of or to  
15 economic development representatives from private funds by the nonprofit corporation are  
16 authorized. The prohibitions of §6B-2-5 (b) and §6B-2-5 (d) of this code are not applicable to the  
17 receipt by economic development representatives or by the ~~secretary~~ executive director of  
18 performance-based incentives and other payments made by the nonprofit corporation and

19 specifically authorized pursuant to this section.

20 From time to time the secretary may enter into joint ventures wherein the ~~department~~  
21 division and the nonprofit corporation share in the development and funding of economic  
22 development programs.

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

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

1 The ~~Department~~ Division of Economic Development may enter into contractual  
2 agreements with the regional councils formed under §8-25-5 of this code to provide funding to the  
3 regional councils to be used to obtain federal matching grants and for other purposes determined  
4 to be appropriate by the department: *Provided*, That the amount of any allocation shall be  
5 determined by dividing the number of eligible regional councils into the total amount of funds made  
6 available for allocation by the Legislature. The ~~Department~~ Division of Economic Development  
7 shall develop criteria to determine a regional council's eligibility for the state allocation.

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

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

8 entered into pursuant to §5B-2-4 of this code.

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

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

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

25 (2) Identify and describe generally inquiries, requests for assistance or other matters that  
26 other state or federal agencies have presented to the department in the immediately preceding  
27 reporting cycle in connection with those agencies' efforts to regulate or assist small businesses;

28 (3) Identify and describe issues with formation, registration and licensure requirements  
29 that state law imposes on small businesses that small businesses have identified to the  
30 department in the immediately preceding reporting cycle as burdensome;

31 (4) Identify specific forms, processes or requirements imposed by state law that small  
32 businesses have identified to the department in the immediately preceding reporting cycle that  
33 may be streamlined, simplified, combined, or eliminated in order to reduce unnecessary costs,

delays, or other burdens on small businesses;

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

(6) Provide the following information:

(A) The number of small businesses counseled by the department during the immediately preceding reporting cycle;

(B) The number of new businesses created while being counseled by the department during the immediately preceding reporting cycle;

(C) The number of jobs created by businesses counseled by the department during the immediately preceding reporting cycle; and

(D) Any other information that, in the opinion of the executive director, demonstrates the performance of the department or economic development representatives during the immediately preceding reporting cycle.

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

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

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

(a) Any property owner of a tract of land that is a brownfield or voluntary remediated site

pursuant to §22-22-1 *et seq.* of this code may, if the site and surrounding area were involved in the extraction and processing of coal, limestone, or other natural resources, apply to the department division to become a brownfield economic development district.

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

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

(3) Brownfield economic development districts:

(A) May not contain single-family housing;

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

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

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

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

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

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

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

(10) Nothing may be construed by this section to exempt brownfield economic districts

from environmental regulation that would pertain to the development;

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

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

(b) The ~~department~~ division shall propose rules for legislative approval in accordance with §29-3-1 *et seq.* of this code to implement this section and the rules shall include, but not be limited to, the application and time line process, notice provisions, additional application consideration criteria and application fees sufficient to cover the costs of the consideration of an application.

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

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

(b) Notwithstanding any other provision of this code to the contrary, the Secretary of the Department of Tourism, with the advice of the tourism advisory council, and in consultation with the Secretary of the West Virginia Department of ~~Economic Development~~ Commerce, is directed to

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

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

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

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

41 any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any  
42 appropriations by the Legislature which may be made for the purposes of this section. Any  
43 balance including accrued interest and other earnings at the end of any fiscal year shall not revert  
44 to the general fund but shall remain in the fund for the purposes set forth in this section. The  
45 moneys in the fund shall be paid out, at the sole discretion and direction of the secretary, to  
46 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 advisory council, the ~~Department~~ Division of Economic Development, and any  
2 other authorities, boards, commissions, corporations or other entities created or amended under  
3 this chapter and §18B-11-1 et seq. of this code, shall prepare and submit to the Joint Committee  
4 on Government and Finance on or before December 1, 1995, and each year thereafter, a program  
5 and policy action statement which shall outline in specific detail according to the purpose, powers  
6 and duties of the office or section, its procedure, plan and program to be used in accomplishing its  
7 goals and duties as required 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 ~~Department~~ Division of Economic  
3 Development. The program shall provide funding assistance to the participating economic  
4 development corporations or authorities through a matching grant program. The department shall  
5 establish criteria for awarding matching grants to the corporations or authorities within the limits of  
6 funds appropriated by the Legislature for the program. The matching grants to eligible  
7 corporations or authorities are in the amount of \$50,000 for each fiscal year, if sufficient funds are  
8 appropriated by the Legislature. The department shall recognize existing county, regional or  
9 multicounty corporations or authorities where appropriate.

10 In developing its plan, the department shall consider resources and technical support



11 available through other agencies, both public and private, including, but not limited to, the state  
12 college and university systems; the West Virginia Housing Development Fund; the West Virginia  
13 Economic Development Authority; the West Virginia Parkways, Economic Development and  
14 Tourism Authority; the West Virginia Round Table; the West Virginia Chamber of Commerce;  
15 Regional Planning and Development Councils; Regional Partnership for Progress Councils; and  
16 state appropriations.

**§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 ~~Department~~ Division of Economic Development and shall consist of  
3 all moneys made available for the purposes and from the sources set forth in this section of the  
4 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 ~~Department~~ Division of Economic Development shall use moneys in the fund to  
10 support entrepreneurship, creation of business startups, improvements in workforce participation,  
11 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 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.

(b) The committee consists of 17 members, including its chairperson, appointed by the Governor to serve at his or her will and pleasure. The committee members shall represent:

- (1) Asphalt oval racing;
- (2) Dirt drag racing;
- (3) Dirt oval racing;
- (4) Drag racing;
- (5) Drift racing;
- (6) Hill climb racing;
- (7) Karting racing;
- (8) Motor cross racing;
- (9) Motorcycle road course racing;
- (10) Mud racing;
- (11) Off-road racing;
- (12) Rallying racing;
- (13) Rallycross racing;
- (14) Road course racing;
- (15) Time Trials racing; and
- (16) Truck/Tractor pulls.

(c) The Secretary of the Department of Tourism and the ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development shall also serve on the committee, ex officio.

(d) The committee shall:

- (1) Work with the existing facilities within the state to enhance existing racing;
- (2) Develop a strategy that creates further opportunities, such as encouraging racing training schools, conducting special events, and encouraging special events and the construction of larger in-state racing facilities; and
- (3) Seek opportunities to promote economic growth and manufacturing jobs related to

28 motorsports.

29 (e) The committee shall hold regular meetings, at least quarterly, and conduct public  
30 hearings as it considers necessary.

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

**§5B-2-18. Small Business Supplier Certification Assistance Program.**

1 (a) The Legislature finds that there is currently no standardized certification process for  
2 small business enterprises in West Virginia. As a result, there is no uniform method for verifying or  
3 certifying small business contractors or suppliers seeking to participate in government contracting  
4 and procurement processes. The Legislature further finds that it is important to develop such a  
5 certification program to promote more in-state businesses and to strengthen regional supply  
6 chains within the institutions of the state or its political subdivisions. Therefore, it is the purpose of  
7 this section to establish the Small Business Supplier Certification Assistance Pilot Program, to  
8 develop and implement a certification process for the benefit of small business enterprises  
9 seeking to further engage in the government contracting and bidding processes.

10 (b) The ~~Department~~ Division of Economic Development is hereby authorized to work in  
11 collaboration with Marshall University to establish a Small Business Supplier Certification  
12 Assistance Pilot Program to be implemented for purposes of developing a certification process for  
13 small business enterprises.

14 (c) Prior to implementation of the pilot program, Marshall University shall coordinate with  
15 the Department to develop a master plan for the pilot program, the focus of which should include,  
16 but not be limited to, the following:

17 (1) A mission statement and small business participation plan for the program aimed at  
18 creating a competitive business environment by promoting the growth and success of small  
19 businesses through meaningful participation in the procurement process. The small business  
20 participation plan shall include:

21 (A) A study to determine any inequities that exist in public procurement and contracting  
22 that adversely affect small business vendors;

23 (B) An outreach program to identify and provide education to small business vendors;

24 (C) Initial and continuing education opportunities for the small business vendor community  
25 through both virtual and in-person workshops;

26 (D) A small business vendor notification process for bidding opportunities; and

27 (E) A method of assessing overall program results and establishing recommendations for  
28 future goals and participation.

29 (2) Development of an application and certification process for small business enterprises,  
30 including guidelines for certification, based upon existing federal Small Business Administration  
31 guidelines;

32 (3) Education and outreach proposals relating to program certifications and the benefits of  
33 small business participation;

34 (4) Technical training to be provided on state and government contracting and the public  
35 bidding process;

36 (5) Notification of current bidding opportunities for small business providers;

37 (6) Opportunities for collaboration with other public and private sector entities; and

38 (7) Methods of implementation of the pilot program, which shall include:

39 (A) Defined program goals;

40 (B) Program research to be conducted;

41 (C) Scheduling milestones, assignment of tasks, and allocation of resources; and

42 (D) Reporting of program certifications, successes, and benefits to the economy and small  
43 business opportunities.

44 (d) The pilot program shall continue in duration through December 31, 2023, and unless  
45 continued by the legislature, the program will terminate at midnight on January 1, 2024. Prior to the  
46 conclusion of the program, the ~~Department~~ Division, in coordination with Marshall University, shall

report to the Legislature's Joint Commission on Economic Development on the following:

(1) Progress towards and methods of implementation of the pilot program, including the required certifications and training for small business enterprises;

(2) An analysis of the overall program results based on the metrics created in the master plan of the pilot program;

(3) Recommendations as to whether the pilot program should continue beyond its current duration; and

(4) Any proposed plan or legislation necessary to accomplish the purpose of making the program permanent.

(e) For purposes of the pilot program, any information provided by a small business enterprise for purposes of the certification process shall be considered private and confidential and exempt from the provisions of the Freedom of Information Act, as provided in §29B-1-1, et seq. of this code. Neither the Department nor Marshall University may share any information provided by a small business enterprise with any other state or federal agencies unless required by law.

**§5B-2-19. Certified Sites and Development Readiness Program.**

(a)(1) The Certified Sites and Development Readiness Program is hereby created and is to be administered as a program within the ~~Department~~ Division of Economic Development with appropriate rules as necessary. The program shall establish evaluation criteria and site certification levels based upon developmental readiness of an applicant's site. In developing the program, the department shall consider utilizing all available resources and technical support, both public and private.

(2) The ~~department~~ division shall establish an application process and forms through which an applicant may begin to participate in the program and identify and describe potential sites for economic development and investment. The application process and forms should include site specific information such as property ownership and control, descriptions and mapping, historical

11 and current uses, access to various forms of transportation, availability of various utility services,  
12 environmental studies, conceptual plans, marketing materials, and all other information requested  
13 by the department.

14 (3) Applicants may include only state, county, municipal, or regional governmental entities  
15 such as, without limitation, economic development authorities, economic development  
16 corporations, economic development alliances, or economic development partnerships.

17 (4) The ~~department~~ division shall select applicant's sites to participate in the program from  
18 the application materials. The ~~department~~ division will select sites to participate in the program,  
19 evaluate the selected sites, and certify each site based upon its readiness to be developed from  
20 the established criteria. After evaluation, the ~~department~~ division shall provide a report to the  
21 applicant detailing the results of the site evaluation, identifying site deficiencies and strengths, and  
22 suggesting a prioritized list of site improvements which may be made to improve the site's  
23 readiness to develop. The ~~department~~ division may thereafter reevaluate and recertify a site as  
24 improvements are made to a site and deficiencies cured.

25 (5) The ~~department~~ division may provide to applicants funding assistance up to a 50  
26 percent match through a matching grant program which may be spent only for directly improving  
27 the developmental readiness of sites which have been selected to participate in the program. The  
28 ~~department~~ division shall establish criteria and an application process for awarding matching  
29 grants to improve an applicant's site readiness: *Provided*, That no single site may receive any  
30 amount greater than a maximum amount established by the department through this grant  
31 matching program. Applications for this grant matching program must include details which  
32 specifically identify what deficiency or deficiencies will be cured and through what means and all  
33 other information required by the department. Grant matching funds must be spent, contracted to  
34 be spent, or returned to the department within 12 months of the date of receipt of the grant  
35 matching funds. Grant matching funds shall be paid back to the department when a participating  
36 site is sold or leased for development. The ~~department~~ division shall take prudent steps to receive

37 a security interest in a participating site in the amount of the grant matching funds award including,  
38 but not limited to, placing of record in the county where the participating site is located, an  
39 appropriate lien against the title. All funds repaid under this section shall remain within the program  
40 for use on participating sites. The ~~department~~ division shall monitor, and request appropriate  
41 evidence documenting the cured deficiencies and thereafter reevaluate and recertify a  
42 participating site as part of this grant matching program.

43 (6) The ~~department~~ division may provide funding assistance to applicants through a micro  
44 grant program which may be spent only for directly improving the developmental readiness of sites  
45 which have been selected to participate in the program. The ~~department~~ division shall establish  
46 criteria and an application process for awarding the micro grants to improve an applicant's site  
47 readiness: *Provided*, That no single site may receive any amount greater than \$75,000 through  
48 this micro grant program. Applications for this micro grant program must include details which  
49 specifically identify what deficiency or deficiencies will be cured and through what means and all  
50 other information required by the ~~department~~ division. Micro grant funds must be spent, contracted  
51 to be spent, or returned to the ~~department~~ division within 12 months of the date of receipt of the  
52 micro grant funds. All funds returned under this section shall remain within the program for use on  
53 participating sites. The ~~department~~ division shall monitor and request appropriate evidence  
54 documenting the cured deficiency and thereafter reevaluate and recertify a participating site as  
55 part of this micro grant program.

56 (b) (1) The Certified Sites and Development Readiness Fund is hereby created. The fund  
57 shall be administered by the ~~Department~~ Division of Economic Development and shall consist of  
58 all moneys made available for the purposes from:

59 (A) Appropriations provided by the Legislature;

60 (B) Any moneys available from external sources; and

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

62 (2) The ~~Department~~ Division of Economic Development shall use moneys in the fund to

support The Certified Sites and Development Readiness Program.

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

(4) Fund balances may be invested under §12-6C-6 of this code. Earnings on the investments shall be used solely for the purposes defined in this section.

**§5B-2-20. West Virginia Uncrewed Aircraft Systems Advisory Council.**

(a) The West Virginia Uncrewed Aircraft Systems Advisory Council is hereby created within the ~~Department~~ Division of Economic Development.

(b) The council consists of the following nine members, including the chairperson:

(1) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development or his or her designee, ex officio, who shall serve as the chair of the council, and who shall vote when necessary in the event the appointed members of the council become deadlocked;

(2) The following eight members shall be appointed by the Governor and serve at his or her will and pleasure:

(A) One member representing the Secretary of the Department of Transportation;

(B) One member from the Adjutant General's Department;

(C) One member representing the uncrewed aircraft system industry with at least five years of experience operating an uncrewed aircraft;

(D) One member representing a national association of the uncrewed aerial vehicle industry;

(E) One member with experience managing a commercial services airport;

(F) One member representing business and industry, generally;

(G) One member representing academia; and

(H) One member representing the advanced air mobility industry developing human transit



20 capabilities.

21 (3) Members of the council will receive no compensation but are entitled to reimbursement  
22 for mileage expenses while attending meetings of the committee to the extent that funds are  
23 available through the Department of Economic Development.

24 (c) The council shall:

25 (1) Identify trends and technologies driving innovation in uncrewed aircraft systems;

26 (2) Develop comprehensive strategies, including, but not limited to, the promotion of  
27 research and development, education, economic growth, and jobs in the uncrewed aircraft system  
28 industry in West Virginia; public acceptance of the uncrewed aircraft system industry; business  
29 planning; air vehicle technology and manufacturing; and airspace management and national  
30 airspace system integration; and

31 (3) Develop recommended legislation addressing specific issues and in furtherance of the  
32 comprehensive strategies identified in subdivision (2), subsection (c) of this section.

33 (d) The council shall meet at least annually and may convene public meetings to gather  
34 information or receive public comments.

35 (e) The council shall report on the status of its duties, goals, accomplishments, and  
36 recommendations to the Legislature on at least an annual basis.

## **ARTICLE 2I. DEPARTMENT OF TOURISM.**

### **§5B-2I-2. West Virginia Department of Tourism.**

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

**§5B-2I-4. Powers and duties of the Department of Tourism.**

(a) The Department of Tourism, under the direction and charge of the secretary, shall develop and implement a comprehensive tourism advertising, promotion, and development strategy for West Virginia. "Comprehensive tourism advertising, promotion and development strategy" means a plan that outlines strategies and activities designed to continue, diversify and expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled tourism workforce; facilitate business access to capital for tourism; advertise and market the resources offered by the state with respect to tourism advertising, promotion and development; facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure on a state, regional and community level in order to facilitate tourism development; improve the tourism business climate generally; and leverage funding from sources other than the state, including local, federal and private sources. In addition to all other power and duties of the department by other provisions of this code, the department shall:

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

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

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

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

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

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

such programs, initiatives, and materials across the departments and agencies of the state.

(b) In developing its strategies, plans and campaigns, the department shall consider the following:

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

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

(c) The Department of Tourism shall have the following powers and duties:

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

(2) To make recommendations to the Governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the department and the effective discharge of the duties of the department;

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

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

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

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

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

57           (d) The Department of Tourism may contract with the Division of Highways to sell  
58 advertising space on the WV511 website to promote in-state tourism and raise capital for  
59 technological improvements to the website: *Provided*, That 50 percent of the money collected for  
60 sale of advertising space is deposited into the Tourism Promotion Fund and the other 50 percent of  
61 the money collected from the sale of advertising space is remitted to the Division of Highways  
62 pursuant to the contract.

63           (e) The Department of Tourism may charge and collect reasonable fees for goods and  
64 services it provides to state agencies, departments, units of state or local government or other  
65 person, entity, or enterprise. All moneys collected by the department shall be deposited in the  
66 Tourism Promotion Fund and used in accordance with the provisions of this article.

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

78 statements of qualifications and other materials submitted by interested firms and select three  
79 firms which, in their opinion, are best qualified to perform the desired service. The committee shall  
80 then rank, in order of preference, the three firms selected and shall commence scope of service  
81 and price negotiations with the first-ranked firm. If the department is unable to negotiate a  
82 satisfactory contract with the first-ranked firm, at a fee determined to be fair and reasonable, price  
83 negotiations with the firm of second choice shall commence. Failing accord with the second-  
84 ranked firm, the committee shall undertake price negotiations with the third-ranked firm. If the  
85 department is unable to negotiate a satisfactory contract with any of the selected firms, the office  
86 shall select additional firms in order of their competence and qualifications and it shall continue  
87 negotiations in accordance with this section until an agreement is reached.

88 If the procurement of the services is estimated by the secretary to cost less than \$250,000,  
89 the department shall conduct discussions with three or more firms solicited on the basis of known  
90 or submitted qualifications for the assignment prior to the awarding of any contract: *Provided*, That  
91 if a judgment is made that special circumstances exist and that seeking competition is not  
92 practical, the department may select a firm on the basis of previous satisfactory performance and  
93 knowledge of the department's needs. After selection, the department and selected firm shall  
94 develop the scope of desired services and negotiate a contract.

95 (g) The secretary of the Department of Tourism may, in order to carry out the powers and  
96 duties of the department described in this article, employ necessary personnel, contract with  
97 professional or technical experts or consultants and purchase or contract for the necessary  
98 equipment or supplies.

99 (h) The secretary of the Department of Tourism may designate, in writing, a list of positions  
100 within the department that shall be exempt from coverage under the state's classified service;  
101 *Provided*, That beginning on July 1, 2025, all employees of the Department of Tourism shall be  
102 exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from  
103 the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees of the Department of Tourism who are currently members of the classified civil service system shall retain their status as long as they remain in their current position; and

(2) Any employee of the Department of Tourism that leaves his or her position and remains an employee within the Department of Tourism shall, at that time, be transfer to the classified-exempt service system as defined in §29-6-2(g).

(3) Nothing in this article shall prevent a person, at the secretary's discretion, from serving in multiple positions within the Department of Tourism.

(i) Subsection (h) of this section shall not apply to any position appointed by the Governor.

~~(j)~~ (i) The Department of Tourism shall submit a report annually to the Governor and the Legislature about the development of the tourism industry in the state and the necessary funding required by the state to continue the development of the tourism industry.

~~(j)~~ (k) The Department of Tourism and the secretary shall engage, collaborate, assist, and cooperate with the Department of Economic Development, when and as appropriate, to facilitate retention, expansion, recruitment, and location of existing and new tourism-related enterprises.

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

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

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

<b>ARTICLE</b>	<b>1.</b>	<b>GENERAL</b>	<b>PROVISIONS.</b>
----------------	-----------	----------------	--------------------

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

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

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

(b) Each department will be headed by a secretary, or in the case of the Department of Homeland Security, it may be headed by the Adjutant General. Each department head shall be appointed by the Governor with the advice and consent of the Senate. Each secretary department head serves at the will and pleasure of the Governor.

**§5F-1-3a. Executive compensation commission.**

(a) There is hereby created an executive compensation commission composed of three members, one of whom shall be the secretary of administration, one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the President of the Senate, and one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the Speaker of the House of Delegates. The names of such nominees shall be submitted to the Governor by not later than June 1, 2000, and the appointment of such

7 members shall be made by the Governor by not later than July 1, 2000. The members appointed  
8 by the Governor shall have had significant business management experience at the time of their  
9 appointment and shall serve without compensation other than reimbursement for their reasonable  
10 expenses necessarily incurred in the performance of their commission duties. For the 2001 regular  
11 session of the Legislature and every four years thereafter, the commission shall review the  
12 compensation for cabinet secretaries and other appointed officers of this state, including, but not  
13 limited to, the following: Commissioner, Division of Highways; commissioner, Bureau of  
14 Employment Programs; director, Division of Environmental Protection; commissioner, Bureau of  
15 Senior Services; director of tourism; commissioner, division of tax; administrator, division of health;  
16 commissioner, Division of Corrections; director, Division of Natural Resources; superintendent,  
17 state police; administrator, lottery division; director, Public Employees Insurance Agency;  
18 administrator, Alcohol Beverage Control Commission; commissioner, Division of Motor Vehicles;  
19 director, Division of Personnel; ~~Adjutant General~~; the Executive Director of the Health Care  
20 Authority; director, Division of Rehabilitation Services; executive director, educational  
21 broadcasting authority; ~~executive secretary~~ executive director, Library Commission; chairman and  
22 members of the Public Service Commission; director of emergency services; administrator,  
23 division of human services; executive director, Human Rights Commission; director, division of  
24 Veterans Affairs; director, office of miner's health safety and training; commissioner, Division of  
25 Banking; commissioner, division of insurance; ~~commissioner, Division of Culture and History~~;  
26 commissioner, Division of Labor; director, Prosecuting Attorneys Institute; director, Board of Risk  
27 and Insurance Management; commissioner, oil and gas conservation commission; director,  
28 geological and economic survey; executive director, water development authority; executive  
29 director, Public Defender Services; director, state rail authority; chairman and members of the  
30 Parole Board; members, employment security review board; members, workers' compensation  
31 appeal board; chairman, Racing Commission; executive director, women's commission; and  
32 director, hospital finance authority.



(b) Following this review, but not later than the twenty-first day of such regular session, the commission shall submit an executive compensation report to the Legislature to include specific recommendations for adjusting the compensation for the officers described in this section. The recommendation may be in the form of a bill to be introduced in each house to amend this section to incorporate the recommended adjustments.

**§5F-1-6. House Bill 4006 amendments effective date. Amendments; effective date.**

(a) Except for instances where specifically provided otherwise, all amendments to this Code made by the passage of House Bill 4006 during the 2018 regular session of the Legislature shall become effective July 1, 2018.

(b) Except for instances where specifically provided otherwise, all amendments to this Code made by passage of this Act during the 2025 regular session of the Legislature shall become effective July 1, 2025.

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

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

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

(1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;

(2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

(3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;

(4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this code;

(5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

(6) Boundary Commission provided in §29-23-1 *et seq.* of this code;

(7) Public Defender Services provided in §29-21-1 *et seq.* of this code;

(8) Division of Personnel provided in §29-6-1 *et seq.* of this code;

(9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;

(10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and

(11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development;

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

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

(8) Division of Economic Development provided in §5B-2-1 *et seq.* of this code, which includes:

(A) Office of Broadband provided for in 31G-1A-1 *et seq.*;

(B) Small Business Development Center provided for in §12-1A-1 *et seq.*

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

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

(e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of this code is continued as a separate agency within the Department of Arts, Culture, and History, which shall provide administrative support for the authority.

~~(f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is continued as an agency within the Executive Branch as the Department of Arts, Culture, and History. All references throughout this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and History".~~

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

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

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

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

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

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

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

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

~~(h)~~ (g) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health:

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

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

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

(4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

(5) The Developmental Disabilities Council established by Executive Order No. 6-88 and continued by Executive Order No. 15-99;

~~(i)~~ (h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in, and administered as a part of, the Department of Human Services:

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

(2) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

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

(1) West Virginia State Police;

(2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided, That*

91 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule  
92 promulgated thereunder, a reference is made to the Division of Homeland Security and  
93 Emergency Management, it shall be construed to mean the Division of Emergency Management;

94 (3) Division of Administrative Services;

95 (4) Division of Corrections and Rehabilitation;

96 (5) Fire Commission;

97 (6) State Fire Marshal;

98 (7) Board of Probation and Parole;

99 (8) The West Virginia Fusion Center;

100 (9) Division of Protective Services; and

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

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

106 (1) Tax Division provided in §11-1-1 *et seq.* of this code;

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

108 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this  
109 code;

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

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

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

114 (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;

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

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

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

(11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and

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

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

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

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

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

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

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

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

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

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

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

~~(o)~~ (n) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards and the membership, terms, and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers may not have their appellate or independent decision-making status affected by the enactment of this chapter.

~~(p)~~ (o) Any department previously transferred to and incorporated in a department by prior

enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in §5F-1-2 of this code, the reference means a division of the appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

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

~~(f)~~ (g) The Department of Economic Development as established in §5B-2-1 *et seq.* of this code is continued as a ~~separate independent agency within the Executive Branch~~ division of the Department of Commerce.

~~(s)~~ (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch, which includes the following sections and commissions listed under §29-1-1(b) of this code:

(1) The Arts Section;

(2) The Archives and History Section;

(3) The Museums Section;

(4) The Historic Preservation Section;

(5) The State Library Section;

(6) The National Coal Heritage Area Commission;

(7) The Administrative Section;

(8) The Educational Broadcasting Commission;

- 169           (9) The Commission on the Arts;  
170           (10) The Commission on Archives and History; and  
171           (11) The Library Commission.

### **ARTICLE 3. FUTURE REORGANIZATION; SEVERABILITY.**

#### **§5F-3-2. Operative dates.**

- 1           The provisions of this chapter shall become operative as to any department created in  
2           section two, article one of this chapter upon the appointment of the secretary of such department,  
3           unless otherwise specified.

## **CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

### **ARTICLE 5. EDUCATIONAL BROADCASTING COMMISSION**

#### **§10-5-2. West Virginia Educational Broadcasting Commission; members; organization; officers; employees; meetings; expenses.**

- 1           (a) The West Virginia Educational Broadcasting Commission is continued as a public  
2           benefit corporation. The commission shall consist of nine voting members, who shall be residents  
3           of the state, including:
- 4           (1) The Governor or designee;
- 5           (2) The State Superintendent of Schools;
- 6           (3) One member of the West Virginia Board of Education to be selected by it annually;
- 7           (4) One member of the West Virginia Higher Education Policy Commission to be selected  
8           by it annually; and
- 9           (5) Five members appointed by the Governor by and with the advice and consent of the  
10          Senate for overlapping terms of five years, one term expiring each year.



(b) Not less than one appointive member shall come from each congressional district. Any vacancy among the appointed members shall be filled by the Governor by appointment for the unexpired term.

(c) Employees of noncommercial broadcasting stations in West Virginia are not eligible for appointment to the commission.

(d) The commission shall annually select a member to serve as the chair. The commission shall annually select one of its public members as vice chair and shall appoint a secretary who need not be a member of the commission and who shall keep records of its proceedings.

(e) The Cabinet Secretary of the ~~Department of Arts, Culture, and History~~ Tourism shall appoint the commission section director and fix his or her salary. The commission section director is responsible for managing and administering the daily functions of the commission and for performing all other functions necessary to the effective operation of the commission. The commission may establish offices for the proper performance of its duties.

(f) The commission shall hold at least one annual meeting. The time and place of the meetings shall be established upon its own resolution or at the call of the chairperson of the commission. The members shall serve without compensation but may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 1A. ADJUTANT GENERAL.**

#### **§15-1A-1. Department generally.**

The Adjutant General's department shall be a part of the executive branch of the government charged with the organization, administration, operation and training, supply and discipline of the military forces of the state. The Adjutant General shall be the executive head of

the Adjutant General's department, and shall employ such clerical force and assistants as may be required for the fulfillment of his or her duties. At the election of the Governor, the Adjutant General may be appointed to serve as the Secretary of the Department of Homeland Security, set forth in §15A-1-1 et seq.

## **CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.**

### **ARTICLE 1. DEFINITIONS.**

#### **§15A-1-3. Secretary.**

"Secretary" means the Secretary of the Department of Homeland Security, which may, at the direction of the Governor, be the Adjutant General of the West Virginia National Guard.

#### **§15A-1-9. Department of Homeland Security; Secretary of the Department of Homeland Security; powers and duties.**

(a)(1) The Department of Homeland Security is established within the Executive Branch as a criminal justice agency. In addition to all other powers and duties set forth in this code, the department is designated as the principal state agency to coordinate the receipt, distribution, and monitoring of all funds available from any source for the purpose of equipping, training, research, and education in regard to homeland security related items, issues, or services. The department is authorized to coordinate and establish standards for all operations and activities of the state related to homeland security efforts and to establish protocols for coordinating and sharing information with state and federal law enforcement and intelligence agencies responsible for investigating and collecting information related to homeland security and national security threats.

(2) The department is designated as the state administrative agency responsible for homeland security and emergency management for the planning and development of state programs and grants which may be funded by federal, state, or other allocations in the areas of homeland security and emergency management, unless such administration has been specifically entrusted to another state agency by the Governor or the Legislature.

15           (3) Notwithstanding any other provision of this code to the contrary, whenever in this code,  
16 or a rule promulgated thereunder, a reference is made to the Department of Military Affairs and  
17 Public Safety, it means the Department of Homeland Security.

18           (b) The secretary is the chief executive officer of the department. Subject to §5F-2-2 of this  
19 code, the secretary shall organize the department into such offices, sections, agencies, and other  
20 units of activity as may be found by the secretary to be desirable for the orderly, efficient and  
21 economical administration of the department and for the accomplishment of its objects and  
22 purposes. The secretary may appoint a deputy secretary, chief of staff, assistants, hearing  
23 officers, clerks, stenographers, and other officers, technical personnel, and employees needed for  
24 the operation of the department and may prescribe their powers and duties and fix their  
25 compensation within amounts appropriated.

26           (c) The secretary has the power to and may designate supervisory officers or other officers  
27 or employees of the department to substitute for him or her on any board or commission  
28 established under this code or to sit in his or her place in any hearings, appeals, meetings, or other  
29 activities with such substitute having the same powers, duties, authority, and responsibility as the  
30 secretary. The secretary has the power to delegate, as he or she considers appropriate, to  
31 supervisory officers or other officers or employees of the department his or her powers, duties,  
32 authority and responsibility relating to such duties and functions set forth in this chapter or  
33 elsewhere in this code.

34           (d) The secretary has responsibility for the conduct of the intergovernmental relations of  
35 the department, including assuring:

36           (1) That the department carries out its functions in a manner which supplements and  
37 complements the homeland security and public safety policies, programs and procedures of the  
38 federal government, other state governments, and other instrumentalities of this state; and

39           (2) That appropriate officers and employees of the department consult with individuals  
40 responsible for making policy relating to homeland security and public safety issues in the federal

government, other state governments, and other instrumentalities of this state concerning differences over policies, programs, and procedures and concerning the impact of statutory law and rules upon the homeland security and public safety of this state.

(e) In addition to other powers, duties, and responsibilities granted and assigned to the secretary by this code, the secretary is authorized and empowered to:

(1) Sign and execute in the name of the state by the Department of Homeland Security any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships or individuals: *Provided*, That the powers granted to the secretary to enter into agreements or contracts and to make expenditures and obligations of public funds under this subdivision may not exceed or be interpreted as authority to exceed the powers granted by the Legislature to the various commissioners, directors, or board members of the various departments, agencies, or boards that comprise and are incorporated into each secretary's department pursuant to the provisions of chapter 5F of this code;

(2) Conduct research in improved homeland security and public safety methods and disseminate information to the citizens of this state;

(3) Require any persons contracting to install, establish, modify, operate, or close a correctional or other public safety facility to furnish the fingerprints of the person or persons; any officer, director, or manager of the contractor; any person owning a five percent or more interest, beneficial or otherwise, in the contractor's business; or any other person conducting or managing the affairs of the contractor, in whole or in part. These fingerprints may be used to obtain and review any police record for the purposes that may be in the interest of homeland security or public safety, and to use the fingerprints furnished to conduct a criminal records check through the Criminal Identification Bureau of the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation. The results of the checks shall be provided to the secretary;

(4) Acquire for the state in the name of the Department of Homeland Security by purchase,

67 lease, or agreement, or accept or reject for the state, in the name of the Department of Homeland  
68 Security, gifts, donations, contributions, bequests, or devises of money, security, or property, both  
69 real and personal, and any interest in property; and

70 (5) Provide for workshops, training programs, and other educational programs, apart from  
71 or in cooperation with other governmental agencies, necessary to ensure adequate standards of  
72 public service in the department. The secretary may provide for technical training and specialized  
73 instruction of any employee. Approved educational programs, training and instruction time may be  
74 compensated for as a part of regular employment. The secretary is authorized to pay out of federal  
75 or state funds, or both, as such funds are available, fees and expenses incidental to the  
76 educational programs, training and instruction. Eligibility for participation by employees shall be in  
77 accordance with guidelines established by the secretary.

78 (f) The secretary shall be appointed by the Governor, by and with the advice and consent of  
79 the Senate and serves at the will and pleasure of the Governor.

80 (g) The secretary shall serve as the Homeland Security Advisor (HSA) for West Virginia,  
81 and shall be responsible for coordinating, designing, and implementing West Virginia's program  
82 for homeland security. The secretary shall be the principal point of contact between the State of  
83 West Virginia and the federal government with respect to homeland security issues. The HSA shall  
84 either possess at least a secret clearance through the federal government or be able to qualify for,  
85 and be in the process of obtaining, such clearance at the time of his or her appointment as HSA.  
86 The HSA shall keep the Governor advised of all homeland security matters and shall be the main  
87 point of contact for the Governor on these issues. The secretary, with permission of the Governor,  
88 may delegate all or a portion of the functions of the HSA to a designee who possesses at least a  
89 secret clearance.

90 (h) Notwithstanding any other provision of this code to the contrary, any records compiled  
91 by the department or any division, agency, office, or unit thereof, the disclosure of which could be  
92 used to create an endangerment to municipal, county, state, or national welfare and security, are

not public records and are not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 *et seq.* of this code.

~~(j)~~ (i) Notwithstanding any provision of the code to the contrary, beginning on July 1, 2025, all employees of the Department of Homeland Security, including any division, office, commission, or division within the department, shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code except that:

(1) All employees of the Department of Homeland Security, including of any division, office, commission, or division within the department, who are currently members of the classified civil service system shall retain their status as long as they remain in their current position; and

(2) Any employee of the Department of Homeland Security, including of any division, office, commission, or division within the department, that leaves his or her position and remains an employee within the department shall, at that time, be transfer to the classified-exempt service system as defined in §29-6-2(g).

~~(k)~~ (j) Subsection (j) of this section shall not apply to officers and members of the department within the West Virginia State Police or any position appointed by the Governor.

(i) ~~(k)~~ The Department of Homeland Security shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

## CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

### ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

**§29-1-1. Division of Culture and History continued as Abolishing the Department of Arts, Culture, and History and reorganizing its sections under the Department of Tourism; sections and commissions; purposes; definitions; effective date.**

(a) The Division of Culture and History heretofore created is hereby continued as On July 1, 2025, the Department of Arts, Culture, and History, is abolished and its authorities and duties

3 ~~transferred to the Department of Tourism. The Governor shall nominate and, by and with the~~  
4 ~~advice and consent of the Senate, appoint Executive Director of the Cabinet Secretary of Arts,~~  
5 ~~Culture, and History, who shall be the chief executive officer of the department and shall be paid an~~  
6 ~~annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A~~  
7 ~~bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2)~~  
8 ~~four years' experience in the administration of museum management, public administration, arts,~~  
9 ~~history, or a related field.~~

10 (b) ~~The department division shall consist of~~ On July 1, 2025, the following eight sections  
11 and commissions as follows shall be reorganized under the Department of Tourism:

- 12 (1) The arts section;
- 13 (2) The archives and history section;
- 14 (3) The museums section;
- 15 (4) The historic preservation section;
- 16 (5) The state library section;
- 17 (6) The National Coal Heritage Area Commission;
- 18 (7) The administrative section; and
- 19 (8) The Educational Broadcasting Commission.

20 ~~(c) The department shall also consist of four citizens commissions as follows:~~

- 21 ~~(1)~~ (9) A Commission on the Arts;
- 22 ~~(2)~~ (10) A Commission on Archives and History;
- 23 ~~(3)~~ (11) A Library Commission; ~~and~~
- 24 ~~(4) An Educational Broadcasting Council.~~

25 ~~(d) (c)~~ On and after July 1, 2025, The the secretary of the department of tourism shall  
26 exercise control and supervision of the department over each section and commission listed in  
27 subsection (b) of this section and shall be responsible for the projects, programs, and actions of  
28 each of its sections. The purpose and duty of the department these sections and commissions is to

29 advance, foster, and promote the creative and performing arts and crafts, including both indoor  
30 and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire,  
31 mark, and care for historical, prehistorical, archaeological, and significant architectural sites,  
32 structures, and objects in the state; to encourage the promotion, preservation, and development of  
33 significant sites, structures, and objects through the use of economic development activities such  
34 as loans, subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic  
35 activities in state government and at state-owned facilities; to acquire, preserve, and classify  
36 books, documents, records, and memorabilia of historical interest or importance; and, in general,  
37 to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and  
38 history of the state. ~~In the furtherance of these purposes and duties, the secretary shall report~~  
39 ~~directly to the Governor as a secretary for both the intrinsic and extrinsic value for individuals,~~  
40 ~~communities, and the economy of the arts, humanities, culture, and history in West Virginia. As~~  
41 ~~such, the secretary shall represent the Department of Arts, Culture, and History as a full~~  
42 ~~participating member in meetings of the secretaries of the departments created in §5F-1-2 of this~~  
43 ~~code that are convened at the call of the Governor.~~

44 ~~(e)~~ (d) ~~The department~~ the secretary of the department of tourism has jurisdiction and  
45 control and may set and collect fees for the use of all space in the building presently known as the  
46 West Virginia Science and Culture Center, including the deck and courtyards forming an integral  
47 part thereof; the building presently known as West Virginia Independence Hall in Wheeling,  
48 including all the grounds and appurtenances thereof; "Camp Washington Carver" in Fayette  
49 County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or  
50 acquired by the department. Notwithstanding any provision of this code to the contrary, beginning  
51 on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor  
52 touring and visitor tour guide activities within the Capitol Building at Charleston.

53 ~~(f)~~ (e) For the purposes of this article, ~~"commissioner" or "curator" means the Cabinet~~  
54 ~~Secretary of~~ "executive director" means the Executive Director of the Division of Arts, Culture, and



History, and "division" or "department" means the ~~Department of Arts, Culture and History~~  
~~Department of Tourism~~ and "secretary" means the ~~Secretary of the Department of Tourism~~.  
References throughout On and after July 1, 2025, any reference in this code to the "Commissioner  
of Culture and History" mean the "Cabinet Secretary of Arts, Culture, and History", Secretary of the  
Department of Tourism and references throughout this code to the "Division of Culture and  
History" or "Department of Arts, Culture, and History," mean the "Department of Arts, Culture, and  
History Tourism".

**§29-1-1a. Transfer of powers and duties; existing contracts and obligations.**

(a) Except as otherwise provided in this article, the powers and duties of the West Virginia  
antiquities commission, the West Virginia arts and humanities council and the department of  
archives and history are hereby transferred to the ~~Division of Arts, Culture, and History~~ the  
Department of Tourism.

(b) All existing assets, equipment, contracts, and records obligations of the Department of  
Arts, Culture, and History, the West Virginia antiquities commission, the West Virginia arts and  
humanities council, and the department of archives and history, or relating to the present science  
and culture center, shall be transferred to remain in full force and effect and shall be performed by  
the ~~Division of Culture, and History~~ Department of Tourism.

(c) Beginning on July 1, 2025, all employees of any section or commission listed in §29-1-  
1(b) shall be exempt from the state grievance procedures as set forth in §6C-2-1 et seq. of this  
code and from the classified civil service system under §29-6-1 et seq. of this code except that:

(1) All employees of any section or commission listed in §29-1-1(b) who are currently  
members of the classified civil service system shall retain their status as long as they remain in  
their current position; and

(2) Any employee any section or commission listed in §29-1-1(b) that leaves his or her  
position and remains an employee within the Department of Tourism shall, at that time, be transfer  
to the classified-exempt service system as defined in §29-6-2(g).

19           (d) Nothing in this article shall prevent a person, at the secretary's discretion, from serving  
20 in multiple positions or professions within the sections listed in §29-1-1(b).

21           (e) Subsection (c) of this section shall not apply to any position appointed by the Governor.

**§29-1-2. General powers of ~~curator~~ secretary.**

1           (a) The ~~curator~~ secretary shall assign and allocate space in all facilities assigned to the  
2 department and all space in the building presently known as the West Virginia Science and Culture  
3 Center, and any other buildings or sites under the control of the ~~curator~~ department, and may, in  
4 accordance with the provisions of §29A-3-1 *et seq.* of this code, prescribe rules, regulations and  
5 fees for the use and occupancy of said facilities, including tours.

6           (b) The ~~curator~~ secretary shall coordinate the operations and affairs of the sections and  
7 commissions of the department and assign each section or commission responsibilities according  
8 to criteria the curator deems most efficient, productive and best calculated to carry out the  
9 purposes of this article. The ~~curator~~ secretary shall provide to the fullest extent possible for  
10 centralization and coordination of the bookkeeping, personnel, purchasing, printing, duplicating,  
11 binding and other services which can be efficiently combined. The ~~curator~~ secretary may establish  
12 such other sections for such purposes as he or she deems necessary, and may appoint directors  
13 thereof. The ~~curator~~ secretary may appoint a director of the West Virginia Science and Culture  
14 Center. The ~~curator~~ secretary shall serve as the state historic preservation officer.

15           (c) ~~After consultation with the section directors and the commissions, the curator~~ The  
16 secretary shall prepare a proposed department budget for submission to the Governor for each  
17 fiscal year.

18           (d) No contract, agreement or undertaking may be entered into by any section of the  
19 department or any section thereof which involves the expenditure of funds without the express  
20 written approval of the ~~curator~~ secretary as to fiscal responsibility.

(e) ~~The curator~~ secretary shall prepare and submit to the Governor an annual report in accordance with the provisions of §5-1-20 of this code, which report shall include a detailed account of the activities of each section and commission of the department.

(f) ~~The curator~~ secretary shall employ all personnel for the sections, except for persons in the professional positions established within the sections as provided in this article; and shall supply support services to the commissions and to the Governor's Mansion Advisory Committee.

(g) On and after July 1, 2025, the secretary may grant or withhold written consent to the proposal of any rule, as defined by §29A-1-2 of this code, by any section or commission listed in §29-1-1(b) of this code. Without the secretary's written consent, no proposal for a rule filed by any section or commission listed in §29-1-1(b) after July 1, 2025, shall have any force or effect.

(h) The secretary may proposal a repeal, pursuant to either §29A-3-1a(b) or §29A-3-8(c) of the code, as appropriate, of any rule promulgated by the a Department of Arts, Culture, and History, the Division of Culture and History, or any section or commission listed in §29-1-1(b) of this code.

### **§29-1-3. Commission on the Arts.**

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members, ~~the Curator of the West Virginia Department of Arts, Culture and History~~ secretary as an ex officio voting member, the director of the arts section as an ex officio nonvoting member, and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight appointed voting members may be of the same political party. Effective July 1, 2004, no more than three voting members may be from the same regional educational service agency district created in §18-2-26 of this code. Appointed voting members of

the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall serve as secretary. The curator or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that if the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, may not be reimbursed by the state.

(5) Upon recommendation of the ~~curator~~ secretary, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the ~~curator~~ secretary and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the ~~curator~~ secretary or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section;

~~(5) Approve rules concerning the professional policies and functions of the section as~~

38 ~~promulgated by the director of the arts section; and~~

39 ~~(6) Advise and consent to the appointment of the director by the curator.~~

40 (d) A special revenue account in the State Treasury, known as the "Cultural Facilities and  
41 Capital Resources Matching Grant Program Fund", is continued. The fund shall consist of moneys  
42 received under §29-22A-10 of this code and funds from any other source. The moneys in the fund  
43 shall be expended in accordance with the following:

44 (1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission  
45 on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*,  
46 That the Commission on the Arts may use no more than 25 percent of the funding for operations of  
47 cultural facilities pursuant to the rule required by this subdivision. The Commission on the Arts  
48 shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of  
49 this code to create a matching grant program for cultural facilities and capital resources; and

50 (2) Fifty percent of the moneys deposited in the fund shall be expended by the Department  
51 of Arts, Culture and History for:

52 (A) Capital improvements, preservation, and operation of cultural facilities that are  
53 managed by the department; and

54 (B) Capital improvements, preservation, and operation of cultural facilities that are not  
55 managed by the department.

56 (e) The commission shall undertake a study, solicit designs, and make recommendations  
57 for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the  
58 conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on  
59 Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The  
60 commission shall consult with the Capitol Building Commission and state veterans, including  
61 veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a  
62 proposal for the memorial. The commission shall provide a report to the Legislature's Joint  
63 Committee on Government and Finance by January 1, 2022, including recommendations for

64 design and location of the memorial and estimated construction costs.

**§29-1-4. Arts section; director.**

1       (a) The purposes and duties of the arts section are to stimulate, encourage, assist,  
2       promote, foster and develop the performing and creative arts and crafts in the state; and in  
3       furtherance thereof to make awards, prizes and grants to individual performers, artists or  
4       craftsmen and to public or private corporations or associations in the field of either the performing  
5       or creative arts and crafts that would tend to encourage and foster the advancement of such arts  
6       and crafts; to support cultural, artistic or craft exhibits or performances at the division's facilities or  
7       on tour; and to perform such other duties as may be assigned to said section by the ~~commissioner~~  
8       secretary.

9       ~~(b) With the advice and consent of the commission on the arts, the commissioner~~ The  
10       secretary shall appoint a director of the arts section, ~~who shall have: (1) A bachelor's degree in the~~  
11       ~~fine arts or related field or equivalent training and experience; or (2) three years' experience in~~  
12       ~~administration of the fine arts or a related field who is qualified, with relevant experience.~~

13       (c) With the approval of the ~~commissioner~~ secretary, the director shall establish  
14       professional positions within the section. The director shall employ the personnel within these  
15       professional positions for the section. Provided, That nothing in this subsection shall prevent a  
16       qualified person from serving in multiple professions within this section or any section listed in §29-  
17       1-1(b) of this code.

18       (d) The director may propose rules for legislative promulgation, in accordance with the  
19       provisions of ~~chapter twenty-nine a~~ §29A-3-1 et seq. of this code, concerning the professional  
20       policies and functions of the arts section, subject to the approval of the ~~commission on the arts~~  
21       secretary.

**§29-1-6. Archives and history section; director.**

1       (a) The purposes and duties of the archives and history section are to locate, survey,  
2       investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~

3 secretary for acquisition documents and records having historical, evidential, administrative  
4 and/or legal value relating to the State of West Virginia and the territory included in the state from  
5 the earliest times to the present, upon its own initiative or in cooperation with any private or public  
6 society, organization or agency; to conduct a continuing survey and study throughout the state to  
7 develop a state plan to determine the needs and priorities for the preservation of the documents  
8 and records; to direct, protect, preserve, study and disseminate information on the documents and  
9 records; to provide matching grants to political subdivisions of this state to protect and preserve  
10 the documents and records; to operate and maintain a state library for the preservation of all public  
11 records, state papers, documents and reports of all three branches of state government including  
12 all boards, commissions, departments and agencies as well as any other private or public papers,  
13 books or documents of peculiar or historic interest or significance; to designate appropriate  
14 monuments, tablets or markers for historic, architectural and scenic sites within the state and to  
15 arrange for the purchase, replacement, care of and maintenance of the monuments, tablets and  
16 markers and to formulate and prepare suitable copy for them; to edit and publish a historical  
17 journal devoted to the history, biography, bibliography and genealogy of West Virginia; and to  
18 perform any other duties assigned to the section by the commissioner.

19 (b) ~~With the advice and consent of the archives and history commission, the commissioner~~  
20 The secretary shall appoint a director of the archives and history section, who shall have: (1) A  
21 ~~graduate degree in one of the social sciences, or equivalent training and experience in the field of~~  
22 ~~West Virginia history, history, or in records, library or archives management; and (2) three years'~~  
23 ~~experience in administration in the field of West Virginia history, history, or in records, library or~~  
24 ~~archives management~~ be qualified, with relevant experience. ~~Notwithstanding these~~  
25 ~~qualifications, the~~ The person serving as the state historian and archivist on the date of enactment  
26 of this article is eligible for appointment as the director of the archives and history section. The  
27 director of the archives and history section shall serve as the state historian and archivist.

28 (c) With the approval of the ~~commissioner~~ secretary, the director shall establish

professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure with the minimum professional qualifications. At the minimum, the following professions shall be represented within the section staff: Historian, archivist, librarian and technical and clerical positions as are required; Provided, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(d) The director shall promulgate rules with the approval of the ~~archives and history commission~~ secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code concerning: (1) The professional policies and functions of the archives and history section; and (2) any other rules determined necessary to effectuate the purposes of this article.

**§29-1-7. Museums section; director.**

(a) The purposes and duties of the museums section are to locate, survey, investigate, register, identify, excavate, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition historic objects worthy of preservation, relating to the State of West Virginia and the territory included therein from the earliest times to the present, upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation, restoration or development of such objects; to direct, protect, excavate, preserve, study or develop such objects; to preserve and protect all battle or regimental flags borne by West Virginians and other memorabilia of historic interest; to operate and maintain a state museum, and to coordinate activities with other museums in the state; and to perform such other duties as may be assigned to the section by the ~~commissioner~~ secretary.

(b) With the advice and consent of the ~~archives and history commission~~ secretary, in addition to the duties above set forth, the section shall determine the whereabouts of and require the return of furnishings and objects missing from the capitol building and other state-owned or



15 controlled buildings, including, but not limited to, furnishings chosen or purchased for the capitol by  
16 its architect, Cass Gilbert. No furnishings from the capitol may be sold or disposed of except  
17 pursuant to the provisions of article three, chapter five-a of this code. If furnishings originally  
18 designated as capitol building furnishings have been sold or otherwise disposed of without the  
19 requisite sale procedures, such furnishings shall be returned to the capitol and, upon presentation  
20 of proof of the amount paid, the current owner shall be reimbursed for the cost of the furnishing  
21 less any appropriate depreciation or wear and tear.

22 ~~(c) With the advice and consent of the archives and history commission, the commissioner~~  
23 The secretary shall appoint a director of the museums section, who shall have: (1) A graduate  
24 ~~degree in one of the social sciences, or equivalent training and experience in the field of West~~  
25 ~~Virginia history, history, archaeology, or in museum administration; and (2) three years' experience~~  
26 ~~in administration in the field of West Virginia history, history, archaeology, or in museum~~  
27 ~~management~~ be qualified, with relevant experience.

28 (d) With the approval of the ~~commissioner~~ secretary, the director shall establish  
29 professional positions within the section and develop appropriate organizational structures to  
30 carry out the duties of the section. The director shall employ the personnel with applicable  
31 professional qualifications to fill positions within the organizational structure and section. At the  
32 minimum, the following professions shall be represented within the section staff: Curator and such  
33 technical and clerical positions as are required. ~~With the approval of the commissioner, the~~  
34 ~~director shall establish professional positions within the section. The director shall employ the~~  
35 ~~personnel within these professional positions for the section:~~ Provided, That nothing in this  
36 subsection shall prevent a qualified person from serving in multiple professions within this section  
37 or any section listed in §29-1-1(b) of this code.

38 (e) The director shall promulgate rules and regulations with the approval of the archives  
39 and history commission secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq.  
40 concerning: (1) The professional policies and functions of the museums section; and (2) such

41 other rules and regulations as may be deemed necessary to effectuate the purposes of this  
42 section.

**§29-1-8. Historic preservation section; director.**

1 (a) The purposes and duties of the historic preservation section are to locate, survey,  
2 investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~  
3 secretary for acquisition historic, architectural, archaeological and cultural sites, structures and  
4 objects worthy of preservation, including human skeletal remains, graves, grave artifacts and  
5 grave markers, relating to the State of West Virginia and the territory included therein from the  
6 earliest times to the present upon its own initiative or in cooperation with any private or public  
7 society, organization or agency; to conduct a continuing survey and study throughout the state to  
8 develop a state plan to determine the needs and priorities for the preservation, restoration or  
9 development of the sites, structures and objects; to direct, protect, excavate, preserve, study or  
10 develop the sites and structures; to review all undertakings permitted, funded, licensed or  
11 otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties of the  
12 section; to carry out the duties and responsibilities enumerated in the National Historic  
13 Preservation Act of 1966, as amended, as they pertain to the duties of the section; to develop and  
14 maintain a West Virginia State Register of Historic Places for use as a planning tool for state and  
15 local government; to cooperate with state and federal agencies in archaeological work; to issue  
16 permits for the excavation or removal of human skeletal remains, grave artifacts and grave  
17 markers, archaeological and prehistoric and historic features under the provisions of section eight-  
18 a of this article; and to perform any other duties as may be assigned to the section by the  
19 ~~commissioner~~secretary.

20 (b) ~~With the advice and consent of the Archives and History Commission, the~~  
21 ~~commissioner~~The secretary shall appoint a director of the historic preservation section who shall  
22 have: ~~(1) A graduate degree in one of the social sciences or equivalent training and experience in~~  
23 ~~the field of historic preservation, archaeology, West Virginia history or history; and (2) three years'~~

24 ~~experience in administration in the field of West Virginia history, history, historic preservation or~~  
25 ~~archaeology~~ be qualified, with relevant experience. The director of the historic preservation  
26 section shall serve as the deputy state historic preservation officer.

27 (c) With the approval of the ~~commissioner~~ secretary, the director shall establish  
28 professional positions within the section and develop appropriate organizational structures to  
29 carry out the duties of the section. The director shall employ the personnel with applicable  
30 professional qualifications to fill positions within the organizational structure with the minimum  
31 professional qualifications necessary to carry out the provisions of the National Historic  
32 Preservation Act of 1966, as amended. At the minimum, the following professions shall be  
33 represented within the section staff: Historian, architectural historian, a structural historian who  
34 specializes in historical preservation, an archaeologist specializing in historic and prehistoric  
35 archaeology and such technical and clerical positions as are required. : *Provided, That nothing in*  
36 this subsection shall prevent a qualified person from serving in multiple professions within this  
37 section or any section listed in §29-1-1(b) of this code.

38 (d) The director shall promulgate rules with the approval of the ~~archives and history~~  
39 ~~commission~~ secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code  
40 concerning: (1) The professional policies and functions of the historic preservation section; (2) the  
41 review of and, when required, issuance of permits for all undertakings permitted, funded, licensed  
42 or otherwise assisted, in whole or in part, by the state as indicated in subsection (a) of this section  
43 in order to carry out the duties and responsibilities of the section; (3) the establishment and  
44 maintenance of a West Virginia State Register of Historic Places, including the criteria for eligibility  
45 of buildings, structures, sites, districts and objects for the state Register and procedures for  
46 nominations to the state Register and protection of nominated and listed properties; (4) the review  
47 of historic structures in accordance with compliance alternatives and other provisions in any state  
48 fire regulation and shall coordinate standards with the appropriate regulatory officials regarding  
49 their application; (5) review of historic structures in conjunction with existing state or local building

50 codes and shall coordinate standards with the appropriate regulatory officials for their application;  
51 and (6) any other rules as may be considered necessary to effectuate the purposes of this article.

**§29-1-8c. State Library Section.**

1 (a) There is hereby ~~created~~continued a West Virginia State Library Section under the  
2 Department of ~~Arts, Culture, and History~~ Tourism.

3 (b) The State Library Commission is continued as an advisory council to support the West  
4 Virginia State Library Section, and shall consist of the ~~Curator~~ secretary of the ~~Department of Arts,~~  
5 ~~Culture, and History~~ as an ex officio voting member and six voting members.

6 (1) The Governor shall appoint, by and with the advice and consent of the Senate, the  
7 voting members of the commission each for a term of four years:

8 (A) No more than three appointed members may reside in the same congressional district;

9 (B) The Governor shall make the initial appointment of State Library Commission members  
10 for staggered terms as follows: Two members, one from each congressional district, for a term of  
11 two years; two members, one from each congressional district, for a term of three years; and two  
12 members, one from each congressional district, for a term of four years; and

13 (C) Three appointed members of the commission shall be women and three appointed  
14 members shall be men.

15 (2) No member of the State Library Commission may receive compensation for services  
16 rendered, nor be engaged or interested in the publishing business.

17 (3) On or before the expiration of the terms for which the members are appointed, the  
18 Governor shall appoint their successors.

19 (b) ~~(c)~~ The ~~Curator of the Department of Arts, Culture, and History~~ secretary shall appoint a  
20 library section director, ~~with the advice and consent of the State Library Commission~~, to carry out  
21 the duties and functions of the State Library Section outlined in this section ~~through the~~  
22 ~~Department of Arts, Culture, and History library section~~. The library section director shall have at  
23 least the following qualifications: A master's degree from an American Library Association-

~~accredited program in a library-related discipline and three years of management or administrative work experience in a library~~ be qualified, with relevant experience. The library section director shall also serve as the Secretary of the State Library Commission for the purpose of board meetings.

~~(e)~~ (d) The State Library Commission shall advise the ~~curator~~ Secretary of the Department of Tourism and the library section director on carrying out certain duties and functions of the State Library Section, as provided in this section.

~~(d)~~ (e) *General authority of the State Library Section. —*

(1) The State Library Section shall provide assistance, advice, and counsel to all school, state-institutional, free and public libraries, and to all communities in the state which may propose to establish libraries, as to the best means of establishing and administering them, selecting and cataloging books, and other details of library management, and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established.

(2) The State Library Section may:

(A) Receive gifts of money, books, or other property which may be used or held for the purpose or purposes given; and may purchase and operate traveling libraries under such conditions and rules as the commission deems necessary to protect the interests of the state and best increase the efficiency of the service it is expected to render the public.

(B) Purchase suitable books for traveling libraries and distribute them as needed to those persons and places in the state without adequate public library service.

(C) Collect books and other suitable library matter and distribute the same among state institutions desiring the same.

(D) Issue and offer for sale printed material, such as lists and circulars of information, and in the publication thereof may cooperate with other state library commissions and libraries, in order to secure the more economical administration of the work for which it was formed.

(E) Conduct courses of library instruction and hold librarians' institutes in various parts of the state.

(F) Perform such other services on behalf of public libraries as it may consider to be in the best interest of the state.

~~(e)~~(f) West Virginia Program for Open Education Resources; material description. —

(1) The State Library Section shall establish and maintain the West Virginia Program for Open Education Resources to encourage and facilitate the use of open education resource materials in both higher education and kindergarten through grade 12 in West Virginia schools.

(2) "Open education resource materials" means teaching, learning, and resource materials in any medium, digital or otherwise, that reside in the public domain or have been released under an open license that permits low-cost access, use, adaptation, and redistribution by others with no or limited restrictions.

(3) The State Library Commission may consult with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, and the State Superintendent of Schools, or his or her designee, to:

(A) Ascertain what institutions or faculty are currently using open education resource material;

(B) Identify material currently associated with core general education courses and readily available for use by faculty and institutions;

(C) Identify any statutory or other impediments which interfere with selection and use of open education resource materials by administrators or teachers at all levels of instruction in West Virginia schools;

(D) Identify sources of potential grants for funding for teachers and institutions to use open education resource materials for classes and courses, and propose a competitive application system to award grant funding for those faculty and institutions seeking to use the open education resource materials;

(E) Establish a digital clearinghouse that will function as a publicly accessible database for open education resource material;

(F) Develop strategies to leverage further open education resource material to benefit higher education institutions and school systems, as well as private and foundation support for the project; and

(G) Report no later than July 1 of each year the program's findings, progress, and recommendations to the State Library Section, the Governor, and the chairs of the Legislature's House and Senate Committees on Education.

~~(f)~~ (g) State Library Section—disposition of monetary gifts. —

(1) If any sums of money are received by the State Library Section as gifts, they shall be paid into the State Treasury and used exclusively for carrying out the provisions of this section, and paying expenses of the State Library Section and the State Library Commission.

(2) The State Library Section shall expend no sums unless they are available by gift, appropriation, or otherwise.

~~(g)~~ (h) *Regional libraries and library areas — establishment and location.* —

(1) The State Library Commission is hereby authorized to develop a plan for the establishment and location of regional libraries, and library areas throughout the state, based on a detailed survey to be made by the State Library Commission of the needs of the various localities of the state. A region shall include two or more counties.

(2) On completion of such survey of any proposed region, the State Library Commission shall report their findings to the State Library Section and the state library director, who may refer the proposal to the county commissions or councils of all the counties included in such proposed region. The county commissions or councils may act upon such proposal by resolution, and the votes of a majority of each of the county commissions or councils of the counties included in the proposed region shall be necessary for the adoption of such proposal. The proposal may be amended and resubmitted as necessary.

(3) The State Library Section may, with advice and input from the State Library Commission, and as the state library director may consider necessary or beneficial:

(A) Establish, maintain, and operate a public library for the region;

(B) Appoint a librarian and the necessary assistants, and fix their compensation, such appointments to be based upon merit and efficiency as determined by the state library section director. The librarian shall hold a certificate from an approved school of library science and shall have had not less than three years of practical experience in library work. The state library section director may also remove said librarian and other assistants;

(C) Purchase books, periodicals, equipment, and supplies;

(D) Purchase sites and erect buildings, or lease suitable quarters, and have supervision and control of that property;

(E) Borrow books from and lend books to other libraries;

(F) Enter into contracts to receive service from, or give service to, libraries within or without the region and give service to municipalities without the region that have no libraries, or cooperate with and aid generally, without such contracts, public school, institutional, and other libraries;

(G) Make such bylaws, rules, and regulations not inconsistent with this article as may be expedient for the government of regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article; and

(H) Accept for the State of West Virginia any appropriations of money that may hereafter be made out of the federal treasury by an act or acts of Congress and to disburse such funds for the purpose of carrying out the provisions of this article, in accordance with §18-10-11 and §18-10-12 of this code.

~~(H)~~ (i) *Aid to libraries by State Library Section.—*

(1) The State Library Section may render such aid and assistance, financial, advisory or otherwise, to public, school, county, or regional libraries, whether established or maintained by the State Library Section or not, under such conditions and rules and regulations as the State Library Section may determine necessary to further the interests of the state and best increase the efficiency of the service it is expected to render the public.



(2) The State Library Commission may review and analyze the status of libraries across the state and advise the State Library Section on projects and libraries for which it has determined the development and support of will further the education of the people of the state as a whole and will thereby aid in the discharge of the responsibility of the state to encourage and foster education. The ~~West Virginia~~ State Library Section may pay over and contribute to any board of library directors created and maintained pursuant to the provisions of this section or any special act of the Legislature such sum or sums of money as may be available from funds included in appropriations made for the State Library Section for that purpose.

(i) ~~(j)~~ Collection and preservation of library data; surveys; employment of personnel; use of data.

(1) The State Library Section may collect and preserve statistics and other data, concerning libraries of any sort located within this state; to make surveys relating to the needs or conditions of such libraries or the library conditions of any city, town, county, regional library area, or other subdivision of this state; and to publish the results and findings thereof in accordance with the provisions of this section.

(2) The State Library Section may employ necessary personnel for any of these purposes.

(3) Such data, surveys, and findings of the State Library Section shall be available to all school, public, institutional, regional, and other libraries within this state, whether proposed or established.

~~(j)~~ (k) *Confidential nature of certain library records.—*

(1) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

(A) To members of the library staff in the ordinary course of business, including paid employees and unpaid volunteers upon completing a written confidentiality agreement which shall prevent disclosure of circulation records, personal information, and similar records of any public

library except to the extent allowed under this subsection and obtaining written permission from the library director of the library system wherein he or she will be working;

(B) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or

(C) Upon appropriate court order or subpoena.

(2) Any disclosure authorized by subdivision (1) of this subsection, or any unauthorized disclosure of materials made confidential by subdivision (1), does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subdivision (1) of this subsection is not liable therefor.

~~(k)~~ (l) *Library Facilities Improvement Fund.*—

(1) There is continued in the State Treasury a special fund known as the Library Facilities Fund. Expenditures from the fund shall be for the purposes set forth in this section. The fund shall be administered by the State Library Section.

(2) The fund shall consist of moneys received from the following sources:

(A) All appropriations made by the Legislature to the fund;

(B) Any moneys available from sources outside the State Library Section;

(C) Repayment of loans made by the State Library Section pursuant to this section; and

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

(3) The State Library Section shall utilize moneys in the fund to support public library facilities construction, renovation, maintenance, and improvement projects. The State Library Section shall evaluate potential recipient projects of funds from the fund on a competitive basis.

(A) The State Library Section may provide loans to public libraries to support energy savings and critical maintenance projects with moneys in the fund.

(B) With the exception of loans made under this section, the State Library Section may not expend any money from the fund toward a particular project unless the proposed expenditure is

180 matched on a dollar-for-dollar basis by other sources.

181 (4) The State Library Section shall propose a rule for legislative approval in accordance  
182 with §29A-3-1 *et seq.* of this code to implement the provisions of this section. The rule shall contain  
183 at least the following:

184 (A) A process for submitting and reviewing proposals;

185 (B) The content of proposals;

186 (C) Criteria for evaluating proposals; and

187 (D) Other provisions the State Library Section considers necessary to administer the  
188 program in accordance with this section.

189 (5) Any balance, including accrued interest and any other returns, in the fund at the end of  
190 each fiscal year will not expire to the General Revenue Fund but remain in the fund and be  
191 expended for the purposes provided by this section.

192 (6) In any calendar year, the State Library Section may not allocate an amount in excess of  
193 four percent of the balance of the fund on December 31 of the immediately preceding calendar  
194 year for administrative expenses.

195 (7) The State Library Section may invest any or all of the balance of the fund with the  
196 state's Consolidated Investment Fund.

197 (4) ~~(m)~~ Any rules promulgated by the Library Commission will remain in full force and effect  
198 until amended, repealed, or superseded by another rule promulgated by the Library Commission  
199 or State Library Section.

**§29-1-8d                      National                      Coal                      Heritage                      Area                      Commission.**

1 (a)(1) The National Coal Heritage Area originally was a partnership project of the National  
2 Park Service and the State of West Virginia as represented by the Division of Tourism and the  
3 Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28  
4 experts from the state and the region to the National Coal Heritage Area Steering Committee to  
5 provide guidance in the development of the National Coal Heritage Area, and in 2002 the West

6 Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an  
7 independent board, to serve as the management entity for the National Coal Heritage Area.

8 (2) The West Virginia Legislature finds that there continues to be a significant need for a  
9 public body to promote and enhance historic preservation, tourism, and economic development  
10 activities that relate to the state's history as a coal-producing state within the counties of Boone,  
11 Cabell, Fayette, Lincoln, Logan, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Summers,  
12 Wayne, and Wyoming.

13 (3) The Legislature additionally finds that the state entity previously known as the National  
14 Coal Heritage Area Authority may more effectively serve the people of West Virginia through the  
15 ~~Department of Arts, Culture, and History~~ Tourism as the National Coal Heritage Area Commission,  
16 where it will continue to work with the landowners, county officials, and community leaders, state  
17 and federal government agencies, and other interested parties to enable and facilitate the  
18 development of the National Coal Heritage Area will greatly assist in the realization of these  
19 potential benefits.

20 (b) Unless the context clearly requires a different meaning, the terms used in this section  
21 have the following meanings:

22 (1) "Commission" means the National Coal Heritage Area Commission;

23 (2) "Department" means the ~~Department of Arts, Culture, and History~~ of Tourism; and

24 (3) "National Coal Heritage Area" means and comprises the counties of Boone, Cabell,  
25 Fayette, Lincoln, Logan, Kanawha, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and  
26 Wyoming.

27 (c) Creation; appointment of commission; terms; expenses; executive director:

28 (1) There is hereby created the National Coal Heritage Area Commission which is a  
29 ~~division~~ section of the ~~Department of Arts, Culture, and History~~ Tourism, existing for the purposes  
30 of providing direction to and assistance with state and federal historic preservation, economic  
31 development, and tourism projects in the National Coal Heritage Area and aiding in the

development and implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, waters, and structures in the National Coal Heritage Area.

(2) The commission shall be composed of, at a minimum, 19 members as follows:

(A) The following six persons shall be nonvoting members, and shall serve by virtue of their offices, and may be represented at meetings of the commission by designees:

(i) The ~~Curator~~ secretary of the ~~Department of Arts, Culture, and History~~, or his or her designee;

(ii) The Secretary of the Department of Environmental Protection, or his or her designee;

~~(iii) The Secretary of the Department of Tourism, or his or her designee;~~

~~(iv)~~(iii) The ~~Secretary~~ Executive Director of the ~~Department~~ Division of Economic Development, or his or her designee;

~~(v)~~(iv) The State Superintendent of Schools, or his or her designee; and

~~(vi)~~(v) The Director of the Division of Natural Resources, or his or her designee;

(B) The remaining 13 members shall be appointed for terms of four years by the Governor with the advice and consent of the Senate. The county commission of each county within the National Coal Heritage Area may submit to the Governor a list of three candidates to be considered for board appointment. Of the 13 members appointed by the Governor, each candidate must live or work within the subject county and the appointees shall be representative of the tourism industry, the coal industry, the United Mine Workers of America, economic development activity, historic preservation activity, or higher education. Additional counties may submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting, board membership;

(C) The terms of office shall be four years and shall expire on June 30. No appointed member may serve more than two consecutive full terms. A member shall continue to serve until his or her successor has been appointed and qualified;

(D) If an appointed member is unable to complete a term, the Governor shall appoint a person to complete the unexpired term. Each vacancy occurring on the board must be filled within 60 days after the vacancy is created;

(E) Any appointed member of the board shall immediately and automatically forfeit his or her membership on the board if he or she becomes a nonresident of the county, or ceases to be employed in the county, from which he or she was appointed;

(F) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law: *Provided*, That no member may be reimbursed for expenses paid by a third party.

(3) The ~~Curator~~secretary of the ~~Department of Arts Culture, and History~~ shall appoint a director to carry out the actions of the board, which appointment may be in addition to other duties, to serve at the will and pleasure of the ~~curator~~secretary. The director may employ necessary personnel and retain such temporary consultants or technicians as may be necessary for any special study or survey consistent with the provisions of this section. The director shall carry out plans to implement the provisions of this section and to exercise those powers. The director shall prepare annually, in consultation with the board, a budget for the commission.

*(d) Board; quorum; chairperson; bylaws.—*

(1) The board is the governing body of the National Coal Heritage Area Commission, and may exercise all the powers given the commission in this section.

(2) The director shall serve as the board chairperson. The board shall meet at such times as shall be specified by the chairperson, but in no case less than quarterly. A majority of seven appointed members shall constitute a quorum for the transaction of business.

(3) There shall be a standing committee of the National Coal Heritage Area Commission

known as the Coal Heritage Trail Committee composed of the chairperson and members of the National Coal Heritage Area from the counties through which the Coal Heritage Trail passes. These counties are Mercer, McDowell, Wyoming, Raleigh, and Fayette. This standing committee shall be responsible for making recommendations to the full board regarding development and promotion of the Coal Heritage Trail, a national scenic byway.

(4) The board shall ~~prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the commission is conducted,~~ shall keep a record of its proceedings, and shall review and approve an annual budget. The board may appoint such officers as necessary to carry out its meetings.

*(e) Powers of commission.—*

The commission may exercise all powers necessary or appropriate to carry out the purposes of this section, including, but not limited to, the power:

(1) To assist in the development and implementation of integrated cultural, historical, and land resource management policies and programs in the National Coal Heritage Area;

(2) To advise the executive director of the National Coal Heritage Commission in retaining, enhancing, and interpreting the significant values of the lands, waters, and structures of the area;

(3) To enter into partnerships with various preservation groups, landmark commissions, certified local governments, county commissions, and other entities to undertake the preservation, restoration, maintenance, operation, development, interpretation, and promotion of lands and structures that possess unique and significant historic, architectural, and cultural value associated with the coal mining heritage of the national coal heritage area;

(4) To make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

(5) To appoint officers, agents, and employees, and to contract for and engage the services of consultants;

(6) To execute contracts necessary or convenient for carrying on its business, including

contracts with any other governmental agency of this state or of the federal government, or with any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

(7) Without in any way limiting any other subdivision of this section, to accept grants and loans from and enter into contracts and other transactions with any federal agency;

(8) To maintain an office at such places within the state as it may designate;

(9) To accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the federal government or from any governmental unit, or any person, firm, or corporation;

(10) To construct, reconstruct, improve, maintain, repair, operate, and manage certain facilities in the National Coal Heritage Area as may be determined by the commission;

(11) To enter into contract with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the public activities operated or managed by the commission from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or other person or any of his or her agents or employees; and

(12) To assess and collect a reasonable fee from those persons who use the designated facilities which are part of the national coal heritage area, and to retain and utilize that revenue for any purposes consistent with this article.

*(f) Continuation of legal obligations. —*

Nothing in this section may be considered as superseding, amending, modifying, or repealing any contract or agreement entered into for the benefit of the National Coal Heritage Area prior to the date of enactment of this section. All obligations, contracts, grants, and assets currently belonging to the Coal Heritage Highway Authority and the National Coal Heritage Area Authority shall be transferred to and become the responsibility and property of the National Coal Heritage Area Commission.



**§29-1-9. Administrative section; director.**

1 The purposes and duties of the administrative section are to provide centralized support to  
2 the division in all areas of operations.

3 The ~~commissioner~~ secretary shall appoint a director of the administrative section, to serve  
4 at the will and pleasure of the secretary, who is qualified, with relevant experience. ~~who shall have~~  
5 ~~a bachelor's degree and two years' experience in responsible positions involving office~~  
6 ~~management, public administration, budget and fiscal administration, or related fields; or six years'~~  
7 ~~experience as outlined above. Notwithstanding these qualifications, the person serving as director~~  
8 ~~of the administrative section on the date of enactment of this section shall be eligible for~~  
9 ~~appointment as director of the administrative section.~~

10 With approval of the ~~commissioner~~ secretary, the director of the administrative section  
11 shall establish professional positions within the section.

**§29-1-10. Division employees classified by civil service; exceptions.**

1 [Repealed.]

**§29-1-11. Power to accept and receive funds; power to apply for grants; disbursement of funds;  
restrictions on expenditure; disposition of funds heretofore received or  
appropriated.**

1 (a) The division secretary may, in the name of the State of West Virginia, through the  
2 ~~commissioner or its commissions~~, accept and receive grants, appropriations, gifts, bequests and  
3 funds from any public or private source for the purpose of carrying out the duties and purposes of  
4 this article.

5 (b) The division secretary may, through the ~~commissioner or its commissions~~, apply for  
6 grants from the federal government, private foundations and any other source for the purposes of  
7 this article.

8 (c) All funds received from any source shall be paid into the Treasury of the state and  
9 disbursed upon warrant by the State Auditor following requisition by the division. The requisitions

shall be signed by the secretary ~~commissioner~~ or by another person as the ~~commissioner~~  
secretary may authorize by written document deposited with the Auditor or, in the event of  
emergency, by the Governor or the Governor's designee.

(d) No funds or gifts received from any source shall be expended or used for any purpose  
other than that intended as evidenced by a positive and affirmative declaration or by a negative  
restriction or limitation.

(e) The ~~division~~ department may assist in the promotion and operation of an annual state  
fair and other regional or local fairs and festivals entitled to aid when funds are available and to  
expend those funds for the support and development of fairs and festivals.

(f) All federal or state funds received to provide grants-in-aid or awards to further the  
purposes of this article shall be approved and distributed by the ~~appropriate commission~~  
~~established~~ \_\_\_\_\_ by \_\_\_\_\_ this \_\_\_\_\_ article \_\_\_\_\_ secretary.

**§29-1-12. Publication of materials; agreements.**

The ~~Division of Culture and History~~ department shall have the power, responsibility and  
duty to publish or republish material of prehistorical, historical, archaeological, architectural or  
cultural interest. The ~~Division of Culture and History~~ department may sell such publications as well  
as postcards and other items of such interest at the state museum or any other site or property  
administered by the state or at any special event sponsored by the state. The ~~division~~ department  
shall have the right to enter into agreements with responsible individuals, private historical,  
archaeological, architectural or cultural associations, foundations or similar organizations or any  
agency of the federal, state or local government for the purpose of carrying out its purposes or for  
raising money to fund the functions of the ~~division~~ department under this article.

**§29-1-13. Land; control and disposal; rules and regulations.**

All land owned or leased by the ~~Division of Culture, and History~~ department pursuant to this  
article shall be titled in the name of the public land corporation of West Virginia but shall be  
controlled, administered and supervised by the ~~division~~ department. The ~~division, in the discretion~~

4 ~~of its commissioner~~ secretary, may sell or dispose of any real or personal property which, in his or  
5 her or her opinion, does not have sufficient prehistorical, historical, archaeological, architectural or  
6 cultural value to justify its retention.

7 The ~~commissioner~~ secretary shall have the power to make and promulgate rules and  
8 regulations relating to the general management and administration of ~~the division~~ this article.

**§29-1-14. Washington-Carver Camp; prohibition of disposition or removal of minerals  
without authorization by the Legislature.**

1 Washington-Carver Camp in Fayette County, heretofore transferred to the public land  
2 corporation under the control, administration, and supervision of the ~~Division of Culture and~~  
3 ~~History~~ department shall continue under the department's control, administration and supervision  
4 ~~of the division~~.

5 The ~~Division of Culture and History~~ department shall undertake to develop such cultural  
6 and multicultural, artistic, humanistic and educational programs at the camp as will serve and  
7 benefit the citizens of the state and the many cultures represented therein. In order to ensure the  
8 maximum reasonable utilization of that portion of the camp under its jurisdiction, the ~~division~~  
9 department shall, during times the camp is not being used for the ~~division's~~ department's  
10 purposes, make the camp available, under such terms as the ~~division~~ department deems proper,  
11 to any other agency of government or nonprofit group desiring to use the camp. The camp shall  
12 retain the name "Camp Washington-Carver" as indicative of its heritage of serving the black  
13 citizens of the state. The ~~division~~ department is authorized to provide necessary and suitable  
14 equipment and other resources for implementing the provisions of this section.

15 No minerals may be assigned, leased or otherwise encumbered, sold, mined, or removed  
16 with respect to the property heretofore transferred or the mineral rights retained without specific  
17 authorization by the Legislature.

**§29-1-15. Development or improvement on land; State Historic Preservation Office; rules  
and regulations.**

1 All development or improvement on land, including any disturbance in a right-of-way,  
2 construction project, or infrastructure project, subject to review by the State Historic Preservation  
3 Office or by any other ~~agency, office, or component of the Division of Culture and History~~ section or  
4 commission listed in §29-1-1(b) for prehistorical, historical, archaeological, architectural, or  
5 cultural value shall be conducted in the most expedient manner possible. The ~~division~~ department  
6 shall not add any additional impediment to such review beyond those required by applicable  
7 Federal laws, rules, and regulations and shall have no authority to comment, regulate, or  
8 otherwise cause another governmental entity to comment upon or regulate, that activity, except in  
9 consideration for primacy or continued federal funding.

10 The ~~commissioner~~ secretary shall have the power to make and promulgate rules and  
11 ~~regulations~~ in in conformity with this section, and the ~~commissioner~~ secretary shall modify, upon  
12 the effective date of this legislation, any active rule in conflict with the provisions of this section.

## **CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.**

### **ARTICLE 1A. OFFICE OF BROADBAND.**

#### **§31G-1A-1. Office of Broadband; Director of Office.**

1 There is hereby ~~established~~ continued an Office of Broadband, which shall be organized  
2 within the Department of ~~Economic Development~~ Commerce under the authority of the Secretary  
3 of ~~Economic Development~~ Commerce. The Office of Broadband shall be managed by a director,  
4 who shall report to the ~~Secretary~~ Executive Director of the Division of Economic Development.

#### **§31G-1A-5. Protection of proprietary business information.**

1 (a) Broadband deployment information provided to the Office of Broadband or its  
2 consultants and other agents, including, but not limited to, physical plant locations, subscriber  
3 levels, and market penetration data, constitutes proprietary business information and, along with  
4 any other information that constitutes trade secrets, shall be exempt from disclosure under the

5 provisions of §29B-1-1 *et seq.* of this code: *Provided*, That the information is identified as or would  
6 reasonably be contemplated to be confidential information when submitted to the Office of  
7 Broadband.

8 (b) Trade secrets or proprietary business information obtained by the council or the Office  
9 of Broadband from broadband providers and other persons or entities shall be secured and  
10 safeguarded by the state. Such information or data shall not be disclosed to the public or to any  
11 firm, individual, or agency other than officials or authorized persons of the state.

12 (c) The official charged with securing and safeguarding trade secrets and proprietary data  
13 for the Office of Broadband is the Secretary Executive Director of the Division of Economic  
14 Development, who is authorized to establish and administer appropriate security measures.

**§31G-1A-6. Legislative rule-making authority.**

1 In order to implement and carry out the intent of this article, the Secretary of the  
2 Department of ~~Economic Development~~ Commerce may propose rules for legislative approval  
3 pursuant to the provisions of §29A-3-1 *et seq.* of this code.

**§31G-1A-7. Broadband Development Fund.**

1 (a) The Broadband Development Fund is hereby created in the State Treasury. The fund  
2 shall be administered by the Secretary of the Department of Economic Development and shall  
3 consist of all moneys made available for the purposes of this article from any source, including, but  
4 not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be  
5 appropriated to the fund by the Legislature, and all interest or other return earned from investment  
6 of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (b) of this  
7 section and are not authorized from collections but are to be made only in accordance with  
8 appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this  
9 code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*,  
10 That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather  
11 than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued

interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) Monies of the Broadband Development Fund may only be expended for the following purposes:

(1) Expenses for the administration of the Office of Broadband;

(2) Line extension advancement and development projects, including expansion of existing fiber and cable networks;

(3) Major broadband project strategies, including new networks or major expansions of existing networks;

(4) GigReady incentive projects, including a state incentive for ISP and local governments and organizations to pool some of their federal American Rescue Plan Act allocations or other local funding;

And

(5) Wireless Internet Networks, including expansions or upgrades of existing fixed wireless networks.

(c) Except funds expended for the administration of the Office of Broadband, monies of the Broadband Development Fund may only be expended for projects authorized by subsection (b) of this section that have been certified to the Joint Committee on Government and Finance by the Director of the Office of Broadband or the Secretary of the Department of ~~Economic Development~~ Commerce prior to making the expenditures.

NOTE: The purpose of this bill is to provide for the reorganization of several departments and divisions of state government as of July 1, 2025. The bill redesignates the department of economic development as a division under the department of commerce, the abolition of the department of arts, culture, and history and the transfer of its sections and commission under the department of tourism, and permits the governor to elect to appoint the Adjutant General as the secretary of the department of homeland security.

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