

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2008

By Delegates Hanshaw (Mr. Speaker) and

Hornbuckle

[By Request of the Executive]

[Originating in the Committee on Government

Organization; Reported on February 27, 2025]

1 A BILL to amend and reenact §5B-1-1, §5B-1-2, §5B-2-1, §5B-2-2, §5B-2-3, §5B-2-3b, §5B-2-4,
2 §5B-2-4a, §5B-2-5, §5B-2-6, §5B-2-6a, §5B-2-9a, §5B-2-10, §5B-2-14, §5B-2-16, §5B-2-
3 17, §5B-2-18, §5B-2-19, §5B-2-20, §5F-1-2, §5F-2-1, §29-1-8d, §31G-1A-1, §31G-1A-5,
4 §31G-1A-6, and §31G-1A-7 of the Code of West Virginia, 1931, as amended; and to repeal
5 §5F-1-3a and §5F-1-6, relating to the merging and reorganizing of the executive branch;
6 reconstituting the Department of Economic Development as the Division of Economic
7 Development and placing it within the Department of Commerce; specifying that starting
8 on July 1, 2025, new hires and anyone who moves positions within the Department of
9 Commerce shall be in the classified exempt service system and shall be exempt from the
10 state grievance procedures; redesignating the Department of Economic Development as
11 the Division of Economic Development under the Department of Commerce; correcting
12 titles of the Division of Economic Development and Department of Commerce in several
13 sections of code; specifying that starting on July 1, 2025, new hires and anyone who
14 moves positions within the Division of Economic Development shall be in the classified
15 exempt service system and shall be exempt from the state grievance procedures;
16 correcting titles of affected departments, divisions, and positions based on the
17 redesignations; and 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) the 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~~ Board of Coal Mine Health and Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code 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 21A 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; and

(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.*;

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

(C) Office of Energy provided for in §5B-2F-2 of this code

(b) Beginning on July 1, 2025, all employees of the 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 of 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, and all employees of the Department of Commerce who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of the 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 transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the

state grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

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

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

(c) Beginning on July 1, 2025, all employees of the Division of Economic Development 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 Division of Economic Development who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of the Division of Economic Development who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of the Division of Economic Development that leaves his or her position

and remains an employee within the Department of Commerce shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

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

(b) (e) Any documentary material, data or other writing made or received by the ~~Department~~ Division of Economic Development or other public body whose primary responsibility is economic development, for the purpose of furnishing assistance to a new or existing business shall be exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or 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~~ the 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 shall be 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~~ 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 through the development of a comprehensive economic development strategy for West Virginia. "Comprehensive economic development strategy" means a plan that outlines strategies and activities designed to continue, diversify or expand the economic base of the state as a whole; create jobs; develop a highly skilled workforce; facilitate business access to capital, including venture capital; advertise and market the resources offered by the state with respect to the needs of business and industry; facilitate cooperation among local, regional and private economic development enterprises; improve infrastructure on a state, regional and community level; improve the business climate generally; and leverage funding from sources other than the state, including federal and private sources.

~~(b) The Department of Economic Development 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 in subsection (a) of this section. The Department of Economic Development 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.~~

~~(c)~~(b) The ~~Secretary of the Department~~ Executive Director of the Division of Economic Development may designate, in writing, a list of positions within the ~~department~~ division that shall

be exempt from coverage under the state's classified service.

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

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

The previously created fund known as the "Development Office promotion fund" is hereby continued but shall hereafter be known as the "Economic Development Promotion and Closing Fund". Moneys deposited in this fund shall be administered by the ~~Department~~ Division of Economic Development, with the approval of the Secretary of the Department of Commerce, and used solely to promote business formation, expansion, recruitment and retention through aggressive marketing and international development and export assistance, and to provide a fund from which moneys may be drawn to offer certain incentives for business formation or expansion, to provide assistance with respect to site development or other concerns identified by the ~~secretary~~ executive director, and to further facilitate economic development in this state, all of which economic development efforts and initiatives lead to more and better jobs with higher wages for all geographic regions and communities of the state, including rural areas and urban core areas, and for all residents, including minorities.

§5B-2-4. Public-private partnerships.

The ~~Department~~ Division of Economic Development may enter into contractual or joint venture agreements with a nonprofit corporation organized pursuant to the corporate laws of the state, organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code and for purposes of the economic development of West Virginia, and funded from sources other than the state. The contract shall include provisions relating to the employment of economic development representatives assigned to the ~~Department~~ Division of Economic Development to be paid a base salary by the state and performance-based economic incentives from private funds of the nonprofit corporation. Provisions relating to hiring practices with respect to economic development representatives, job descriptions, accountability, public-private liaison, and

performance standards may be the subject of contract negotiations. The contract may include provisions for continuing education and certification in the field of economic or industrial development for persons employed as economic development representatives. Agreements providing for the payment of performance-based incentives to the ~~secretary~~ executive director are authorized. Agreements providing for the payment of travel and other expenses of or to the ~~secretary~~ executive director or of or to economic development representatives from private funds by the nonprofit corporation are authorized. The prohibitions of §6B-2-5(b) and §6B-2-5(d) of this code are not applicable to the receipt by economic development representatives or by the ~~secretary~~ executive director of performance-based incentives and other payments made by the nonprofit corporation and specifically authorized pursuant to this section.

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

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

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

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

shall develop criteria to determine a regional council's eligibility for the state allocation.

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

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

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

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

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

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

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

~~(4) Identify specific forms, processes or requirements imposed by state law that small businesses have identified to the department in the immediately preceding reporting cycle that 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 §29A-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 coordinate and supervise the activities of the state, to coordinate and cooperate with the political subdivisions and municipalities of the state, to cooperate with the National Railroad Passenger Corporation and with the other states served by the Cardinal Passenger Train to achieve the public policy set forth in subsection (a) of this section. The secretary may conduct such studies, and make such investigations, as may be reasonable and appropriate to advance the public policy set forth in subsection (a) of this section.

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

(d) In the exercise of their powers and duties under this section, the secretary and tourism advisory council shall consult with the West Virginia Department of Transportation and the West Virginia State Rail Authority. The West Virginia Department of Transportation and the West

Virginia State Rail Authority shall cooperate with the secretary and the tourism advisory council, and shall provide the secretary and the tourism advisory council with such reasonable and necessary assistance as may be possible based on available staff and funds to achieve the public policy set forth in subsection (a) of this section.

(e) There is hereby created a special revenue account, designated the "Cardinal Passenger Train Enhancement Fund" into which all moneys intended to advance the purposes of this section shall be deposited. Moneys in this account shall be expended solely for the public policy and purposes set forth in this section. Funds paid into this account may also be derived from the following sources: (1) All interest or return on investment accruing to this account; (2) any gifts, grants, bequests, transfers, appropriations, or other donations which may be received from any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any appropriations by the Legislature which may be made for the purposes of this section. Any balance including accrued interest and other earnings at the end of any fiscal year shall not revert to the general fund but shall remain in the fund for the purposes set forth in this section. The moneys in the fund shall be paid out, at the sole discretion and direction of the secretary, to advance the purposes of this section.

§5B-2-10. Program and policy action statement; submission to Joint Committee on Government and Finance.

The tourism advisory council, the ~~Department~~ Division of Economic Development, and any other authorities, boards, commissions, corporations or other entities created or amended under this chapter and §18B-11-1 *et seq.* of this code, shall prepare and submit to the Joint Committee on Government and Finance on or before December 1, 1995, and each year thereafter, a program and policy action statement which shall outline in specific detail according to the purpose, powers and duties of the office or section, its procedure, plan and program to be used in accomplishing its 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~~
5 division shall establish criteria for awarding matching grants to the corporations or authorities
6 within the limits of funds appropriated by the Legislature for the program. The matching grants to
7 eligible corporations or authorities are in the amount of \$50,000 for each fiscal year, if sufficient
8 funds are appropriated by the Legislature. The ~~department~~ division shall recognize existing
9 county, regional or 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

support entrepreneurship, creation of business startups, improvements in workforce participation, and attracting individuals to relocate to West Virginia.

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

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

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

(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 motorsports.

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

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

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

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

(b) The ~~Department~~ Division of Economic Development is hereby authorized to work in

collaboration with Marshall University to establish a Small Business Supplier Certification Assistance Pilot Program to be implemented for purposes of developing a certification process for small business enterprises.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Defined program goals;

(B) Program research to be conducted;

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

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

(d) The pilot program shall continue in duration through December 31, 2023, and unless continued by the legislature, the program will terminate at midnight on January 1, 2024. Prior to the 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~~ division 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.

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

7 (2) The ~~department~~ division shall establish an application process and forms through
8 which an applicant may begin to participate in the program and identify and describe potential sites
9 for economic development and investment. The application process and forms should include site
10 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

the developmental readiness of sites which have been selected to participate in the program. The ~~department~~ division shall establish criteria and an application process for awarding matching grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than a maximum amount established by the ~~department~~ division through this grant matching program. Applications for this grant matching program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the ~~department~~ division. Grant matching funds must be spent, contracted to be spent, or returned to the department within 12 months of the date of receipt of the grant matching funds. Grant matching funds shall be paid back to the ~~department~~ division when a participating site is sold or leased for development. The ~~department~~ division shall take prudent steps to receive a security interest in a participating site in the amount of the grant matching funds award including, but not limited to, placing of record in the county where the participating site is located, an appropriate lien against the title. All funds repaid under this section shall remain within the program for use on participating sites. The ~~department~~ division shall monitor, and request appropriate evidence documenting the cured deficiencies and thereafter reevaluate and recertify a participating site as part of this grant matching program.

(6) The ~~department~~ division may provide funding assistance to applicants through a micro grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The ~~department~~ division shall establish criteria and an application process for awarding the micro grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than \$75,000 through this micro grant program. Applications for this micro grant program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the ~~department~~ division. Micro grant funds must be spent, contracted to be spent, or returned to the ~~department~~ division within 12 months of the date of receipt of the 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
63 support The Certified Sites and Development Readiness Program.

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

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

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

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

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

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

8 (2) The following eight members shall be appointed by the Governor and serve at his or her
9 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 capabilities.

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

(c) The council shall:

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

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

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

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

(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.

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

ARTICLE 1. GENERAL PROVISIONS.

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

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

3 (1) Department of Administration;

4 (2) Department of Environmental Protection;

5 (3) Department of Health;

6 (4) Department of Homeland Security;

7 (5) Department of Revenue;

8 (6) Department of Transportation;

9 (7) Department of Commerce;

10 (8) Department of Veterans' Assistance;

11 ~~(9) Department of Economic Development;~~

12 (10)(9) Department of Tourism;

13 (11)(10) Department of Human Services; and

14 ~~(12)~~(11) Department of Health Facilities.

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

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

1 [Repealed.]

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

1 [Repealed.]

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

(C) The Office of Energy provided for in §5B-2F-2 of this code.

(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~~ Commission 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) 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)~~(5) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

~~(7)~~(6) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

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

(3) Division of Administrative Services;

(4) Division of Corrections and Rehabilitation;

(5) Fire Commission;

(6) State Fire Marshal;

(7) Board of Probation and Parole;

(8) The West Virginia Fusion Center;

(9) Division of Protective Services; and

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

(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 Revenue:

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

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

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

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

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

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

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

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

(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) 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) 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) 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) 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) 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) 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.

(r) 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) 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.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. ~~DIVISION~~ DEPARTMENT OF ARTS, CULTURE, AND HISTORY.

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

(a)(1) The National Coal Heritage Area originally was a partnership project of the National Park Service and the State of West Virginia as represented by the Division of Tourism and the Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28 experts from the state and the region to the National Coal Heritage Area Steering Committee to provide guidance in the development of the National Coal Heritage Area, and in 2002 the West Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an independent board, to serve as the management entity for the National Coal Heritage Area.

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

(3) The Legislature additionally finds that the state entity previously known as the National Coal Heritage Area Authority may more effectively serve the people of West Virginia through the Department of Arts, Culture, and History as the National Coal Heritage Area Commission, where it

will continue to work with the landowners, county officials, and community leaders, state and federal government agencies, and other interested parties to enable and facilitate the development of the National Coal Heritage Area will greatly assist in the realization of these potential benefits.

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

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

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

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

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

(1) There is hereby created the National Coal Heritage Area Commission which is a division of the Department of Arts, Culture, and History, existing for the purposes of providing direction to and assistance with state and federal historic preservation, economic 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;

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

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

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

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

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

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

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

64 (F) Each member of the board shall serve without compensation, but shall receive
65 expense reimbursement for all reasonable and necessary expenses actually incurred in the
66 performance of the duties of the office, in the same amount paid to members of the Legislature for
67 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.—*

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

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

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

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

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

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

109 (6) To execute contracts necessary or convenient for carrying on its business, including
110 contracts with any other governmental agency of this state or of the federal government, or with
111 any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

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

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

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

118 (10) To construct, reconstruct, improve, maintain, repair, operate, and manage certain
119 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.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 1A. OFFICE OF BROADBAND.

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

There is hereby ~~established~~ continued an Office of Broadband, which shall be organized within the Department of ~~Economic Development~~ Commerce under the authority of the Secretary of ~~Economic Development~~ Commerce. The Office of Broadband shall be managed by a director, 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~~ Commerce
3 and shall consist of all moneys made available for the purposes of this article from any source,
4 including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys
5 that may be appropriated to the fund by the Legislature, and all interest or other return earned from
6 investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection
7 (b) of this section and are not authorized from collections but are to be made only in accordance

with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2022, expenditures are authorized from collections rather 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 reconstitute the Department of Economic Development as the Division of Economic Development and to place it within the Department of Commerce, effective July 1, 2025.

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