

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 452

By Senators Smith (Mr. President) and Woelfel

[By Request of the Executive]

[Introduced February 13, 2025; referred
to the Committee on Government Organization]

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

the Secretary of the Department of Tourism over these sections and commissions; specifying that starting on July 1, 2025, new hires and anyone who moves positions within the Department of Tourism shall be in the classified exempt service system and all employees shall be exempt from the state grievance procedures; governing and providing for the Secretary of the Department of Tourism authority to appoint certain directors; substituting the title of Secretary of the Department of Tourism for the Secretary of the Department of Arts, Culture, and History in several sections of code; granting Secretary of Tourism authority to approve or repeal certain rules promulgated under this code; specifying that starting on July 1, 2025, new hires and employee that moves positions within the sections and commissions shall be in the classified exempt service system and all employees shall be exempt from the state grievance procedures; granting the Secretary of the Department of Tourism discretion to allow a person to serve in multiple positions or professions under certain circumstances; removing certain specific qualifications for persons appointed as directors of the various sections listed in a certain section in this code; 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.

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

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
29 public funds shall be subject to inspection and copying pursuant to §29B-1-1 et seq. of this code as
30 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 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.~~

~~(e)(b)~~ The Secretary of the Department of Economic Development may designate, in writing, a list of positions within the department 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,

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~~

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. 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 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~~

4 division to become a brownfield economic development district.

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

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

9 (3) Brownfield economic development districts:

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

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

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

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

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

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

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

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

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

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

(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 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

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.

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

4 (1) Asphalt oval racing;

5 (2) Dirt drag racing;

6 (3) Dirt oval racing;

7 (4) Drag racing;

8 (5) Drift racing;

9 (6) Hill climb racing;

10 (7) Karting racing;

11 (8) Motor cross racing;

12 (9) Motorcycle road course racing;

13 (10) Mud racing;

14 (11) Off-road racing;

15 (12) Rallying racing;

16 (13) Rallycross racing;

17 (14) Road course racing;

18 (15) Time Trials racing; and

19 (16) Truck/Tractor pulls.

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

22 (d) The committee shall:

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

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

27 (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

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 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;

- 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
- 47 report to the Legislature's Joint Commission on Economic Development on the following:
- 48 (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 and current uses, access to various forms of transportation, availability of various utility services, 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

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 participating sites. The ~~department~~ division shall monitor and request appropriate evidence documenting the cured deficiency and thereafter reevaluate and recertify a participating site as part of this micro grant program.

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

(A) Appropriations provided by the Legislature;

(B) Any moneys available from external sources; and

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

(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 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 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 recommendations to the Legislature on at least an annual basis.

ARTICLE 2I. DEPARTMENT OF TOURISM.

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

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

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

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

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

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

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

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

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

27 (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;

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

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

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

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

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

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

106 position; and

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

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

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

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

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

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

125 ~~(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.

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

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;~~
- ~~(409)~~ Department of Tourism;
- ~~(4410)~~ Department of Human Services; and
- ~~(4211)~~ 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 members shall be made by the Governor by not later than July 1, 2000. The members appointed 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.

33 (b) Following this review, but not later than the twenty-first day of such regular session, the
34 commission shall submit an executive compensation report to the Legislature to include specific
35 recommendations for adjusting the compensation for the officers described in this section. The

36 recommendation may be in the form of a bill to be introduced in each house to amend this section
37 to incorporate the recommended adjustments.

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

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

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 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;

- 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;
- 117 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- 118 (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and
- 119 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

~~(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.

(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.

(q) 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.

(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;

(9) The Commission on the Arts;

(10) The Commission on Archives and History; and

(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.

11 (b) Not less than one appointive member shall come from each congressional district. Any
12 vacancy among the appointed members shall be filled by the Governor by appointment for the
13 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

7 §15A-1-1 et seq.

CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.

ARTICLE 1. DEFINITIONS.

§15A-1-3. Secretary.

1 "Secretary" means the Secretary of the Department of Homeland Security, which may, at
2 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.

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

10 (2) The department is designated as the state administrative agency responsible for
11 homeland security and emergency management for the planning and development of state
12 programs and grants which may be funded by federal, state, or other allocations in the areas of
13 homeland security and emergency management, unless such administration has been specifically
14 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.

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

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

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

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

(2) That appropriate officers and employees of the department consult with individuals 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.

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

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

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

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

66 (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

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

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

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

(h) Notwithstanding any other provision of this code to the contrary, any records compiled by the department or any division, agency, office, or unit thereof, the disclosure of which could be 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 transferred to the Department of Tourism. ~~The Governor shall nominate and, by and with the advice and consent of the Senate, appoint Executive Director of the Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an~~

~~annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2) four years' experience in the administration of museum management, public administration, arts, history, or a related field.~~

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

- ~~(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; and~~
- ~~(8) The Educational Broadcasting Commission.~~

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

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

~~(d) (c) On and after July 1, 2025, The~~ the secretary of the department of tourism shall exercise control and supervision of the department over each section and commission listed in subsection (b) of this section and shall be responsible for the projects, programs, and actions of each of its sections. The purpose and duty of the department ~~these sections and commissions~~ is to advance, foster, and promote the creative and performing arts and crafts, including both indoor and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire, 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~~
55 ~~History, and "division" or "department" means the Department of Arts, Culture and History~~
56 Department of Tourism and "secretary" means the Secretary of the Department of Tourism.
57 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).

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

(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.

21 (e) The ~~curator~~ secretary shall prepare and submit to the Governor an annual report in
22 accordance with the provisions of §5-1-20 of this code, which report shall include a detailed
23 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 promulgated by the director of the arts section; and~~

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

(d) A special revenue account in the State Treasury, known as the "Cultural Facilities and

Capital Resources Matching Grant Program Fund", is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

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

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

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

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

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

§29-1-4. Arts section; director.

(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

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 of the documents and records; to direct, protect, preserve, study and disseminate information on the documents and records; to provide matching grants to political subdivisions of this state to protect and preserve the documents and records; to operate and maintain a state library for the preservation of all public records, state papers, documents and reports of all three branches of state government including all boards, commissions, departments and agencies as well as any other private or public papers, books or documents of peculiar or historic interest or significance; to designate appropriate monuments, tablets or markers for historic, architectural and scenic sites within the state and to arrange for the purchase, replacement, care of and maintenance of the monuments, tablets and markers and to formulate and prepare suitable copy for them; to edit and publish a historical journal devoted to the history, biography, bibliography and genealogy of West Virginia; and to perform any other duties assigned to the section by the commissioner.

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

(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 controlled buildings, including, but not limited to, furnishings chosen or purchased for the capitol by its architect, Cass Gilbert. No furnishings from the capitol may be sold or disposed of except pursuant to the provisions of article three, chapter five-a of this code. If furnishings originally

designated as capitol building furnishings have been sold or otherwise disposed of without the requisite sale procedures, such furnishings shall be returned to the capitol and, upon presentation of proof of the amount paid, the current owner shall be reimbursed for the cost of the furnishing less any appropriate depreciation or wear and tear.

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

(d) 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 and section. At the minimum, the following professions shall be represented within the section staff: Curator and such technical and clerical positions as are required. ~~With the approval of the commissioner, the director shall establish professional positions within the section. The director shall employ the personnel within these professional positions for the section:~~ 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.

(e) The director shall promulgate rules and ~~regulations~~ with the approval of the archives and history commission secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. concerning: (1) The professional policies and functions of the museums section; and (2) such other rules and regulations as may be deemed necessary to effectuate the purposes of this section.

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

(a) The purposes and duties of the historic preservation section are to locate, survey, investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition historic, architectural, archaeological and cultural sites, structures and objects worthy of preservation, including human skeletal remains, graves, grave artifacts and grave markers, 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 the sites, structures and objects; to direct, protect, excavate, preserve, study or develop the sites and structures; to review all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties of the section; to carry out the duties and responsibilities enumerated in the National Historic Preservation Act of 1966, as amended, as they pertain to the duties of the section; to develop and maintain a West Virginia State Register of Historic Places for use as a planning tool for state and local government; to cooperate with state and federal agencies in archaeological work; to issue permits for the excavation or removal of human skeletal remains, grave artifacts and grave markers, archaeological and prehistoric and historic features under the provisions of section eight-a of this article; and to perform any 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, the commissioner~~ The secretary shall appoint a director of the historic preservation section who shall have: ~~(1) A graduate degree in one of the social sciences or equivalent training and experience in the field of historic preservation, archaeology, West Virginia history or history; and (2) three years' experience in administration in the field of West Virginia history, history, historic preservation or archaeology~~ be qualified, with relevant experience. The director of the historic preservation section shall serve as the deputy state historic preservation officer.

(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 necessary to carry out the provisions of the National Historic Preservation Act of 1966, as amended. At the minimum, the following professions shall be represented within the section staff: Historian, architectural historian, a structural historian who specializes in historical preservation, an archaeologist specializing in historic and prehistoric archaeology and such 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 historic preservation section; (2) the review of and, when required, issuance of permits for all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state as indicated in subsection (a) of this section in order to carry out the duties and responsibilities of the section; (3) the establishment and maintenance of a West Virginia State Register of Historic Places, including the criteria for eligibility of buildings, structures, sites, districts and objects for the state Register and procedures for nominations to the state Register and protection of nominated and listed properties; (4) the review of historic structures in accordance with compliance alternatives and other provisions in any state fire regulation and shall coordinate standards with the appropriate regulatory officials regarding their application; (5) review of historic structures in conjunction with existing state or local building codes and shall coordinate standards with the appropriate regulatory officials for their application; 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-~~
24 ~~accredited program in a library-related discipline and three years of management or administrative~~
25 ~~work experience in a library~~ be qualified, with relevant experience. The library section director shall
26 also serve as the Secretary of the State Library Commission for the purpose of board meetings.

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

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

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

36 (2) The State Library Section may:

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

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

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

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

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

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

52 ~~(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

105 director. The librarian shall hold a certificate from an approved school of library science and shall
106 have had not less than three years of practical experience in library work. The state library section
107 director may also remove said librarian and other assistants;

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

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

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

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

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

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

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

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

128 (2) The State Library Commission may review and analyze the status of libraries across
129 the state and advise the State Library Section on projects and libraries for which it has determined
130 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) 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.

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

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

at least the following:

(A) A process for submitting and reviewing proposals;

(B) The content of proposals;

(C) Criteria for evaluating proposals; and

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

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

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

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

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

§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 Tourism 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 of Tourism; 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~~ section of the Department of Arts, Culture, and History Tourism, 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 ~~Gurator~~ 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;

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
68 authorized by law: *Provided*, That no member may be reimbursed for expenses paid by a third
69 party.

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

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

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

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

83 (3) There shall be a standing committee of the National Coal Heritage Area Commission
84 known as the Coal Heritage Trail Committee composed of the chairperson and members of the
85 National Coal Heritage Area from the counties through which the Coal Heritage Trail passes.
86 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.

The purposes and duties of the administrative section are to provide centralized support to 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; disbursal 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
10 shall be signed by the secretary ~~commissioner~~ or by another person as the ~~commissioner~~
11 secretary may authorize by written document deposited with the Auditor or, in the event of
12 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 of its commissioner~~ secretary, may sell or dispose of any real or personal property which, in his or her or her opinion, does not have sufficient prehistorical, historical, archaeological, architectural or cultural value to justify its retention.

The ~~commissioner~~secretary shall have the power to make and promulgate rules and 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.

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

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

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

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

All development or improvement on land, including any disturbance in a right-of-way, construction project, or infrastructure project, subject to review by the State Historic Preservation 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.

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

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

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

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

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

(a) The Broadband Development Fund is hereby created in the State Treasury. The fund shall be administered by the Secretary of the Department of Economic Development and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated to the fund by the Legislature, and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the purposes set forth in subsection (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

15 purposes:

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

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

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

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

24 And

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

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

31 ~~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.