

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5364

FISCAL
NOTE

By Delegate Hanshaw (Mr. Speaker)

(By Request of the Executive)

[Introduced February 09, 2026; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §5-28-1, §5-28-3, §5A-8-15, §5A-11-1, §5A-11-3, §5A-11-7, §5B-2-
2 17, §5B-2-20, §5B-2I-7, §5B-9-1, §8-1-5a, §9-4B-7, §9-4C-11, §11-21-12i, §16-5P-3, §16-
3 5CC-6, §16-29D-7, §16-36-1, §16-36-2, §16-40-7, §16-40-8, §17-4A-1, §17-4A-2, §17-4A-
4 3, §20-2-23a, §20-2-23b, §20-2-23d, §20-2-23e, §29-20-4, §29-24-2, §29-24-5, §29-24-7,
5 §29-24-8, and §29-24-9 of the Code of West Virginia, 1931, as amended, to amend the
6 code by adding a new section, designated §44-16-7, and to repeal §5-28-2, §5A-11-2,
7 §5A-11-4, §5A-11-5, §5A-11-6, §5B-1B-1, §5B-1B-2, §5B-1B-3, §5B-1B-4, §9-4B-1, §9-
8 4B-2, §9-4B-3, §9-4B-4, §9-4C-1, §9-4C-2, §9-4C-3, §9-4C-4, §9-4C-5, §9-4C-6, §9-4C-7,
9 §9-4C-8, §16-5M-1, §16-5M-2, §16-5M-3, §16-5P-7, §16-5P-8, §16-5U-1, §16-5U-2, §16-
10 5U-3, §16-5BB-1, §16-5CC-1, §16-5CC-2, §16-5CC-3, §16-5CC-4, §16-5CC-5, §16-22A-
11 4, §16-29B-31, §16-33-2, §16-33-5, §16-36-3, §16-40-6, §16-61-1, §16-61-2, §16-61-3,
12 §17-2E-10, §18-10Q-1, §18-10Q-2, §18-10Q-3, §18-10Q-4, §18-10Q-5, §22-11A-1, §22-
13 11A-4, §22-11A-6, §22-11A-7, §24-6-15, §29-20-1, §29-20-2, §29-20-3, §29-20-5, §29-20-
14 6, §29-24-3, §29-24-4, and §49-2-913, relating to reforms to numerous unnecessary,
15 expired, overly-large, or outdated boards and commissions; shifting several tasks, duties,
16 responsibilities, or funds of these outdated or unnecessary boards and commissions to
17 other agencies or entities; eliminating the Commission on Holocaust Education and
18 Shifting its powers and duties to the Archives and History Commission, eliminating the
19 Records Management and Preservation Board and shifting its powers and duties to the
20 Director of the Archives and History Section of the Department of Tourism, eliminating the
21 Public Land Corporation and vesting its property to the Division of Natural Resources,
22 eliminating the Public Land Corporation Board of Directors and shifting its powers and
23 duties to the Director of the Division of Natural Resources, eliminating the West Virginia
24 Motorsport Committee and shifting its powers and duties to the Tourism Advisory Council,
25 repealing the Southern West Virginia Lake Development Study Commission Act, changing
26 the composition of the Tourism Advisory Council, eliminating the Flatwater Trail

27 Commission and shifting its powers and duties to the Tourism Advisory Council,
28 eliminating the Municipal Home Rule Board and shifting control of the Municipal Home
29 Rule Program to the control of the participating municipalities, repealing the
30 Physical/Medical Practitioner Provider Medicaid Enhancement Board, repealing the
31 General Medicaid Enhancement Board, repealing the Dentist Medicaid Enhancement
32 Board, repealing the Ambulance Service Provider Medicaid Enhancement Board,
33 repealing the Facility Providers' Medicaid Enhancement Board, removing language
34 referencing the repealed West Virginia Appraisal Control and Review Commission;
35 repealing the Interagency Council on Osteoporosis; repealing the West Virginia Council on
36 Aging; repealing the Interagency Council on Arthritis; repealing the Workgroup to Study
37 Adverse Childhood Experiences; repealing the West Virginia Advisory Council on Rare
38 Diseases; repealing the Hearing Impairment Testing Advisory Committee; repealing the
39 Working Group on Hospice Services in West Virginia; eliminating the Advisory Committee
40 on State Health Care Rules but keeping the authority of the Secretary of the Department of
41 Human Services to promulgate legislative rules; repealing the Breast and Cervical Cancer
42 Detection and Education Program Coalition; repealing the Advisory Committee on
43 Needlestick Injury Prevention Rules but keeping the authority of the Commissioner of the
44 Bureau of Public Health to promulgate legislative rules; repealing the Advisory Council on
45 Statewide Birth Defects Information System; repealing the State Advisory Coalition on
46 Palliative Care Work Group; repealing the Taskforce on Infrastructure Deployment
47 Clearinghouse; eliminating the Complete Streets Advisory Board but keeping the
48 Complete Streets Program under the authority of the Division of Highways; repealing the
49 Employment First Taskforce; eliminating the Whitewater Commission and shifting its
50 powers and duties to the Director of the Division of Natural Resources; repealing the
51 Carbon Dioxide Sequestration Pilot Program and Working Group; repealing the
52 Commission to Implement NG911 in West Virginia, repealing the Women's Commission;

53 eliminating the Technology-Related Assistance Revolving Loan Fund for Individuals with
 54 Disabilities Board and shifting its powers and duties to the Division of Rehabilitation
 55 Services; repealing the Trusts for Children with Autism and the West Virginia Children with
 56 Autism Trust Board but allowing qualifying trust established on or prior to December 31,
 57 2026 to continue with the same qualifications; repealing the Juvenile Justice Reform
 58 Oversight Commission; modifying or eliminating various reports of affected boards and
 59 commission; and general cleanup and technical changes in affected sections.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 28. COMMISSION ON HOLOCAUST EDUCATION.

§5-28-1. Legislative findings.

1 The Legislature finds and declares:
 2 (1) That the holocaust perpetrated by the Nazis during the period between one thousand
 3 nine hundred thirty-three and one thousand nine hundred forty-five resulted in the genocide of six
 4 million Jews and millions of nonJews as part of a carefully orchestrated central government
 5 program;
 6 (2) That the holocaust stands as a grim reminder and warning to all generations of
 7 genocidal crimes and atrocities committed by man based on ignorance and fear and that all people
 8 should rededicate themselves to the principles of human rights and equal protection under the
 9 laws of a democratic society;
 10 (3) That education can ensure that citizens are knowledgeable about the events leading up

11 to the holocaust and about the organizations and facilities that were created and used purposefully
 12 for the systematic destruction of human beings and that the lessons of holistic trust and respect for
 13 peoples of various cultures are important for the citizens of West Virginia as they enter the global
 14 marketplace and economy; and

15 (4) That programs, workshops, institutes, seminars, exhibits and other teacher training and
 16 public awareness activities for the study of the holocaust have taken place during recent years, but
 17 a central resource for schools, churches and communities studying the holocaust is needed. ;

18 ~~(5) That, toward that end, the Governor, by executive order No. 2-98, dated April 16, one~~
 19 ~~thousand nine hundred ninety-eight, created and established the West Virginia holocaust~~
 20 ~~commission on education; and~~

21 ~~(6) That, in furtherance of the intent and purposes of the aforesaid executive order, it is the~~
 22 ~~intent of the Legislature to create a permanent state commission which, as an organized body and~~
 23 ~~on a continuous basis, will survey, design, encourage and promote implementation of holocaust~~
 24 ~~education and awareness programs in West Virginia and will be responsible for organizing and~~
 25 ~~promoting the memorialization of the holocaust on a regular basis throughout the state.~~

§5-28-2. Commission on holocaust education; compensation.

1 [Repealed.]

§5-28-3. Commission powers and duties.

2 (a) The ~~commission~~ archives and history commission, as created in §29-1-5 of this code,
 3 shall:

4 (1) Provide, based upon the collective knowledge and experience of its members,
 5 assistance and advice to public and private schools, colleges and universities with respect to the
 6 implementation of holocaust education and awareness programs;

7 (2) Meet with appropriate education officials and other interested public and private
 8 organizations, including service organizations, for the purpose of providing information, planning,
 9 coordination or modification of courses of study or programs dealing with the subject of the

10 holocaust;

11 (3) Compile a roster of individual volunteers who are willing to share their verifiable
12 knowledge and experiences in classrooms, seminars and workshops on the subject of the
13 holocaust. The volunteers may be survivors of the holocaust, liberators of concentration camps,
14 scholars, members of the clergy, community relations professionals or other persons who, by
15 virtue of their experience, education or interest, have experience with the holocaust;

16 (4) Coordinate events memorializing the holocaust and seek volunteers who are willing
17 and able to participate in commemorative events that will enhance public awareness of the
18 significance of the holocaust; and

19 (5) Prepare annual reports for the Governor and the Legislature regarding its findings and
20 recommendations to facilitate the inclusion of holocaust studies and special programs
21 memorializing the holocaust in educational systems in this state.

22 (b) The commission may accept and use for the benefit of the people of West Virginia any
23 gift or devise of any property or thing which is lawfully given and is authorized to accept state funds
24 as the same may be appropriated by the Legislature.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

**§5A-8-15. Records management and preservation of county records; alternate storage of
county records; ~~Records Management and Preservation Board; qualifications and
appointment of members; reimbursement of expenses; staffing; rule-making
authority; study of records management needs of state agencies; grants to
counties.~~**

1 The Legislature finds that the use of electronic technology and other procedures to
2 manage and preserve public records by counties should be uniform throughout the state where
3 possible.

4 (a) The governing body and the chief elected official of a county, hereinafter referred to as a
5 county government entity, whether organized and existing under a charter or under general law,
6 shall promote the principles of efficient records management and preservation of local records. A
7 county governing entity may, as far as practical, follow the program established for the uniform
8 management and preservation of county records as set out in rules proposed for legislative
9 approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as proposed by the
10 ~~Records Management and Preservation Board~~ Archives and History Section of the Department of
11 Tourism, as created in §29-1-1 of this code.

12 (b) In the event a county government entity decides to destroy or otherwise dispose of a
13 county record, the county government entity may, prior to destruction or disposal thereof, offer the
14 record to the director of Archives and History within the Department of ~~Arts, Culture, and History~~
15 Tourism for preservation of the record as a document of historical value. Unless authorized by the
16 Supreme Court of Appeals, the records of courts of record and magistrate courts are not affected
17 by the provisions of this section.

18 (c)(1) A preservation duplicate of a county government entity record may be stored in any
19 format approved by the ~~board~~ Director of the Archives and History Section in which the image of
20 the original record is preserved in a form, including electronic file, in which the image is incapable
21 of erasure or alteration and from which a reproduction of the stored record may be retrieved that
22 truly and accurately depicts the image of the original county government record.

23 (2) Except for those formats, processes, and systems used for the storage of records on
24 the effective date of this section, no alternate format for the storage of county government entity
25 records described in this section is authorized for the storage of county government entity records
26 unless the particular format has been approved pursuant to a legislative rule promulgated by the
27 ~~board~~ Director of the Archives and History Section in accordance with the provisions of Chapter
28 29A of this code. The ~~board~~ Director of the Archives and History Section may prohibit the use of
29 any format, process, or system used for the storage of records upon its determination that the

30 same is not reasonably adequate to preserve the records from destruction, alteration, or decay.

31 (3) Upon creation of a preservation duplicate that stores an original county government
32 entity record in an approved format that is incapable of erasure or alteration and that may be
33 retrieved in a format that truly and accurately depicts the image of the original record, the county
34 government entity may destroy or otherwise dispose of the original in accordance with the
35 provisions of §57-1-7c of this code.

36 ~~(d) A Records Management and Preservation Board for county government entities is~~
37 ~~continued, to be composed of 11 members.~~

38 ~~(1) Three members shall serve ex officio. One member shall be the curator of the~~
39 ~~Department of Arts, Culture, and History or designee who shall be the chair of the board. One~~
40 ~~member shall be the Administrator of the Supreme Court of Appeals or designee. One member~~
41 ~~shall be the Chief Technology Officer or designee.~~

42 ~~(2) The Governor shall appoint eight members of the board, with the advice and consent of~~
43 ~~the Senate. Not more than five appointments to the board may be from the same political party and~~
44 ~~four members shall be appointed from each congressional district. Of the eight members~~
45 ~~appointed by the Governor:~~

46 ~~(i) Five appointments shall be county elected officials, one of whom shall be a clerk of a~~
47 ~~county commission, one of whom shall be a circuit court clerk, one of whom shall be a county~~
48 ~~commissioner, one of whom shall be a county sheriff, and one of whom shall be a county assessor,~~
49 ~~to be selected from a list of 15 names. The names of three clerks of county commissions and three~~
50 ~~circuit court clerks shall be submitted to the Governor by the West Virginia Association of~~
51 ~~Counties. The names of three county commissioners shall be submitted to the Governor jointly by~~
52 ~~the West Virginia Association of Counties and the West Virginia County Commissioners~~
53 ~~Association. The names of three county sheriffs shall be submitted to the Governor by the West~~
54 ~~Virginia Sheriff's Association. The names of three county assessors shall be submitted to the~~
55 ~~Governor by the Association of West Virginia Assessors;~~

56 ~~(ii) One appointment shall be a county prosecuting attorney to be selected from a list of~~
57 ~~three names submitted by the West Virginia Prosecuting Attorneys Institute;~~

58 ~~(iii) One appointment shall be an attorney licensed in West Virginia and in good standing as~~
59 ~~a member of the West Virginia State Bar with experience in real estate and mineral title~~
60 ~~examination, to be selected from a list of three names submitted by the State Bar; and~~

61 ~~(iv) One appointment shall be a representative of a local historical or genealogical society.~~

62 ~~(e) The members of the board shall serve without compensation but shall be reimbursed~~
63 ~~for all reasonable and necessary expenses actually incurred in the performance of their duties as~~
64 ~~members of the board in a manner consistent with the guidelines of the Travel Management Office~~
65 ~~of the Department of Administration. In the event the expenses are paid, or are to be paid, by a~~
66 ~~third party, the member shall not be reimbursed by the state.~~

67 ~~(f) The staff of the board shall consist of the Director of Archives and History within the~~
68 ~~Department of Arts, Culture, and History and any additional staff as needed.~~

69 ~~(g) The board Director of the Archives and History Section shall propose rules for~~
70 ~~legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish~~
71 ~~a system of records management and preservation for county governments; Provided, That, for~~
72 ~~the retention and disposition of records of courts of record and magistrate courts, the However, the~~
73 ~~implementation of the rule for the retention and disposition of records of courts of record and~~
74 ~~magistrate courts is subject to action by the Supreme Court of Appeals of West Virginia. The~~
75 ~~proposed rules shall include provisions for establishing a program of grants to county~~
76 ~~governments for making records management and preservation uniform throughout the state.~~

77 ~~(h) (e) In addition to the fees charged by the clerk of the county commission under the~~
78 ~~provisions of §59-1-10 of this code, the clerk shall charge and collect an additional \$2 fee for every~~
79 ~~document containing less than 20 pages filed for recording and an additional \$1 fee for each~~
80 ~~additional 10 pages of document filed for recording. At the end of each month, the clerk of the~~
81 ~~county commission shall deposit into the Public Records and Preservation Revenue Account as~~

82 established in the State Treasury all fees collected: *Provided*, That the clerk may retain not more
 83 than 10 percent of the fees for costs associated with the collection of the fees. Clerks shall be
 84 responsible for accounting for the collection and deposit in the State Treasury of all fees collected
 85 by the clerk under the provisions of this section.

86 (i) (f) There is hereby created in the State Treasury a special account entitled the Public
 87 Records and Preservation Revenue Account. The account shall consist of all fees collected under
 88 the provisions of this section, legislative appropriations, interest earned from fees, investments,
 89 gifts, grants, or contributions received by the ~~board~~ Director of the Archives and History Section.
 90 Expenditures from the account shall be for the purposes set forth in this article and are not
 91 authorized from collections but are to be made only in accordance with appropriation by the
 92 Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the
 93 fulfillment of the provisions set forth in §11B-2-1 *et seq.* of this code.

94 (j) (g) Subject to the above provision, the ~~board~~ Director of the Archives and History
 95 Section may expend the funds in the account to implement the provisions of this article. In
 96 expending funds from the account, the ~~board~~ Director of the Archives and History Section shall
 97 allocate not more than 50 percent of the funds for grants to counties for records management,
 98 access, and preservation purposes. The ~~board~~ Director of the Archives and History Section shall
 99 provide for applications, set guidelines, and establish procedures for distributing grants to
 100 counties, including a process for appealing an adverse decision on a grant application.
 101 Expenditures from the account shall be for the purposes set forth in this section, including the cost
 102 of additional staff of the Division of Archives and History.

ARTICLE 11. PUBLIC LAND CORPORATION.

§5A-11-1. Public Land Corporation.

1 (a) The Public Land Corporation, heretofore created and established as a unit of the
 2 Division of Natural Resources, is hereby and previously continued and established as a unit of the
 3 Real Estate Division of the Department of Administration, is hereby eliminated. The property

4 belonging to the Public Land Corporation upon the effective date of its elimination shall be
5 transferred to the Division of Natural Resources of the Department of Commerce.

6 ~~(b) The corporation is a public benefit corporation and an instrumentality of the state and~~
7 ~~may sue or be sued, contract and be contracted with, plead and be impleaded, have and use a~~
8 ~~common seal.~~

9 ~~(c) The corporation is vested with.~~ The Division of Natural Resources of the Department of
10 Commerce shall be forthwith vested with:

11 (1) The title of the State of West Virginia in public lands, the title to which now is or may
12 hereafter become vested in the State of West Virginia by reason of any law governing the title of
13 lands of the state: ~~Provided, That these.~~ However, lands for which title is specifically vested by law
14 in other state agencies, institutions and departments shall continue to be vested in such state
15 agencies, institutions and departments.

16 (2) The State of West Virginia's interest in the rivers, streams, creeks or beds thereof.

17 (3) All other public lands managed or acquired by the Division of Natural Resources
18 pursuant to Chapter 20 of this code.

19 (c) All property vested with the Division of Natural Resources shall be for the use and
20 enjoyment of the citizens of the state. When appropriated, the Division of Natural Resources
21 should collaborate with the Secretary of Tourism to determine the best use for the public property.

22 (d) The powers and duties of the Director of the Division of Natural Resources, as set forth
23 in §20-1-7 of this code, shall apply to all public property vested with the Division of Natural
24 Resources, without distinction.

25 ~~(d) The provisions of this article do not apply to:~~

26 ~~(1) The State of West Virginia's interest in the rivers, streams, creeks or beds thereof and~~
27 ~~all other public lands managed or acquired by the Division of Natural Resources pursuant to the~~
28 ~~provisions of section seven, article one, chapter twenty of this code and section two, article five,~~
29 ~~chapter twenty of this code, the title to all of which shall collectively be transferred to and vested in~~

30 the Division of Natural Resources for the use and enjoyment of the citizens of the state; or

31 (2) Public lands acquired by the Division of Forestry pursuant to article one-a, chapter
32 nineteen _____ of _____ this _____ code.

§5A-11-2. Corporation boards of directors, members, expenses, appointment, terms, qualifications; director as board chairman; meetings, quorum; executive secretary, secretary to board; professional and support staff; execution of legal documents, permits and licenses.

1 [Repealed.]

§5A-11-3. Public Land Corporation, powers and duties Fund.

1 (a) The corporation is hereby authorized and empowered to:

2 (1) Acquire from any persons or the State Auditor or any local, state or federal agency, by
3 purchase, lease or other agreement, any lands necessary and required for public use;

4 (2) Acquire by purchase, condemnation, lease or agreement, receive by gifts and devises
5 or exchange, rights-of-way, easements, waters and minerals suitable for public use;

6 (3) Sell or exchange public lands where it is determined that the sale or exchange of such
7 tract meets any or all of the following disposal criteria:

8 (A) The tract was acquired for a specific purpose and the tract is no longer required for that
9 or any other state purpose;

10 (B) Disposal of the tract serves important public objectives including, but not limited to,
11 expansion of communities and economic development which cannot be achieved on lands other
12 than public lands and which clearly outweigh other public objectives and values including, but not
13 limited to, recreation and scenic values which would be served by maintaining the tract in state
14 ownership; or

15 (C) The tract, because of its location or other characteristics, is difficult and uneconomic to
16 manage as part of the public lands and is not suitable for management by another state
17 department or agency.

18 ~~(4) Sell, purchase or exchange lands or stumpage for the purpose of consolidating lands~~
19 ~~under state or federal government administration subject to the disposal criteria specified in~~
20 ~~subdivision (3) of this subsection;~~

21 ~~(5) Negotiate and effect loans or grants from the government of the United States or any~~
22 ~~agency thereof for acquisition and development of lands as may be authorized by law to be~~
23 ~~acquired for public use;~~

24 ~~(6) Expend the income from the use and development of public lands for the following~~
25 ~~purposes:~~

26 ~~(A) Liquidate obligations incurred in the acquisition, development and administration of~~
27 ~~lands, until all obligations have been fully discharged;~~

28 ~~(B) Purchase, develop, restore and preserve for public use, sites, structures, objects and~~
29 ~~documents of prehistoric, historical, archaeological, recreational, architectural and cultural~~
30 ~~significance to the State of West Virginia; and~~

31 ~~(C) Obtain grants or matching moneys available from the government of the United States~~
32 ~~or any of its instrumentalities for prehistoric, historic, archaeological, recreational, architectural~~
33 ~~and cultural purposes.~~

34 ~~(7) Designate lands, to which it has title, for development and administration for the public~~
35 ~~use including recreation, wildlife stock grazing, agricultural rehabilitation and homesteading or~~
36 ~~other conservation activities;~~

37 ~~(8) Enter into leases as a lessor for the development and extraction of minerals, including~~
38 ~~coal, oil, gas, sand or gravel except as otherwise circumscribed herein: *Provided*, That leases for~~
39 ~~the development and extraction of minerals shall be made in accordance with the provisions of~~
40 ~~sections five and six of this article. The corporation shall reserve title and ownership to the mineral~~
41 ~~rights in all cases;~~

42 ~~(9) Convey, assign or allot lands to the title or custody of proper departments or other~~
43 ~~agencies of state government for administration and control within the functions of departments or~~

44 ~~other agencies as provided by law;~~

45 ~~(10) Make proper lands available for the purpose of cooperating with the government of the~~
 46 ~~United States in the relief of unemployment and hardship or for any other public purpose.~~

47 ~~(b) (a) There is hereby continued in the state Treasury a special Public Land Corporation~~
 48 ~~Fund into which shall be paid all proceeds from public land sales and exchanges and rents,~~
 49 ~~royalties and other payments from mineral leases. The Division of Natural Resources may acquire~~
 50 ~~public lands from use of the payments made to the fund, along with any interest accruing to the~~
 51 ~~fund. The Public Land Corporation Fund may be used for the benefit, administration,~~
 52 ~~maintenance, or use of any property owned or managed by the Public Land Corporation as of~~
 53 ~~January 1, 2026. The Public Land Corporation Fund shall be administered by the Director of the~~
 54 ~~Division of Natural Resources.~~

55 ~~(1) *Provided*, That All royalties and payments derived from rivers, streams or public lands~~
 56 ~~acquired or managed by the Division of Natural Resources pursuant to section seven, article one,~~
 57 ~~chapter twenty §20-1-7 of this code and section two, article five, chapter twenty §20-5-2 of this~~
 58 ~~code shall be retained by the Division of Natural Resources. *Provided, however*, That~~

59 ~~(2) All proceeds, rents, royalties and other payments from land sales, exchanges and~~
 60 ~~mineral rights leasing for public lands owned, managed or controlled by the Adjutant General's~~
 61 ~~Department will be retained in a fund managed by the Adjutant General in accordance with article~~
 62 ~~six, chapter fifteen of the code. *Provided further*, That~~

63 ~~(3) All free gas, sand, gravel or other natural resources derived from a lease or contract~~
 64 ~~made pursuant to this article will be used to benefit the state agencies, institutions, or departments~~
 65 ~~located on the affected public lands, or for which the corporation was acting or to benefit any state~~
 66 ~~agencies, institutions, or departments having adjacent property. ~~The corporation may acquire~~~~
 67 ~~~~public lands from use of the payments made to the fund, along with any interest accruing to the~~~~
 68 ~~fund.~~

69 ~~(b) The corporation Division of Natural Resources shall report annually, just prior to the~~

70 beginning of the regular session of the Legislature, to the finance committees of the Legislature on
71 the financial condition of the special fund. The ~~corporation~~ Division of Natural Resources shall
72 report annually to the Legislature on its public land holdings and all its leases, its financial
73 condition and its operations and shall make such recommendations to the Legislature concerning
74 the acquisition, leasing, development, disposition and use of public lands. The annual reports
75 required by this subdivision do not have to be submitted as stand-alone reports, and may be
76 incorporated into any other report obligated by the Division of Natural Resources, which is due
77 contemporaneously.

78 ~~(c) All state agencies, institutions, divisions and departments shall make an inventory of~~
79 ~~the public lands of the state as may be by law specifically allocated to and used by each and~~
80 ~~provide to the corporation a list of such public lands and minerals, including their current use,~~
81 ~~intended use or best use to which lands and minerals may be put: *Provided,* That the Division of~~
82 ~~Highways need not provide the inventory of public lands allocated to and used by it, and the~~
83 ~~Division of Natural Resources need not provide the inventory of rivers, streams and public lands~~
84 ~~acquired or managed by it. The inventory shall identify those parcels of land which have no~~
85 ~~present or foreseeable useful purpose to the State of West Virginia. The inventory shall be~~
86 ~~submitted annually to the corporation by August 1. The corporation shall compile the inventory of~~
87 ~~all public lands and minerals and report annually to the Legislature by no later than January 1, on~~
88 ~~its public lands and minerals and the lands and minerals of the other agencies, institutions,~~
89 ~~divisions or departments of this state which are required to report their holdings to the corporation~~
90 ~~as set forth in this subsection, and its financial condition and its operations.~~

91 ~~(d) Except as otherwise provided by law, when the corporation exercises its powers, the~~
92 ~~corporation will coordinate with other state agencies, institutions, and departments in order to~~
93 ~~develop and execute plans to utilize mineral rights which benefit their operations or the operations~~
94 ~~of any other state agencies, institutions, or departments.~~

§5A-11-4. Public Land Corporation to conduct sales of public lands by competitive bidding,

modified competitive bidding or direct sale.

1 [Repealed.]

§5A-11-5. Public Land Corporation to hold public hearing before sale, lease, exchange or transfer of land or minerals.

1 [Repealed.]

§5A-11-6. Competitive bidding and notice requirements before the development or extraction of minerals on certain lands; related standards.

1 [Repealed.]

§5A-11-7. Effectuation of transfer of Public Land Corporation and transition.

1 To effectuate the transfer of the public property formerly maintained by the Public Land
2 Corporation to ~~Real Estate Division of the Department of Administration~~ the Division of Natural
3 Resources upon the effective date of this section in the year ~~2007~~2026:

4 (1) ~~Subject to the provisions of section one-d of this article, the Secretary of the~~
5 ~~Department of Administration or a designee and the Secretary of the Department of Commerce or~~
6 ~~a designee shall determine which employees, records, responsibilities, obligations, assets and~~
7 ~~property, of whatever kind and character, of the Public Land Corporation will be transferred to the~~
8 ~~Real Estate Division of the Department of Administration beginning the effective date of this~~
9 ~~section in the year 2007: *Provided*, That any title transferred to or vested in the Public Land~~
10 ~~Corporation, formerly existing under the provisions of article one-a, chapter twenty of this code, as~~
11 ~~of July 1, 2007, or which may hereafter become vested in the Public Land Corporation in~~
12 ~~accordance with the provisions of this article, shall continue to be vested in the Public Land~~
13 ~~Corporation.~~

14 (2) All orders, determinations, rules, permits, grants, contracts, certificates, licenses,
15 waivers, bonds, authorizations and privileges which have been issued, made, granted or allowed
16 to become effective by the Governor, by any state department or agency or official thereof, or by a
17 court of competent jurisdiction, in the performance of functions which have been transferred to the

18 ~~Real Estate Division of the Department of Administration~~ Division of Natural Resources and were
 19 in effect on the date the transfer occurred continue in effect, for the benefit of the ~~department~~
 20 division, according to their terms until modified, terminated, superseded, set aside or revoked in
 21 accordance with the law by the Governor, the ~~secretary of the Department of Administration~~
 22 Director of the Division of Natural Resources, or other authorized official, a court of competent
 23 jurisdiction or by operation of law.

24 (3) ~~(2)~~ Any proceedings, including, but not limited to, notices of proposed rulemaking, in
 25 which the Public Land Corporation was an initiating or responding party are not affected by the
 26 ~~transfer~~ elimination of the Public Land Corporation to the ~~Real Estate Division of the Department of~~
 27 ~~Administration~~ and the transfer of the public property to the Division of Natural Resources. Orders
 28 issued in any proceedings continue in effect until modified, terminated, superseded or revoked by
 29 the Governor, the ~~Secretary of Administration~~ Director of the Division of Natural Resources, by a
 30 court of competent jurisdiction or by operation of law. Nothing in this subdivision prohibits the
 31 discontinuance or modification of any proceeding under the same terms and conditions and to the
 32 same extent that a proceeding could have been discontinued or modified if the Public Land
 33 Corporation had not been ~~transferred to the Real Estate Division of the Department of~~
 34 ~~Administration~~ eliminated. Transfer of the public property formerly vested with the Public Land
 35 Corporation does not affect suits commenced prior to the effective date of the transfer and all such
 36 suits and proceedings shall be had, appeals taken and judgments rendered in the same manner
 37 and with like effect as if the transfer had not occurred, except that the ~~Secretary of the Department~~
 38 ~~of Administration~~ Director of the Division of Natural Resources or other officer may, in an
 39 appropriate case, be substituted or added as a party.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-17. Promotion of West Virginia Motorsports 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 Executive Director of the Division~~
21 ~~of Economic Development shall also serve on the committee, ex officio.~~

22 ~~(d) The committee shall:~~

23 The Tourism Advisory Council shall:

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

25 (2) Develop a strategy that creates further opportunities, such as encouraging racing
26 training schools, conducting special events, and encouraging special events and the construction

27 of larger in-state racing facilities; and

28 (3) Seek opportunities to promote economic growth and manufacturing jobs related to
29 motorsports.

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(G) One member representing academia; and~~

18 ~~(H) One member representing the advanced air mobility industry developing human transit~~
19 ~~capabilities.~~

20 ~~(3) Members of the council will receive no compensation but are entitled to reimbursement~~

21 ~~for mileage expenses while attending meetings of the committee to the extent that funds are~~
22 ~~available through the Division of Economic Development.~~

23 ~~(c) The council Director of the Division of Economic Development shall:~~

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

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

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

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

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

36 ~~(b) In its annual report required by §5-1-20(a) of this code, the Secretary of Commerce~~
37 ~~shall include a progress report on the promotion of uncrewed aircraft systems, including~~
38 ~~accomplishments and recommendations to the Legislature.~~

**ARTICLE 1B. SOUTHERN WEST VIRGINIA LAKE DEVELOPMENT STUDY
COMMISSION.**

§5B-1B-1. Southern West Virginia Lake Development Study Commission Act.

1 [Repealed.]

§5B-1B-2. Legislative findings.

1 [Repealed.]

§5B-1B-3. Commission created; undertake study; report to the Legislature.

1 [Repealed.]

§5B-1B-4. Report to the Legislature.

1 [Repealed.]

ARTICLE 2I. DEPARTMENT OF TOURISM.

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

1 (a) There is continued within the Department of Tourism an independent Tourism Advisory
2 Council.

3 (b) The Tourism Advisory Council consists of the following ~~16~~ eleven members:

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

5 ~~(2) The Secretary of the Department~~ Director of the Division of Economic Development or
6 his or her designee, ex officio;

7 ~~(3)~~ (2) The Secretary of Transportation or his or her designee, ex officio; and

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

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

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

22 Governor in the same manner as the original appointment.

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

25 (e) The Tourism Advisory Council shall:

26 (1) Advise the secretary of the Department of Tourism in the development and
27 implementation of the state's comprehensive tourism advertising, marketing, promotion, and
28 development strategy; and

29 (2) Take all actions, in consultation with the secretary, necessary to settle, finalize, and
30 conclude all outstanding advertising grants or other financial obligations of the Tourism Advisory
31 Council respecting funds in the Tourism Promotion Fund previously approved, expended or
32 obligated by the Tourism Advisory Council as of the effective date of this article.

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

41 (g) Members shall meet at least quarterly as designated by the chair.

ARTICLE 9. FLATWATER TRAIL PROMOTIONCOMMISSION.

§5B-9-1. Promoting Flatwater TrailsCommission; ~~members, appointment, and expenses.~~

1 ~~(a) The Flatwater Trail Commission is hereby created as an independent body corporate. It~~
2 ~~shall be a commission advisory to the secretary and to the Department of Commerce.~~

3 ~~(b) The Flatwater Trail Commission shall consist of five members, who shall be residents~~
4 ~~and citizens of the state. The commission members shall be appointed by the Governor, by and~~

5 ~~with the advice and consent of the Senate. Throughout the operation of the commission, at least~~
6 ~~two of the members shall have knowledge of and experience with nonmotorized watercraft~~
7 ~~recreation, and at least two members shall have knowledge of and experience with motorized~~
8 ~~watercraft recreation. Each member shall serve a term of five years. Of the members first~~
9 ~~appointed, two shall be appointed for a term ending December 31, 2021, and one each for terms~~
10 ~~ending one, two, and three years thereafter. Commission members may be reappointed to~~
11 ~~additional terms.~~

12 ~~(c) The chair of the Flatwater Trail Commission shall be appointed by the Governor from~~
13 ~~members then serving on the commission and serves at the will and pleasure of the Governor.~~

14 ~~(d) It is the duty of the commission Tourism Advisory Council:~~

15 ~~(1) To unify and coordinate efforts to develop and establish successful flatwater trails in this~~
16 ~~state;~~

17 ~~(2) To standardize procedures, programs, research, and support for the development and~~
18 ~~establishment of flatwater trails;~~

19 ~~(3) To disseminate information for the purpose of educating the public as to the existence~~
20 ~~and functions of the commission and as to the availability of state, federal, and nongovernmental~~
21 ~~resources and support for the development and establishment of flatwater trails; and~~

22 ~~(4) To advise, consult, and cooperate with other offices of the Department of Commerce~~
23 ~~and other agencies of state government, and to receive assistance therefrom in the development~~
24 ~~of activities and programs of beneficial interest to water recreation and flatwater trails.~~

25 ~~(e) The Department of Commerce shall assist the commission its functions and operations,~~
26 ~~including, but not limited to, providing administrative, clerical, and technical support, publishing~~
27 ~~materials developed by the commission, and preparation of proposed legislation to further the~~
28 ~~purposes of the commission.~~

29 ~~(f) Members of the Flatwater Trail Commission are not entitled to compensation for~~
30 ~~services performed as members. Each member is entitled to reimbursement for reasonable~~

31 ~~expenses incurred in the discharge of their official duties. All expenses incurred by members shall~~
 32 ~~be paid in a manner consistent with guidelines of the Travel Management Office of the Department~~
 33 ~~of Administration and are payable solely from the funds of the Department of Commerce or from~~
 34 ~~funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the~~
 35 ~~commission beyond the extent to which moneys are available from funds of the authority or from~~
 36 ~~the appropriations.~~

37 ~~(g) Members shall meet at least quarterly as designated and scheduled by the chair. The~~
 38 ~~presence of three members, in person or by real-time electronic communication, constitutes a~~
 39 ~~quorum to conduct business at a meeting.~~

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL PROVISIONS; CONSTRUCTION.

PART III. GENERAL PROVISIONS.

§8-1-5a. Municipal Home Rule Program.

1 (a) The Legislature finds and declares that:

2 (1) The initial Municipal Home Rule Pilot Program brought innovative results, including
 3 novel municipal ideas that became municipal ordinances which later resulted in new statewide
 4 statutes;

5 ~~(2) The initial Municipal Home Rule Pilot Program also brought novel municipal ideas that~~
 6 ~~resulted in court challenges against some of the participating municipalities;~~

7 ~~(3) The Municipal Home Rule Board was an essential part of the initial Municipal Home~~
 8 ~~Rule Pilot Program, but it lacked some needed powers and duties;~~

9 (4) (2) Municipalities still face challenges effectively delivering services required by federal
 10 and state law or demanded by to their constituents;

11 ~~(5) Municipalities are sometimes restrained by state statutes, policies, and rules that~~
12 ~~challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient, and~~
13 ~~timely manner;~~

14 ~~(6) (3) Establishing the Municipal Home Rule Pilot Program as a permanent program is in~~
15 ~~the public interest; and~~

16 ~~(7) Increasing the powers and duties of the Municipal Home Rule Board, subject to the~~
17 ~~limitations set forth herein, will enhance the Municipal Home Rule Program;~~

18 (4) The Municipal Home Rule Program has generated a number of creative and high-
19 quality ways to enable municipalities to deliver services in a more expeditious manner;

20 (5) Many of these ideas may be implemented more efficiently and effectively by providing
21 participating municipalities direct authority for these creative solutions in this code; and

22 (6) The Municipal Home Rule Program may be run more effectively without a central state
23 oversight board.

24 (b) The Municipal Home Rule Pilot Program is established as a permanent program and
25 shall be identified as the Municipal Home Rule Program. (1) Any ordinance related to an approved
26 plan or approved amendment to an approved plan approved by the board during the period of the
27 Municipal Home Rule Pilot Program ~~is continued~~ shall continue in full force and effect, unless and
28 until repealed by the municipality for only that municipality's previously approved plan or plan
29 amendment.

30 (2) Beginning July 1, 2026, the Municipal Home Rule Board is hereby terminated, and any
31 records, assets, and equipment shall be transferred to the Department of Revenue.

32 (3) Any ordinance, act, resolution, rule, or regulation enacted by a participating
33 municipality under the provisions of this section during the period of the Municipal Home Rule Pilot
34 Program shall continue in full force and effect unless and until repealed: ~~Provided, That~~
35 municipalities that are participants in the Municipal Home Rule Program shall update their

36 ordinances, acts, resolutions, rules, and regulations to comply with any additions or modifications
37 to subsection (i), subsection (j), or subsection (k) of this section.

38 (c) (1) Commencing July 1, 2019 2026, any Class I, Class II, or Class III municipality that is
39 current in payment of all state fees may apply to municipality participate in the Municipal
40 Home Rule Program pursuant to the provisions of this section. Also, commencing July 1, 2019, up
41 to four applications per year from Class IV municipalities may be approved by the board for
42 participation in the Municipal Home Rule Program pursuant to the provisions of this section,
43 provided the Class IV municipality is current in payment of all state fees.

44 (2) The municipalities participating in the Municipal Home Rule Pilot Program on the
45 effective date of the amendment and reenactment of this section are authorized to continue in the
46 Municipal Home Rule Program, subject to the requirements of this section, and may amend
47 current written plans and/or submit new written plans in accordance with the provisions of this
48 section.

49 (3) On July 1, 2019, all municipalities currently participating in the Municipal Home Rule
50 Pilot Program shall pay an annual assessment of \$2,000 for the operation and administration of
51 the Home Rule Board. On July 1 of each year thereafter from 2020 to 2025, all municipalities
52 participating in the Municipal Home Rule Program as of that date shall pay the annual
53 assessment. Any participating municipality that fails to timely remit its assessment when due may
54 be assessed a penalty of an additional \$2,000 by the board. This annual assessment shall be
55 discontinued in 2026.

56 (4) There is created in the office of the State Treasurer a special revenue account fund to
57 be known as the Home Rule Board Operations Fund. The assessments required by the provisions
58 of subdivision (3) of this subsection shall be deposited into the fund, and expenditures from the
59 fund shall be made in accordance with appropriation of the Legislature under the provisions of
60 §12-3-1 et seq. of this code, and in compliance with the provisions of §11B-2-1 et seq. of this code:
61 *Provided*, That legislative appropriation is not required during fiscal year 2019. As of June 30,

62 2026, all balances remaining in the Home Rule Board Operations Fund for the administration of
63 the Municipal Home Rule Pilot Program shall expire to the General Revenue Fund. Upon transfer
64 of all funds, the Home Rule Board Operations Fund will be closed and discontinued.

65 ~~(5) Any balance in the fund created under subdivision (4) of this subsection at the end of a~~
66 ~~fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue~~
67 ~~account for uses consistent with the provisions of this section.~~

68 ~~(6) All costs and expenses lawfully incurred by the board may be paid from the fund~~
69 ~~created under subdivision (4) of this subsection.~~

70 ~~(7) Notwithstanding any provision of this section to the contrary, if at the end of a fiscal year~~
71 ~~the unencumbered balance of the fund created in subdivision (4) of this subsection is \$200,000 or~~
72 ~~more, then annual assessments shall be suspended until the board determines that the~~
73 ~~unencumbered balance in the fund is insufficient to meet operational expenses. The board shall~~
74 ~~notify all participating municipalities of the suspension of the annual assessment prior to the end of~~
75 ~~the fiscal year and provide an estimate of when payment of annual assessments will resume.~~

76 ~~(d) The Municipal Home Rule Board is continued. The Municipal Home Rule Board shall~~
77 ~~consist of the following five voting members:~~

78 ~~(1) The Governor, or a designee, who shall serve as chair;~~

79 ~~(2) The Executive Director of the West Virginia Development Office, or a designee;~~

80 ~~(3) One member representing the Business and Industry Council, appointed by the~~
81 ~~Governor with the advice and consent of the Senate;~~

82 ~~(4) One member representing the largest labor organization in the state, appointed by the~~
83 ~~Governor with the advice and consent of the Senate; and~~

84 ~~(5) One member representing the West Virginia Chapter of the American Planning~~
85 ~~Association, appointed by the Governor with the advice and consent of the Senate.~~

86 ~~The Chair of the Senate Committee on Government Organization and the Chair of the~~
87 ~~House Committee on Government Organization shall serve as ex officio nonvoting members of~~
88 ~~the board.~~

89 ~~(e) The Municipal Home Rule Board shall:~~

90 ~~(1) Review, evaluate, make recommendations, and approve or reject, for any lawful~~
91 ~~reason, by a majority vote of the board, each aspect of the written plan, or the written plan in its~~
92 ~~entirety, submitted by a municipality;~~

93 ~~(2) By a majority vote of the board, select, based on the municipality's written plan, new~~
94 ~~Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule~~
95 ~~Program;~~

96 ~~(3) Review, evaluate, make recommendations, and approve or reject, for any lawful~~
97 ~~reason, by a majority vote of the board, the amendments to the existing approved written plans~~
98 ~~submitted by municipalities: *Provided*, That any new application or amendment that does not~~
99 ~~reasonably demonstrate the municipality's ability to manage its associated costs or liabilities shall~~
100 ~~be rejected;~~

101 ~~(4) Consult with any agency affected by the written plans or the amendments to the~~
102 ~~existing approved written plans; and~~

103 ~~(5) Perform any other powers or duties necessary to effectuate the provisions of this~~
104 ~~section: *Provided*, That any administrative rules established by the board for the operation of the~~
105 ~~Municipal Home Rule Program shall be published on the Municipal Home Rule Board's website,~~
106 ~~and made available to the public in print upon request.~~

107 ~~(f) (d) Any Class I, Class II, Class III, or Class IV Notwithstanding any provision of Chapter~~
108 ~~8 of this code, any municipality desiring to participate in the Municipal Home Rule Program, ~~or any~~~~
109 ~~municipality desiring to amend its existing approved written plan, shall submit a written plan to the~~
110 ~~board shall propose, advertise, and pass an ordinance stating in detail the following:~~

111 ~~(1) The specific laws, acts, resolutions, policies, rules, or regulations which prevent the~~
 112 ~~municipality from carrying out its duties in the most cost-efficient, effective, and timely manner;~~

113 ~~(2) The problems created by those laws, acts, resolutions, policies, rules, or regulations;~~

114 ~~(3) The proposed solutions to the problems, including all proposed changes to ordinances,~~
 115 ~~acts, resolutions, rules, and regulations: *Provided*, That the specific municipal ordinance instituting~~
 116 ~~the solution does not have to be included in the written plan; and~~

117 (1) The specific problem that the municipality has in carrying out its duties in the most cost-
 118 efficient, effective, and timely manner;

119 (2) The manner in which that problem may be addressed by passing an ordinances, acts,
 120 resolutions, rules, and regulations authorized by subsection (g) of this section;

121 ~~(4) (3) A written opinion, by an attorney licensed to practice in the State of West Virginia,~~
 122 ~~stating that the proposed written plan ordinance does not violate the provisions of this section.~~

123 ~~(g) (e) Prior to submitting its written plan, or an amendment to an existing approved written~~
 124 ~~plan, to the board, the Prior to passing an ordinance subject to this section, a municipality shall:~~

125 ~~(1) Hold a public hearing on the written plan or the amendment to the existing approved~~
 126 ~~written plan proposed ordinance;~~

127 ~~(2) Provide notice of the public hearing at least 30 days prior to the public hearing by a~~
 128 ~~Class II legal advertisement to its citizens: *Provided*, That on or before the first day of publication,~~
 129 ~~the municipality shall send a copy of the notice by certified mail to the Municipal Home Rule Board~~
 130 ~~and the cabinet secretary of every state department;~~

131 ~~(3) Make a copy of the written plan or amendment proposed ordinance available for public~~
 132 ~~inspection at least 30 days prior to the public hearing; and~~

133 ~~(4) After the public hearing, adopt an ordinance authorizing the municipality to submit a~~
 134 ~~written plan or amendment to the Municipal Home Rule Board to conduct the municipality's stated~~
 135 ~~authorized activities, so long as: *Provided*, That the proposed ordinance has been read two times,~~
 136 ~~as required by §8-11-4 of this code.~~

137 ~~(h) By a majority vote, the Municipal Home Rule Board may select from the municipalities~~
138 ~~that submitted written plans and were approved by the board by majority vote new Class I, Class II,~~
139 ~~Class III, and/or Class IV municipalities to participate in the Municipal Home Rule Program.~~

140 (i) (f) Notwithstanding Chapter 8 of this code, municipalities utilizing the Municipal Home
141 Rule Program may pass an ordinance for the following authorized activities:

142 (1) A one percent municipal sales and use tax as set forth in §8-1-5a(h)(14);

143 (2) A municipal code enforcement process, as an exception to §8-12-16 of this code, to
144 provide on-the-spot citations for violations of municipal code related to repair of a dwelling or
145 building, maintenance of a dwelling or building, closing of a dwelling or building, or demolition of a
146 dwelling or building that is unfit for human habitation, so long as any person cited is afforded due
147 process with the ability to appeal the citation;

148 (3) The sale of real or personal property without an auction, worth in excess of \$1,000 and
149 not more than \$25,000 in value, for fair market value without having to follow the auction
150 procedures set forth in §8-12-18(b) of this code;

151 (4) A lease of real or personal property by negotiation or a sale of real or personal property
152 without an auction as set forth in §8-12-18 of this code, worth in excess of \$1,000 and not more
153 than \$25,000 in value, for less than fair market value to a nonprofit organization that benefits the
154 citizens of the municipality and such lease or sale has been deemed a public purpose in the
155 ordinance, and provided further when the nonprofit organization ceases to lease the property or
156 benefit the citizens of the municipality that any leased real or personal property revert back to the
157 municipality;

158 (5) To apply liens, without a court judgement as set forth in §8-12-16 and §8-12-5 of this
159 code, for the true cost of repair, maintenance, including mowing grass and trimming trees or
160 bushes, remediation, or demolition conducted by the municipality against the property when after
161 notice and warnings to the property owner, the property owner failed to take action and the
162 property in the municipality has been determined an eyesore or is a dilapidated property, but not

163 yet a threat to public safety, as determined by the municipality, provided that such liens run with the
164 property and would be redeemable in municipal tax sale or auction of the property;

165 (6) To raise the maximum age limit for firemen and firewomen to enter or re-enter the field
166 of firefighting that is restricted by §8-15-17(d); and

167 (7) For any action providing for a contractual or other agreement with another jurisdiction's
168 governmental entity, a municipality may enter into such an agreement by passage of a resolution,
169 and not an ordinance, by its council as an exception to §8-11-3(10).

170 (g) The municipalities participating in the Municipal Home Rule Program are limited to
171 passing an ordinance for only the authorized activities in this section, and may not pass an
172 ordinance, act, resolution, rule, or regulation, under the provisions of this section, that is contrary
173 to the following:

174 (1) Environmental law;

175 (2) Laws governing bidding on government construction and other contracts;

176 (3) The Freedom of Information Act;

177 (4) The Open Governmental Proceedings Act;

178 (5) Laws governing wages for construction of public improvements;

179 (6) The provisions of this section;

180 (7) The provisions of §8-12-5a of this code;

181 (8) The municipality's written plan or ordinance;

182 (9) The Constitution of the United States or the Constitution of the State of West Virginia;

183 (10) Federal law, including those governing crimes and punishment;

184 (11) Chapters 60A, 61, and 62 of this code or any other provisions of this code governing
185 state crimes and punishment;

186 (12) Laws governing pensions or retirement plans;

187 (13) Laws governing annexation;

188 (14) Laws governing taxation: *Provided*, That a participating municipality may enact a
189 municipal sales tax up to one percent if it reduces or eliminates its a municipal business and
190 occupation tax classification: *Provided, however*, That if a municipality subsequently reinstates or
191 raises the a municipal business and occupation tax classification it previously reduced or
192 eliminated under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program, it
193 shall reduce or eliminate the municipal sales tax enacted under the Municipal Home Rule Pilot
194 Program or the Municipal Home Rule Program in an amount comparable to the revenue estimated
195 to be generated by the reinstated tax: *Provided further*, That any municipality that imposes a
196 municipal sales tax pursuant to this section shall use the services of the Tax Commissioner to
197 administer, enforce, and collect the tax required by the provisions of §11-15-1 et seq., §11-15A-1 et
198 seq., and §11-15B-1 et seq. of this code and all applicable provisions of the Streamlined Sales and
199 Use Tax Agreement: *And provided further*, That the tax does not apply to the sale of motor fuel or
200 motor vehicles;

201 (15) Laws governing tax increment financing;

202 (16) Laws governing extraction of natural resources;

203 (17) Marriage and divorce laws;

204 (18) Laws governing professional licensing or certification, including the administration and
205 oversight of those laws, by state agencies to the extent required by law; (19) Laws, rules, or
206 regulations governing the enforcement of state building or fire codes;

207 (20) Federal laws, regulations, or standards that would affect the state's required
208 compliance or jeopardize federal funding;

209 (21) Laws or rules governing procurement of architectural and engineering services:
210 *Provided*, That notwithstanding any other provision of this section to the contrary, the change
211 made in this subdivision applies prospectively and any ordinance enacted by the participating
212 municipalities prior to the effective date of the amendments to this section during the 2019 regular
213 legislative session and pursuant to the Municipal Home Rule Pilot Program remains in effect.

214 (22) The provisions of chapter 17C of this code; or

215 (23) Laws, rules, or regulations governing communication technologies or
216 telecommunications carriers, as the term "telecommunications carrier" is defined by the Federal
217 Communications Commission in 47 U.S.C. §153 or as determined by the Public Service
218 Commission of West Virginia.

219 (24) Laws governing the sale, transfer, possession, use, storage, taxation, registration,
220 licensing, or carrying firearms, ammunition, or accessories thereof.

221 (25) Laws or rules governing alcohol or gaming regulation or such licensure.

222 ~~(j)~~ (h) The municipalities participating in the Municipal Home Rule Program may not pass
223 an ordinance, act, resolution, rule, or regulation under the provisions of this section that:

224 (1) Affects persons or property outside the boundaries of the municipality: *Provided*, That
225 this prohibition under the Municipal Home Rule Program does not limit a municipality's powers
226 outside its boundary lines to the extent permitted under other provisions of this section, other
227 sections of this chapter, other chapters of this code, or court decisions;

228 (2) Enacts an occupation tax, fee, or assessment payable by a nonresident of a
229 municipality; or

230 (3) Imposes duties on another governmental entity, unless the performance of the duties is
231 part of a legally executed agreement between the municipality and the other governmental entity,
232 or is otherwise permitted by state law;

233 ~~(k)~~ (j) Municipalities may not prohibit or effectively limit the rental of a property, in whole or
234 in part, or regulate the duration, frequency, or location of such rental, in whole or in part. A
235 municipality may regulate activities that arise when a property is used as a rental: *Provided*, That
236 such regulation applies uniformly to all properties, without regard to whether such properties are
237 used as a rental: *Provided, however*, That nothing in this subdivision may be construed to prohibit
238 a municipality from imposing a hotel occupancy tax as prescribed in §7-18-1 et seq. of this code.

239 ~~(l) A municipality participating in the Municipal Home Rule Program may amend its written~~
240 ~~plan at any time subject to the requirements of this section.~~

241 ~~(m) A municipality participating in the Municipal Home Rule Program may amend any~~
242 ~~ordinance, act, resolution, rule, or regulation enacted pursuant to the municipality's approved~~
243 ~~written plan at any time as long as the amendment is consistent with the municipality's approved~~
244 ~~written plan, as modified by any amendments adopted pursuant to this section, complies with the~~
245 ~~provisions of this section, and the municipality complies with all applicable state law procedures~~
246 ~~for enacting municipal legislation.~~

247 ~~(n) On or before December 1 of each year, each participating municipality shall give a~~
248 ~~written progress report to the Municipal Home Rule Board, and on or before January 1 of each~~
249 ~~year, the Municipal Home Rule Board shall give a summary report of all the participating~~
250 ~~municipalities to the Joint Committee on Government and Finance.~~

251 ~~(e) (i) Notwithstanding any other provision of this code to the contrary, a distributee under~~
252 ~~the provisions of this section may not seek from the Tax Division of the Department of Revenue a~~
253 ~~refund of revenues or moneys collected by, or remitted to, the Tax Division of the Department of~~
254 ~~Revenue, nor seek a change in past amounts distributed, or any other retrospective adjustment~~
255 ~~relating to any amount distributed, to the extent that the moneys in question have been distributed~~
256 ~~by the Tax Division to another distributee, regardless of whether those distributions were~~
257 ~~miscalculated, mistaken, erroneous, misdirected, or otherwise inaccurate or incorrect. For~~
258 ~~purposes of this section, the term "distributee" means any municipality that has enacted a sales~~
259 ~~and use tax under this section or as otherwise permitted by law that receives or is authorized to~~
260 ~~receive a specific distribution of revenues or moneys collected by, or remitted to, the Tax Division~~
261 ~~of the Department of Revenue pursuant to this section.~~

CHAPTER 9. HUMAN SERVICES.

ARTICLE 4B. PHYSICIAN/MEDICAL PRACTITIONER PROVIDER MEDICAID ACT.

§9-4B-1. Definitions.

1 [Repealed.]

§9-4B-2. Physician/medical practitioner provider Medicaid enhancement board; continuation and composition.

1 [Repealed.]

§9-4B-3. Expenses for citizen members.

1 [Repealed.]

§9-4B-4. Powers and duties.

1 [Repealed.]

§9-4B-7. Effective date.

1 The physician provider fee schedule, as adopted by the single state agency through
2 ~~recommendations by the board~~, becomes effective on January 1, 1992.

ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCEMENT ACT.

§9-4C-1. Definitions.

1 [Repealed.]

§9-4C-2. General Medicaid enhancement board.

1 [Repealed.]

§9-4C-3. Dentist provider Medicaid enhancement board.

1 [Repealed.]

§9-4C-4. Ambulance service provider Medicaid enhancement board.

1 [Repealed.]

§9-4C-5. Facility providers' Medicaid enhancement board.

1 [Repealed.]

§9-4C-6. Expenses for citizen members.

1 [Repealed.]

§9-4C-7. Powers and duties.

1 [Repealed.]

§9-4C-8. Duties of Secretary of Department of Human Services.

1 [Repealed.]

§9-4C-11. Effective date.

1 The provider fee schedules as adopted by the single state agency through
2 ~~recommendations by each board~~ become effective on January 1, 1992: *Provided*, That those fee
3 schedules based upon fees that require prior approval of the health care financing administration
4 are effective on the effective date approved by the health care financing administration: *Provided*,
5 *however*, That for those fees subject to an established Medicare upper limit, the effective date is
6 the first day of the month immediately succeeding the date the fees can be raised sufficiently to
7 comply with section ten of this article.

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-12i. Decreasing modification reducing federal adjusted gross income for qualifying contribution to a qualified trust maintained for the benefit of a child with autism; effective date; sunset date.

1 (a) In addition to amounts authorized to be subtracted from federal adjusted gross income
2 pursuant to section twelve of this article, a modification reducing federal adjusted gross income is
3 hereby authorized in the amount of any qualifying contribution to a qualified trust maintained for
4 the benefit of a child with autism by the parent or guardian of a child with autism, up to a maximum
5 of \$1,000 per year for individual filers and persons who are married but filing separately, and
6 \$2,000 per year for persons who are married and filing jointly, but only to the extent the amount is
7 not allowable as a deduction when arriving at the taxpayer's federal adjusted gross income for the
8 taxable year in which the payment is made. This modification is available regardless of the type of
9 return form filed. The taxpayer may elect to carry forward the modification over a period not to

10 exceed four tax years, beginning in the tax year in which the payment was made: *Provided*, That
11 the amount of the decreasing modification, in combination with all other decreasing modifications
12 authorized pursuant to this article, shall in no event reduce taxable income below zero. Any
13 unused decreasing modification carryforward amount remaining after the four-year carryforward
14 period is forfeited. The accrued deposits and earnings on the qualified trust account for a child with
15 autism and the subsequent withdrawal of funds from that trust account, made in accordance with
16 the provisions of article sixteen, chapter forty-four of this code, shall not be treated as taxable
17 income to either the trust or the beneficiary. The provisions of this section are effective for taxable
18 years beginning on and after January 1, 2011.

19 (b) The following definitions apply to this section:

20 (1) "Autism" means "autism" as that term is defined in section one, article sixteen, chapter
21 forty-four of this code.

22 (2) "Child with autism" means "child with autism" as that term is defined in section one,
23 article sixteen, chapter forty-four of this code.

24 (3) "Guardian" means "guardian" as that term is defined in section one, article sixteen,
25 chapter forty-four of this code.

26 (4) "Parent" means a "parent" as that term is defined in section one, article sixteen, chapter
27 forty-four of this code.

28 (5) "Qualified trust for a child with autism" means "qualified trust for a child with autism" as
29 that term is defined in section one, article sixteen, chapter forty-four of this code.

30 (c) If it appears upon audit or otherwise that any person or entity has taken the decreasing
31 modification allowed under this section and was not entitled to take the decreasing modification, or
32 has withdrawn funds from the qualified trust for a child with autism in a way not consistent with the
33 requirements of § 44-16-1 et seq. of this code, then an assessment shall be made and the income
34 tax liability of the taxpayer shall be recomputed disallowing the decreasing modification so taken.
35 Such assessment shall not be barred by any statute of limitations otherwise applicable to the tax

36 imposed pursuant to this article. Amended returns shall be filed for any tax year for which the
37 decreasing modification was improperly taken. Any additional taxes due under this chapter shall
38 be remitted with the amended return or returns filed with the Tax Commissioner, along with
39 interest, as provided in § 11-10-17 and such other penalties and additions to tax as may be
40 applicable pursuant to the provisions of article ten of this chapter.

41 (d) Married parents who qualify for the modification provided under this section and who
42 file separate state tax returns shall each receive the modification provided in this section in an
43 amount equal to the amount of contributions made by the parents into the trusts, not to exceed
44 \$1,000 each.

45 (e) Joint guardians who qualify for the modification provided under this section and who file
46 separate state tax returns shall each receive the modification provided in this section, in an
47 amount equal to the amount of contributions made by the guardians into the trust, not to exceed
48 \$1,000 each.

49 (f) In the event the parents or guardians of a child with autism, claiming the modification
50 provided under this section, become divorced or legally separated, each party shall be allowed to
51 claim the amount of unused carryforward modification that remains available under this section
52 according to the terms of an agreed property settlement approved by the divorce court which
53 specifically addresses the unused carryforward modification. In the event that no property
54 settlement specifically addressing the unused carryforward modification exists relating to the
55 divorce or legal separation, then any unused carryforward modification remaining at the time of the
56 divorce or legal separation is granted shall be evenly divided between the parties.

57 (g) The Tax Commissioner may propose rules necessary to carry out the provisions of this
58 section and to provide guidelines and requirements to ensure uniform administrative practices
59 statewide to effect the intent of this section, all in accordance with the provisions of § 29A-3-1 et
60 seq. of this code.

61 (h) The provisions of this section shall sunset, expire, and be of no force and effect for all

62 tax periods beginning on and after January 1, 2027: *Provided*, That qualifying contributions to
 63 qualified trusts made on or prior to December 31, 2026, by fulfillment of the requirements of §44-
 64 16-2 of this code shall qualify for the decreasing modification and carryforward provisions
 65 established by this article.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5M. OSTEOPOROSIS PREVENTION EDUCATION ACT.

§16-5M-1. Short title.

1 [Repealed.]

§16-5M-2. Responsibilities of bureau of public health.

1 [Repealed.]

§16-5M-3. Interagency council on osteoporosis.

1 [Repealed.]

ARTICLE 5P. SENIOR SERVICES.

§16-5P-3. Definitions.

1 (a) "Bureau" means the Bureau of Senior Services.

2 (b) "Care management" means the planning, arrangement for and coordination of
 3 appropriate community-based, in-home services and alternative living arrangements for the frail
 4 elderly, disabled or terminally ill.

5 (c) "Care services" means housekeeping, personal care, chore, escort/transportation,
 6 meals, in-home nursing, day care and/or respite services.

7 (d) "Commissioner" means the commissioner of the Bureau of Senior Services.

8 (e) "Community care" means a system of community-based, in-home services and
 9 alternative living arrangements which provide a full range of preventive, maintenance and
 10 restorative services for the frail elderly, disabled or terminally ill.

11 (f) "Comprehensive assessment" means the assessment of needs, counseling in the

12 development of a case plan, arrangements for services and on-going monitoring of the frail elderly,
13 disabled or terminally ill.

14 (g) "Continuum of care" means a system of services which has a primary emphasis on in-
15 home care and community service and which includes services such as nursing, medical,
16 transportation and other health and social services available to an individual in an appropriate
17 setting over an extended period of time.

18 (h) "Council" ~~means the West Virginia council on aging.~~

19 (†) "Disabled" for the purposes of this act means a person who has temporary or permanent
20 impairments which require services within the continuum of care.

21 (‡) (i) "Frail elderly" for the purposes of this act means any person sixty years of age or
22 older, with limitations which restrict the person's ability to perform the normal activities of daily
23 living.

24 (⋈) (j) "Senior", "Elderly" or "Aging" means any person sixty years of age or older as defined
25 by the term "older individual" in the Older American's Act of 1965 as amended.

26 (‡) (k) "Sliding fee scale" means a fee for services provided based on an individual client's
27 ability to pay.

**§16-5P-7. Creation and composition of the West Virginia council on aging; terms of citizen
representative; vacancies; officers; meetings.**

1 [Repealed.]

§16-5P-8. Expenses of citizen representatives.

1 [Repealed.]

ARTICLE 5U. ARTHRITIS PREVENTION EDUCATION ACT.

§16-5U-1. Short title.

1 [Repealed.]

§16-5U-2. Responsibilities of Bureau for Public Health.

1 [Repealed.]

§16-5U-3. Interagency council on arthritis.

1 [Repealed.]

ARTICLE 5BB. SCREENING PROTOCOLS FOR ADVERSE CHILDHOOD EXPERIENCES.

§16-5BB-1. Development of Screening Protocols for Adverse Childhood Experiences.

1 [Repealed.]

ARTICLE 5CC. WEST VIRGINIA ADVISORY COUNCIL ON RARE DISEASES.

§16-5CC-1. Establishment and composition of the West Virginia Council on Rare Diseases.

1 [Repealed.]

§16-5CC-2. Definitions.

1 [Repealed.]

§16-5CC-3. Duties of the advisory council.

1 [Repealed.]

§16-5CC-4. Powers of the advisory council.

1 [Repealed.]

§16-5CC-5. Duties and powers of the secretary.

1 [Repealed.]

§16-5CC-6. Rare Disease Advisory Council Fund.

1 ~~There is hereby created a special revenue account in the State Treasury to be known as~~
2 ~~the Rare Disease Advisory Council Information Fund into which gifts, grants, and bequests may be~~
3 ~~received for the use of the advisory council to carry out its duties as specified in §16-5CC-3 of this~~
4 ~~code. The advisory council has the discretion to expend such moneys in this fund from collections~~
5 ~~as may be reasonable to carry out the duties of the advisory council as are consistent with the~~
6 ~~terms of the gifts, grants, or bequests providing those moneys. The presence of funds in this~~
7 ~~special revenue account does not preclude the Legislature from appropriating such funds as it~~

8 ~~may deem necessary for the use and mission of the advisory council. As of June 30, 2026, any~~
 9 ~~funds in the Rare Disease Advisory Council Information Fund shall expire to the General Revenue~~
 10 ~~Fund.~~

ARTICLE 22A. TESTING OF NEWBORN INFANTS FOR HEARING IMPAIRMENTS.

§16-22A-4. Hearing impairment testing advisory committee established.

1 [Repealed.]

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-31. Hospice need standard review; membership; report to the Legislative Oversight Committee on Health and Human Resources.

1 [Repealed.]

ARTICLE 29D. STATE HEALTH CARE.

§16-29D-7. Rules.

1 The secretary of the Department of Human Services shall promulgate rules to carry out the
 2 provisions of this article. ~~The Governor shall establish an advisory committee consisting of at least~~
 3 ~~five individuals representing: An administrator of a small rural hospital; an administrator of a~~
 4 ~~hospital having a disproportionate share of Medicaid or charity care; a registered professional~~
 5 ~~nurse; a physician licensed in this state; and beneficiaries of the plan or plans. The majority of this~~
 6 ~~advisory committee shall consist of health care providers. The purpose of the advisory committee~~
 7 ~~is to advise and assist in the establishment of reasonable payment methods, schedule or~~
 8 ~~schedules and rates. The advisory committee shall serve without compensation; however, the~~
 9 ~~members thereof are entitled to reimbursement of their expenses. The policies and procedures of~~
 10 ~~the rate schedule process setting forth the methodology for determination of rates, payments and~~
 11 ~~schedules are subject to the legislative rule-making procedures of ~~chapter twenty-nine-a~~ Chapter~~
 12 ~~29A of this code: *Provided*, That emergency rules may be utilized: *Provided, however*, That the~~
 13 ~~actual rates, payments and schedules themselves shall not be subject to ~~chapter twenty-nine-a~~ of~~

14 ~~this code~~ The secretary of the Department of Human Services may utilize emergency rules. The
 15 actual rates, payments, and schedules themselves shall not be subject to Chapter 29A of this
 16 code, and may be instituted by the secretary of the Department of Health as warranted.

ARTICLE 33. BREAST AND CERVICAL CANCER PREVENTION AND CONTROL

ACT.

§16-33-2.

Definitions.

1 [Repealed.]

§16-33-5. Breast and cervical cancer detection and education program coalition.

1 [Repealed.]

ARTICLE 36. NEEDLESTICK INJURY PREVENTION.

§16-36-1. Definitions.

1 As used in this article:

2 (a) ~~"Director" means the director of the division of health~~ "Commissioner" means the
 3 commissioner of the bureau of public health;

4 (b) "Engineering controls" means sharps prevention technology including, but not limited
 5 to, systems not using needles and needles with engineered sharps injury protection;

6 (c) "Facility" means every hospital licensed under the provisions of article five-b of this
 7 chapter; every nursing home licensed under the provisions of article five-c of this chapter; every
 8 local health department, every home health agency certified by the office of health facility licensure
 9 and certification, all hospitals and nursing homes operated by the state or any agency of the state
 10 and all hospitals, nursing homes, local health departments and home health agencies which are
 11 staffed, in whole or in part, by public employees;

12 (d) "Health care worker" means any person working in a facility;

13 (e) "Needleless system" means a device that does not utilize needles for the withdrawal of
 14 body fluids after initial venous or arterial access is established, the administration of medication or

15 fluids, or any other procedure involving the potential for an exposure incident;

16 (f) "Needlestick injury" means the parenteral introduction into the body of a health care
17 worker, during the performance of his or her duties, of blood or other potentially infectious material
18 by a hollow-bore needle or sharp instrument, including, but not limited to, needles, lancets,
19 scalpels and contaminated broken glass; and

20 (g) "Sharps" means hollow-bore needles or sharp instruments, including, but not limited to,
21 needles, lancets and scalpels.

§16-36-2. Needlestick injury prevention rules.

1 ~~(a) On or before July 1, 2000, the director shall, with the advice and cooperation of the~~
2 ~~advisory committee established under this article, propose rules for legislative approval in~~
3 ~~accordance with the provisions of article three, chapter twenty-nine-a of this code requiring~~
4 ~~facilities, as a condition of licensure certification or operation, to minimize the risk of needlestick~~
5 ~~and sharps injuries to health care workers. In developing the rules the director shall take into~~
6 ~~consideration the most recent guidelines of the occupational safety and health administration that~~
7 ~~relate to prevention of needlestick and sharps injuries.~~

8 (b) The commissioner is authorized to promulgate legislative rules, pursuant to Chapter
9 29A of this code. The rules shall should include, but not be limited to, the following provisions:

10 (1) A requirement that facilities utilize needleless systems or other engineering controls
11 designed to prevent needlestick or sharps injuries, except in cases where the facility can
12 demonstrate circumstances in which the technology does not promote employee or patient safety
13 or interferes with a medical procedure. Those circumstances shall be specified by the facility and
14 shall include, but not be limited to, circumstances where the technology is medically
15 contraindicated or not more effective than alternative measures used by the facility to prevent
16 exposure incidents: *Provided*, That no specific device may be mandated;

17 (2) A requirement that information concerning exposure incidents be recorded in a sharps
18 injury log, to be kept within the facility and reported annually to the ~~director~~ commissioner.

19 Information recorded in the log shall contain, at a minimum:

20 (A) The date and time of the exposure incident;

21 (B) The type and brand of sharp involved in the incident; and

22 (C) A description of the exposure incident which shall at a minimum include:

23 (i) The job classification of the exposed worker;

24 (ii) The department or work area where the exposure incident occurred;

25 (iii) The procedure that the exposed worker was performing at the time of the incident;

26 (iv) How the incident occurred;

27 (v) The body part involved in the exposure incident;

28 (vi) If the sharp had engineered sharps injury protection, whether the protective
29 mechanism was activated and whether the injury occurred before the protective mechanism was

30 activated, during activation of the mechanism or after activation of the mechanism, if applicable;

31 and

32 (vii) Any suggestions by the injured employee as to whether or how protective mechanisms
33 or work practice control could be utilized to prevent such injuries;

34 (3) A provision for maintaining a list of existing needleless systems and needles and
35 sharps with engineered injury protections. The ~~director~~ commissioner shall make the list available
36 to assist employers in complying with the requirements of the standards adopted in accordance
37 with this article; and

38 (4) Any additional provisions consistent with the purposes of this article, including, but not
39 limited to, training and educational requirements, measures to increase vaccinations, strategic
40 placement of sharps containers as close to the work area as is practical and increased use of
41 protective equipment.

§16-36-3. Needlestick injury prevention advisory committee.

1 [Repealed.]

ARTICLE 40. STATEWIDE BIRTH DEFECTS INFORMATION SYSTEM.

§16-40-6. Advisory council.

1 [Repealed.]

§16-40-7. Rules.

1 Not later than July 1, 2003, the commissioner shall, ~~in consultation with the council created~~
2 ~~under section six of this article~~, propose rules for legislative approval in accordance with the
3 provisions of ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code to do all of the
4 following:

5 (1) Implement the birth defects information system;

6 (2) Specify the types of congenital anomalies and abnormal conditions of newborns to be
7 reported to the system under section two of this article;

8 (3) Establish reporting requirements for information concerning diagnosed congenital
9 anomalies and abnormal conditions of newborns;

10 (4) Establish standards that are required to be met by persons or government entities that
11 seek access to the system; and

12 (5) Establish a form for use by parents or legal guardians who seek to have information
13 regarding their children removed from the system and a method of distributing the form to local
14 boards of health and to physicians. The method of distribution must include making the form
15 available on the Internet.

§16-40-8. Reports by commissioner.

1 ~~Prior to January 1, three years after the date a birth defects information system is~~
2 ~~implemented pursuant to this article, and by January 1, of each year after that, the commissioner~~
3 ~~shall prepare a report regarding the birth defects information system. The council created under~~
4 ~~section six of this article shall, not later than two years after the date a birth defects information~~
5 ~~system is implemented, specify the information the commissioner is to include in each report. The~~
6 ~~commissioner shall file the report with the Governor and the Joint Committee on Government and~~
7 ~~Finance. The commissioner shall include an update on the birth defects information system in the~~

8 annual report the commissioner submits pursuant to §5-1-20(a) of this code.

ARTICLE 61. PALLIATIVE CARE.
§16-61-1. Purpose and findings.

1 [Repealed.]

§16-61-2. Definitions.

1 [Repealed.]

§16-61-3. Development of educational materials and database.

1 [Repealed.]

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 2E. DIG ONCE POLICY.

§17-2E-10. Taskforce on infrastructure deployment clearinghouse; reporting; sunset date.

1 [Repealed.]

ARTICLE 4A. COMPLETE STREETS ACT.

§17-4A-1. Complete Streets.

1 (a) Vehicular, public transportation, bicycle and pedestrian modes are integral to the
2 transportation system of this state. The Division of Highways may view all transportation
3 improvements as opportunities to improve safety, access and mobility for all travelers.

4 (b) All transportation projects receiving federal or state funds should strive to improve
5 safety, access and mobility for users of all ages and abilities, defined to include pedestrians,
6 bicyclists, public transportation vehicles and their passengers, motorists, movers of commercial
7 goods, persons with disabilities, older adults and children.

8 (c) Accommodation of all users should be considered in the planning, design, construction,
9 reconstruction, rehabilitation, maintenance and operations of any state, county or local
10 transportation facilities receiving funds from the Division of Highways. The Division of Highways is
11 encouraged to create a safe, comprehensive, integrated and connected network to accommodate

12 all users in a manner that is suitable to the rural, suburban or urban context.

13 (d) The Division of Highways is encouraged to use the latest and best design standards as
14 they apply to bicycle, pedestrian, transit and highway facilities, which may include, but are not
15 limited to, the latest editions of:

16 (1) A Policy on Geometric Design of Highways and Streets, from the American Association
17 of State Highway and Transportation Officials;

18 (2) Designing Walkable Urban Thoroughfares: A Context Sensitive Approach: An ITE
19 Recommended Practice, from the Institute of Transportation Engineers;

20 (3) Guide for the Development of Bicycle Facilities, from the American Association of State
21 Highway and Transportation Officials;

22 (4) Guide for the Planning, Design and Operation of Pedestrian Facilities, from the
23 American Association of State Highway and Transportation Officials;

24 (5) Public Rights-of-Way Accessibility Guidelines, from the U. S. Access Board; and

25 (6) Other relevant federal, state or local guidance as appropriate.

26 (e) The Division of Highways may provide assistance to and coordinate with regional and
27 local agencies in developing and implementing complementary complete streets policies. In the
28 development of projects within municipal boundaries, the Division of Highways and municipality
29 may share expertise in multimodal transportation planning.

30 (f) The Division of Highways is encouraged to modify its procedures, documents, training
31 systems and performance measures in a timely manner to ensure the needs of all users of the
32 transportation system are included in all phases of the projects. The Division of Highways is
33 encouraged to create an implementation plan, including a schedule and a regional and local
34 government and public outreach plan, ~~in consultation with the advisory board as outlined in section~~
35 ~~three~~ _____ ~~of~~ _____ ~~this~~ _____ ~~article.~~

§17-4A-2. Exceptions.

1 (a) Accommodation of all users of a transportation facility need not be considered in the

2 planning, designing, construction, reconstruction, rehabilitation, maintenance or operations of any
3 state, county or local transportation facilities receiving funds from the Division of Highways if the
4 commissioner determines that:

5 (1) Use of a transportation facility by pedestrians, bicyclists or other users is prohibited by
6 law;

7 (2) The cost of new accommodation would be disproportionate to the need or probable
8 use;

9 (3) There is a demonstrated absence of future need as determined by factors such as
10 current and future land use, current and projected user volumes, population density and crash
11 data;

12 (4) The time-sensitive or expedited nature of the project would be adversely affected; or

13 (5) The project has already moved beyond the initial planning stage at the time this article
14 goes into effect.

15 (b) The commissioner is encouraged to consult local and regional plans and leaders, as
16 appropriate, in assessing exceptions.

17 ~~(c) Documentation of any granted exceptions may be made publicly available and shared~~
18 ~~with the advisory board as established in section three of this article.~~

§17-4A-3. Complete Streets Advisory Board Collaboration.

1 ~~(a) A Complete Streets Advisory Board to the Division of Highways is established to:~~ The
2 Division of Highways shall:

3 (1) Provide and facilitate communication, education and advice ~~between the Division of~~
4 ~~Highways,~~ with counties, municipalities, interest groups, and the public; and

5 (2) Make recommendations to the ~~Division of Highways,~~ counties, and municipalities for
6 restructuring procedures, updating design guidance, providing educational opportunities to
7 employees, and creating new measures to track the success of multimodal planning and design;
8 and

9 ~~(3) Submit to the Joint Committee on Government and Finance, through the Division of~~
10 ~~Highways, an annual report as outlined herein.~~

11 ~~(b) The advisory board shall consist of 15 members, designated as follows:~~

12 ~~(1) The Commissioner of Highways or his or her designee;~~

13 ~~(2) The Secretary of the Department of Transportation or his or her designee;~~

14 ~~(3) The Secretary of the Department of Health or his or her designee; and~~

15 ~~(4) Twelve members who serve at the will and pleasure of the Governor and appointed by~~
16 ~~the Governor as follows:~~

17 ~~(A) One member who is a licensed engineer with expertise in transportation or civil~~
18 ~~engineering;~~

19 ~~(B) One member representing the American Planning Association;~~

20 ~~(C) One member representing a state association of counties;~~

21 ~~(D) One member representing state association of municipalities;~~

22 ~~(E) One member representing a major regional or local public transportation agency;~~

23 ~~(F) One member representing a national association of retired persons;~~

24 ~~(G) One member representing an organization interested in the promotion of bicycling;~~

25 ~~(H) One member representing an organization interested in the promotion of walking and~~
26 ~~health;~~

27 ~~(I) One member representing an organization representing persons with disabilities;~~

28 ~~(J) One member representing an automobile and/or trucking organization; and~~

29 ~~(K) Two members of the general public interested in promoting complete streets policies,~~
30 ~~one representing each congressional district, as determined by the Governor.~~

31 ~~(c) The Commissioner of Highways shall serve as the first chair of the board. The board~~
32 ~~shall meet at least twice a year and at the call of the chair or a majority of the members. The~~
33 ~~members of the board shall annually elect one of its members to serve as chair after the first year.~~

34 ~~(d) The initial terms of appointment for members appointed by the Governor shall be as~~

35 follows: ~~Three members appointed to a term of one year, three members appointed to a term of~~
36 ~~two years, three members appointed to a term of three years and four members appointed to a~~
37 ~~term of four years. Thereafter each member shall be appointed for four years. A member shall~~
38 ~~serve until his or her successor is appointed. In the case of a vacancy the appointee shall serve the~~
39 ~~remainder of the unexpired term. Members of the board may succeed themselves and shall serve~~
40 ~~without compensation. The members appointed by the Governor are entitled to be reimbursed in a~~
41 ~~manner consistent with the guidelines of the Travel Management Office of the Department of~~
42 ~~Administration for actual and necessary mileage expenses incurred while attending official~~
43 ~~meetings of the board.~~

44 ~~(e) On December 1, the board shall submit an annual report to the Governor, the~~
45 ~~Commissioner of Highways and the Joint Committee on Government and Finance on the status of~~
46 ~~implementation of section one of this article.~~

47 ~~(1) The annual report shall include the following information:~~

48 ~~In its annual report submitted pursuant to §5-1-20(a) of this code, the Division of Highways~~
49 ~~shall include:~~

50 ~~(A) (1) A summary of actions taken by the Division of Highways in the preceding year to~~
51 ~~improve the safety, access and mobility of roadways pursuant to section one of this article;~~

52 ~~(B) (2) Modifications made to or recommended for protocols, guidance, standards or other~~
53 ~~requirements to facilitate complete streets implementation;~~

54 ~~(C) (3) Status of the development of multimodal performance indicators;~~

55 ~~(D) (4) Any information obtained on the use made of bicycle, pedestrian, transit, and~~
56 ~~highway facilities together with the existing target level of use for these modes, if any;~~

57 ~~(E) (5) Available crash statistics by mode, age, road type, and location and other relevant~~
58 ~~factors; and~~

59 ~~(F) (6) Other related information that may be requested by the Governor or Legislature.~~

60 ~~(2) The Division of Highways may assist the board in the preparation of the board's annual~~

61 report.

CHAPTER 18. EDUCATION.

ARTICLE 10Q. EMPLOYMENT FIRST POLICY.

§18-10Q-1. Legislative findings.

1 [Repealed.]

§18-10Q-2. Definitions.

1 [Repealed.]

§18-10Q-3. Creation of Employment First Taskforce; membership; meeting requirements.

1 [Repealed.]

§18-10Q-4. Powers and duties of the taskforce; state Employment First Policy; required plan; reporting requirements.

1 [Repealed.]

§18-10Q-5. Sunset date.

1 [Repealed.]

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-23a. ~~Whitewater commission; Powers and duties of commission and~~ the Director of the Division of Natural Resources; allocations; civil and criminal penalties for violations.

1 (a) ~~There is hereby created a whitewater commission within the Division of Natural~~
2 ~~Resources. The commission shall consist of the director of the Division of Natural Resources or~~
3 ~~his or her designee; the director of the Division of Parks and Tourism or his or her designee; three~~
4 ~~representatives of private river users who have no affiliation with any commercial river enterprise~~
5 ~~to be appointed by the Governor: *Provided*, That no more than one representative of the private~~
6 ~~river users may be from each whitewater zone; and four persons representing four different~~

7 ~~licensed commercial whitewater outfitters currently operating within the state to be appointed by~~
8 ~~the Governor. The superintendent of the New River Gorge National Park or his or her designee~~
9 ~~shall be a nonvoting member of the commission. All appointed members of the commission shall~~
10 ~~be citizens and residents of West Virginia. Of the four representatives of commercial outfitters, two~~
11 ~~persons shall represent commercial whitewater outfitters holding or controlling through corporate~~
12 ~~affiliation or common ownership multiple licenses in West Virginia and two persons shall represent~~
13 ~~commercial whitewater outfitters in West Virginia who hold only a single license and who have no~~
14 ~~common ownership or corporate affiliation with another licensee, the director of the Division of~~
15 ~~Natural Resources shall serve as chairperson of the commission. Of the seven members of the~~
16 ~~commission first appointed by the Governor, two shall be appointed for a term of one year, two for~~
17 ~~a term of two years and three for a term of three years. Thereafter, the terms of all appointed~~
18 ~~members of the commission are for three years. Members shall serve until their successors have~~
19 ~~been appointed and any vacancy in the office of a member shall be filled by appointment for the~~
20 ~~unexpired term. Members representing commercial outfitters who have served at least two years~~
21 ~~on the commission are not eligible for reappointment to a successive term.~~

22 ~~(b) The commission~~ The Director has the following powers and duties:

23 (1) To investigate and study commercial whitewater rafting, outfitting and activities related
24 thereto which take place along the rivers or waters of the state;

25 (2) To designate any such rivers or waters or any portions thereof as "whitewater zones" for
26 which commercial whitewater rafting, outfitting and activities are to be investigated and studied,
27 and to determine the order and the periods of time within which the investigations and studies are
28 to be conducted. ~~the commission~~ Director shall first investigate and study those whitewater zones
29 which it finds to present serious problems requiring immediate regulation, including, without
30 limitation, safety hazards and problems of overcrowding or environmental misuse;

31 (3) To restrict, deny or postpone the issuance of licenses to additional commercial
32 whitewater outfitters seeking to operate in areas and portions of rivers and waters in this state

33 designated whitewater zones by action of the director of the Division of Natural Resources as
34 authorized under prior enactment of this section and so designated by the filing of a written notice
35 entered upon the records of the division containing the designation and reasonable description of
36 the whitewater zone. ~~Provided, That in~~ In consideration of the consolidation occurring among
37 outfitting companies providing rafting services on the Gauley River, the ~~commission~~ Director shall
38 grant one additional whitewater rafting license for the Gauley River on or before July 1, 1999, with
39 preference being given in the selection process to the applicant best satisfying the following
40 criteria: (i) The applicant demonstrates a record of providing commercial rafting and related
41 whitewater services in a safe and lawful manner on the New River and other rivers; (ii) the
42 applicant has continuously engaged for three or more years in the commercial rafting business on
43 the New River and has, or can obtain, the necessary equipment and facilities to support Gauley
44 River operations; (iii) the seniority of the application as measured by the length of time the
45 applicant has sought a Gauley River license with the more senior application given preference; (iv)
46 that the applicant is not affiliated with, operated or owned by an existing Gauley River licensee; (v)
47 that the applicant has no common ownership with an existing Gauley River licensee; and (vi) that
48 the economic benefit represented by the award of a Gauley River license will serve to assist the
49 promotion of tourism and the delivery of outfitting services beyond Fayette and Nicholas counties.
50 In authorizing the issuance of an additional Gauley River license, it is the intention of the
51 Legislature that the ~~commission~~ Director not increase the carrying capacity of a current Gauley
52 River licensee, but that the ~~commission~~ Director promote and maintain competition among
53 licensees by increasing the number of independent outfitters operating on the Gauley;

54 (4) To ~~commission~~ such studies as are necessary to determine the physical carrying
55 capacity and monitor the levels of use on the New, Gauley, Cheat, Shenandoah and Tygart rivers
56 and how each relates to the overall quality of the rafting experience, the economic impact of
57 rafting, tourism and employment in the state and the safety of the general public: *Provided, That if,*
58 during a study period, the ~~commission~~ Director deems that overcrowding is not a problem on any

59 whitewater zone on the Cheat, Shenandoah and Tygart rivers, or on the New River upstream of
60 the confluence of the Greenbrier and New rivers and on the Gauley River upstream of the
61 Summersville Dam, then it may issue a license;

62 (5) Based on the findings of a study of the carrying capacity of a river, to formulate rational
63 criteria for an allocation methodology for the river subject to the study, including, but not limited to,
64 a minimum allocation for each river studied;

65 (6) To immediately implement a freeze on mandated changes in use allocations for the
66 licenses of existing licensees on moratorium sections of the Gauley and New rivers as defined in
67 subsection ~~(d)~~ (c) of this section. All such licenses shall carry the use allocation in effect on May 2,
68 1992. The ~~commission~~ Director shall implement allocation methodologies for other rivers as the
69 ~~commission~~ Director, after appropriate study, may deem necessary with all such allocation
70 methodologies implemented by rules promulgated pursuant to ~~chapter twenty-nine-a~~ Chapter 29A
71 of this code;

72 (7) To determine administrative policies relating to regulation of the whitewater industry
73 and to administer such policies, ~~except that the commission shall delegate to the director of the~~
74 ~~Division of Natural Resources or his or her designee the authority to administer the day-to-day~~
75 ~~responsibilities of the commission pursuant to this section and may vest in the director of the~~
76 ~~Division of Natural Resources or his or her designee the authority to make determinations with~~
77 ~~respect to which it is not practicable to convene or to poll the commission, within guidelines~~
78 ~~established by the commission;~~

79 (8) To review all contracts or agreements with governmental agencies related to
80 whitewater studies or regulation, and any negotiations related thereto;

81 (9) To verify reports by outfitters of numbers of river users and guides, to monitor the extent
82 of the crowding conditions on the rivers and to establish a system for reporting the number of river
83 users and guides on each whitewater expedition;

84 (10) To regulate the issuance, transfer, and renewal of licenses. However, licenses issued

85 to commercial whitewater outfitters or use allocations or other privileges conferred by a license
86 may be transferred, sold, offered as security to financial institutions or otherwise encumbered,
87 upon notice in writing to the ~~commission~~ and the director of the Division of Natural Resources,
88 subject to the following limitations: (i) The ~~commission~~ Director may refuse a transfer upon a
89 finding that there is reasonable cause to believe that the safety of members of the public may be
90 adversely affected by the transfer; and (ii) the ~~commission~~ Director shall require that taxes,
91 workers' compensation and other obligations due the state be paid prior to any transfer;

92 (11) To collect, for the duration of a study period established in subdivision (4) of this
93 subsection, an annual license fee of \$500 for each river on which a commercial whitewater outfitter
94 operates. The annual per river license fee is limited to the Cheat, Gauley, New, Shenandoah and
95 Tygart rivers. The annual license fee for a commercial whitewater outfitter operating on a river not
96 so designated is \$500 regardless of the number of rivers operated on. A commercial whitewater
97 outfitter who is operating on a river designated in this subdivision and who has paid the annual per
98 river license fee may not be required to pay an additional annual license fee to operate on a
99 nondesignated river. The commercial whitewater outfitter license shall be issued by the
100 ~~commission~~ Director and is for a period of ten years: *Provided*, That an outfitter pays the required
101 annual license fee. If an outfitter fails to pay the license fee, then the license shall be suspended
102 until the license fee is paid. Licenses are subject to the bonding provisions set forth in section
103 ~~twenty-three-d of this article~~ §20-1-23d of this code, and the revocation provisions set forth in the
104 rules promulgated by the director of the Division of Natural Resources. License fees shall be used
105 by the Division of Natural Resources for the purpose of enforcing and administering the provisions
106 of this section;

107 (12) To establish a special study and improvement fee to be paid by outfitters and to
108 establish procedures for the collection and enforcement of the special study and improvement fee;

109 (13) To establish a procedure for hearings on violations of this section and rules
110 promulgated thereunder and to establish civil penalties for violations of this section and rules

111 promulgated thereunder; and

112 (14) ~~To approve rules promulgated by the director of the Division of Natural Resources~~
113 promulgate rules pursuant to chapter twenty-nine-a Chapter 29A of this code, with respect to
114 commercial whitewater outfitters operating upon the waters of the state, whether or not such
115 waters have been designated whitewater zones, which relate to: (i) Minimum safety requirements
116 for equipment; (ii) standards for the size of rafts and number of persons which may be transported
117 in any one raft; (iii) qualifications of commercial whitewater guides; and with respect to waters
118 designated whitewater zones; (iv) standards for the number of rafts and number of persons
119 transported in rafts; and

120 (15) To consult with industry experts and business owners to obtain advice and guidance
121 relating to commercial whitewater rafting and outfitters.

122 ~~(c) The commission shall meet upon the call of the chairperson or a majority of the~~
123 ~~members of the commission. However, the commission shall meet at least quarterly and shall~~
124 ~~conduct business when a majority of the members are present. At the meetings, the commission~~
125 ~~shall review all data, materials and relevant findings compiled relating to any investigation and~~
126 ~~study then under consideration and, as soon as practicable thereafter, the commission may~~
127 ~~recommend rules to govern and apply to the designated whitewater zone(s). The commission may~~
128 ~~meet at its discretion for the purpose of considering and adjusting allocations and review fees and~~
129 ~~proposed expenditures. A budget shall be approved for each fiscal year for the expenditure of~~
130 ~~funds subject to the commission's control. The commission may not limit the number of~~
131 ~~commercial whitewater outfitters operating on rivers not designated as whitewater zones, nor may~~
132 ~~the commission limit the number of rafts or total number of persons transported in rafts by~~
133 ~~commercial whitewater outfitters on rivers not designated as whitewater zones. Commission~~
134 ~~members shall be reimbursed all reasonable and necessary expenses incurred in the exercise of~~
135 ~~their duties.~~

136 ~~(d)~~ (b) Special provisions for the New River and the Gauley River:

137 (1) After the issuance of the Gauley River rafting license provided for in subdivision (3),
138 subsection (b) of this section, a moratorium shall be imposed by the ~~commission~~ Director upon the
139 issuance of additional commercial rafting licenses on whitewater zones of the New River between
140 the confluence of the Greenbrier and New rivers and the confluence of the New and Gauley rivers
141 and upon whitewater zones of the Gauley River from the Summersville Dam to the confluence of
142 the New and Gauley rivers. The moratorium hereby imposed shall continue until such time as the
143 ~~commission~~ Director is authorized by the Legislature to discontinue the moratorium.

144 (2) For the portions of the Gauley and New rivers subject to the moratorium imposed by
145 this section, the minimum use allocation conferred by a license is ~~one hundred twenty~~ 120 for each
146 designated section of a whitewater zone on the Gauley and ~~one hundred fifty~~ 150 for each
147 designated section of a whitewater zone on the New River. A licensee who held a use allocation on
148 May 2, 1992, with a use allocation greater than the minimum allocation established in this
149 subdivision shall retain such use allocation on each designated section of a whitewater zone on
150 the moratorium portions of the New and Gauley rivers subject only to the sale, loss or forfeiture of
151 the license or to a subsequent action of the ~~commission~~ Director imposing a reduction in use
152 allocations pursuant to subdivision (4) of this subsection. The ~~commission~~ Director is authorized to
153 increase or decrease minimum use allocations for the moratorium sections of the New and Gauley
154 rivers only in accordance with the provisions of subdivisions (4) and (5) of this subsection. The
155 ~~commission~~ Director may permit additional allocations or licenses for whitewater outfitters which
156 are nonprofit entities operating upon the waters of the state upon the effective date of this section.
157 Except as provided in subdivision (4), subsection (d) of this section, nothing in this section shall be
158 deemed to require the reduction of a use allocation granted under an existing license or to prohibit
159 a commercial whitewater outfitter from acquiring a license with a use allocation in excess of the
160 minimum allocations hereby established. ~~Provided, That~~ However, if a licensee has sold, leased
161 or assigned his or her license, or sold or leased a portion of the use allocation under his or her
162 license, nothing herein shall be deemed to have the effect of increasing the use allocation

163 assigned to such license.

164 (3) The ~~commission~~ Director may permit peak-day variances from license limitations not
165 exceeding ~~ten~~ 10 percent of the use allocation granted under a license. The ~~commission~~ Director
166 may permit off-peak-day variances from license limitations not exceeding ~~twenty-five~~ 25 percent of
167 the use allocation granted under a license.

168 (4) If, as result of a study employing the limits of acceptable change process, the
169 ~~whitewater commission~~ Director acts to reduce the aggregate maximum daily use limit for all
170 commercial rafting licenses on a section of the New River or Gauley River subject to the license
171 moratorium, the reduction shall be distributed on a prorata basis among all licenses granted for the
172 section in proportion to an individual license's relative share of the total use allocation for such river
173 section.

174 (5) If the limits of acceptable change process results in an increase in the aggregate
175 maximum daily use limit for all commercial rafting licenses on any section of the New River or
176 Gauley River subject to a moratorium on new licenses, such increase shall be divided by the total
177 number of commercial rafting licenses issued for the relevant section of river and the minimum use
178 allocation for each such license shall be increased by the nearest whole number resulting from the
179 division.

180 (6) If any party contracts to purchase a license containing a use allocation for a moratorium
181 section of the New River or the Gauley River, or if a licensee has obtained, or in the future shall
182 obtain additional use allocations for a moratorium section by lease or purchase from another
183 licensee, the ~~commission~~ Director shall permit the transfer of such license rights in accordance
184 with the provisions of subdivision (10), subsection (b) of this section. Unless the owners of a
185 license otherwise agree, when two or more licensees share ownership or control of the use
186 allocation assigned to a license, any increase or decrease in use allocations which results from an
187 action of the ~~commission~~ Director under subdivisions (4) and (5) of this subsection shall be
188 distributed by the ~~commission~~ Director between such owners in proportion to their ownership or

189 control of the use allocation assigned to such license.

190 ~~(e)~~ (c) In the event the ~~commission~~ Director determines through an appropriate study and
 191 the limits of acceptable change process that a whitewater zone or a designated section of a
 192 whitewater zone on waters other than the moratorium sections of the New and Gauley rivers
 193 requires implementation of use allocations, all whitewater rafting licenses issued for such zone or
 194 section thereof shall be given the same use allocation.

195 ~~(f)~~ (d) Violation of this section or any rule promulgated pursuant to this section constitutes a
 196 misdemeanor punishable by the penalties set forth in ~~section twenty-three d of this article~~ §20-2-
 197 23d of this code.

198 ~~(g)~~ (e) The director of the Division of Natural Resources shall promulgate, pursuant to the
 199 provisions of ~~chapter twenty-nine-a~~ Chapter 29A of this code, all rules necessary to effectuate the
 200 purposes of this section ~~and these rules must be approved by the commission.~~ The Division of
 201 Natural Resources shall enforce the provisions of this section and rules promulgated pursuant to
 202 this section, and shall provide necessary staff and support services to ~~the commission to~~
 203 effectuate the purposes of this section.

204 ~~(h)~~ (f) All orders, determinations, rules, permits, grants, contracts, certificates, licenses,
 205 waivers, bonds, authorizations and privileges which have been issued, made, granted or allowed
 206 to become effective pursuant to any prior enactments of this section by the Governor, the
 207 secretary of the Department of Commerce, labor and environmental resources, the director of the
 208 Division of Natural Resources, ~~the whitewater advisory board~~ or by a court of competent
 209 jurisdiction, and which are in effect on the effective date of this section, shall continue in effect
 210 according to their terms until modified, terminated, superseded, set aside or revoked by the
 211 Governor, secretary, or director ~~or commission~~ pursuant to this section, by a court of competent
 212 jurisdiction, or by operation of law.

§20-2-23b. Whitewater study and improvement fund.

1 (a) There is hereby ~~created~~ continued in the State Treasury a special revenue account,

2 which shall be an appropriated, interest-bearing account, designated as the whitewater study and
 3 improvement fund. All proceeds from this fund shall be used exclusively for the purposes of the
 4 administration, regulation, promotion and study of the whitewater industry.

5 (b) The special study and assessment fee collected by the ~~commission~~ Director pursuant
 6 to the provisions of ~~section twenty-three-a of this article~~ §20-2-23a of this code shall be deposited,
 7 within ~~fifteen~~ 15 days after receipt, to the whitewater study and improvement fund and dedicated to
 8 the purposes of this section.

§20-2-23d. Bond; revocation of license; licensing carrying requirement; criminal penalties.

1 (a) Immediately upon the issuance of a whitewater outfitter's license and before any
 2 whitewater outfitter's services are offered or rendered thereunder, the licensee shall execute a
 3 surety bond in the penal sum of \$1,000 payable to the State of West Virginia and conditioned upon
 4 the faithful and reliable discharge of his or her services under and pursuant to the license. The
 5 bond shall be approved as to form ~~by the Attorney General~~ and as to surety by the director, and
 6 when so executed and approved, shall be filed in the office of the director of the Division of Natural
 7 Resources. The bond shall be for the life of the license.

8 (b) The ~~whitewater commission~~ Director is hereby authorized to revoke and cancel any
 9 whitewater outfitter's license for failure of the licensee to give the bond required by this section, for
 10 a licensee's violation or disregard of any of the provisions of this chapter, upon a licensee's
 11 conviction of a crime, or for any other reason or cause justifying refusal of the whitewater outfitter's
 12 license to the licensee upon a new application therefor. The ~~commission~~ Director shall afford a
 13 licensee an opportunity to be heard upon the revocation and cancellation of the license.

14 (c) No person shall act or serve as a whitewater outfitter, as defined in this article, without
 15 procuring and having on his or her person at the time a valid whitewater outfitter's license from the
 16 ~~commission~~ Director authorizing them to do so.

17 (d) Any person who violates any of the provisions of this section or of ~~section twenty-three-~~
 18 ~~a of this article~~ §20-2-23a of this code, or any rule promulgated by the director of the Division of

19 Natural Resources or who misrepresents any material fact in an application, record, report or other
 20 document filed or required to be maintained under the provisions of this article, or any rules
 21 promulgated hereunder by the director of the Division of Natural Resources, is guilty of a
 22 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$500 per
 23 violation not to exceed a total penalty of \$7,500 or by imprisonment in the county jail not exceeding
 24 six months, or both fined and imprisoned.

§20-2-23e. Implementation of allocation methodology.

1 Other provisions of this article notwithstanding, the implementation of an allocation
 2 methodology for the nonmoratorium whitewater zones of the New, Gauley, Cheat, Shenandoah
 3 and Tygart rivers, shall be made based upon criteria identified in existing or future studies of
 4 carrying capacity, the overall economic impact on the state and the safety of the general public as
 5 identified in ~~section twenty-three-a of this article~~ §20-2-23a of this code, and shall be implemented
 6 at such time as the ~~commission~~ Director deems appropriate, by rules promulgated pursuant to
 7 ~~chapter twenty-nine-a~~ Chapter 29A of this code. In determining whether to increase or decrease
 8 existing use allocations on the portions of the New and Gauley rivers subjected to a moratorium on
 9 new licenses by this article, the ~~commission~~ Director may continue existing studies and undertake
 10 new studies of the carrying capacity of whitewater zones, the quality of the rafting experience, the
 11 economic impact of rafting and the safety of the general public.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 11A. CARBON DIOXIDE SEQUESTRATION PILOT PROGRAM.

§22-11A-1. Legislative findings.

1 [Repealed.]

**§22-11A-4. General powers and duties of the secretary with respect to carbon dioxide
 sequestration.**

1 [Repealed.]

§22-11A-6. Carbon dioxide sequestration working group.

1 [Repealed.]

§22-11A-7. Reporting and accountability.

1 [Repealed.]

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-15. Commission to implement NG911 in West Virginia.

1 [Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 20. WOMEN'S COMMISSION.

§29-20-1. Membership; appointment and terms of members; organization; reimbursement for expenses.

1 [Repealed.]

§29-20-2. Powers and duties of commission.

1 [Repealed.]

§29-20-3. Commission administrative personnel.

1 [Repealed.]

§29-20-4. Power of commission to accept funds.

1 ~~The commission, or the Department of Human Services on behalf of the commission, may~~
2 ~~accept gifts, grants and bequests of funds from individuals, foundations, corporations, the federal~~
3 ~~government, governmental agencies and other organizations or institutions; make and sign any~~
4 ~~agreements and do and perform any acts that may be necessary to carry out the purposes of this~~
5 ~~article. As of June 30, 2026, any funds retained by the Women's Commission shall expire to the~~
6 ~~General Revenue Fund.~~

§29-20-5. Rules and regulations.

1 [Repealed.]

§29-20-6. Annual report.

1 [Repealed.]

**ARTICLE 24. TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND
FOR INDIVIDUALS WITH DISABILITIES ACT.**

§29-24-2. Terms defined.

1 As used in this article, the term:

2 (a) ~~"Board" means the technology-related assistance revolving loan fund for individuals~~
3 ~~with disabilities board.~~ "Division" means the Division of Rehabilitation Services, as created in §18-
4 10A-2 of this code.

5 (b) "Individual with disability" means any individual, of any age who, for the purposes of
6 state or federal law, is considered to have a disability or handicap, injuries and chronic health
7 conditions, whether congenital or acquired; and who is or would be enabled by technology-related
8 devices or technology-related services to maintain or improve his or her ability to function in
9 society and the workplace.

10 (c) "Qualifying borrower" means any individual with disabilities and their family members,
11 guardians, authorized representatives or nonprofit entity who demonstrates that such a loan will
12 improve their independence or become more productive members of the community. The
13 individual must demonstrate credit worthiness and repayment abilities to the satisfaction of the
14 board. No more than twenty percent of all loan funds are to be provided to nonprofit entities in a
15 single year.

16 (d) "Technology-related assistance" means either the provision of technology-related
17 devices or technology-related services to improve the independence, quality of life or productive
18 involvement in the community of individuals with disabilities.

19 (e) "Technology-related device" means any item, piece of equipment or product system,

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20 whether acquired commercially off-the-shelf, modified or customized, that is used to increase,
21 maintain or improve functional capabilities of individuals with disabilities.

22 (f) "Technology-related service" means any service that directly assists an individual with a
23 disability in the selection, acquisition or use of a technology-related device, including:

24 (1) The evaluation of the needs of an individual with a disability, including a functional
25 evaluation in the individual's customary environment;

26 (2) Purchasing, leasing or otherwise providing for the acquisition of technology-related
27 devices by individuals with disabilities;

28 (3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or
29 replacing technology-related devices;

30 (4) Coordinating and using other therapies, interventions or services with technology-
31 related devices, such as those associated with existing education and rehabilitation plans and
32 programs; and

33 (5) Training or technical assistance for individuals or the family of an individual with
34 disabilities.

35 (g) "Revolving loan fund" means the technology-related assistance revolving loan fund for
36 individuals with disabilities established in this article.

37 (h) "Consumer" means individuals with disabilities and, when appropriate, their family
38 members, guardians, advocates or authorized representatives.

§29-24-3. ~~Board created, membership, terms, officers and staff.~~

1 [Repealed.]

§29-24-4. Compensation and expenses of board.

1 [Repealed.]

§29-24-5. Power, duties and responsibilities of the ~~board~~ Division; loans.

1 (a) The ~~board~~ Division has the following powers, duties, and responsibilities:

2 ~~(1) Meet at such times (minimum of four times each fiscal year) and at places as it~~
3 ~~determines necessary or convenient to perform its duties. The board shall also meet on the call of~~
4 ~~the chairperson or Secretary of Commerce;~~

5 ~~(2) Maintain written minutes of its meetings;~~

6 ~~(3) Propose rules for legislative promulgation in accordance with §29A-3-1 et seq. of this~~
7 ~~code for the transaction of its business and to carry out the purposes of this article. The rules shall~~
8 ~~include: (A) Guidelines, procedures, reporting requirements, accountability measures and such~~
9 ~~other criteria as the board deems appropriate and necessary to fulfill its governance responsibility~~
10 ~~under this article if it elects to contract with a nonprofit, consumer-driven organization to carry out~~
11 ~~the purposes of this article; (B) an appeals process with regard to the administration of the fund;~~
12 ~~and (C) rules governing the operation of the fund, including, but not limited to, eligibility of receipt~~
13 ~~of funds and all other matters consistent with and necessary to accomplishing the purpose of this~~
14 ~~fund;~~

15 ~~(4) Employ personnel on a full-time, part-time or contracted basis. Board personnel may be~~
16 ~~members of the state civil service system. Participating agencies shall make staff support and~~
17 ~~resources available to the board whenever practicable at the discretion of the agencies. The~~
18 ~~compensation of personnel shall be paid from moneys in the revolving loan fund;~~

19 ~~(5) (2) Receive, administer and disburse funds to support purposes established by this~~
20 ~~article and contract with nonprofit, consumer-based groups dealing with individuals with~~
21 ~~disabilities to assist in administering programs established by this article;~~

22 ~~(6) (3) Maintain detailed records of all expenditures of the board fund, funds received as~~
23 ~~gifts and donations and disbursements made from the revolving loan fund;~~

24 ~~(7) (4) Submit to the Secretary of the Department of Commerce and the Legislature~~
25 ~~annually a summary report concerning programmatic and financial status of the revolving loan~~
26 ~~fund, which report shall be included in the Division's annual report, as required by §5-1-20(a) of~~
27 ~~this code;~~

28 ~~(8)~~ (5) Develop and implement a comprehensive set of financial standards to ensure the
29 integrity and accountability of all funds received as well as loan funds disbursed; and

30 ~~(9)~~ (6) Conform to the standards and requirements prescribed by the State Auditor.

31 (b) Subject to available funds, the ~~board~~ Division shall enter into loan agreements with any
32 qualifying borrower, who demonstrates that:

33 (1) The loan will assist one or more individuals with disabilities in improving their
34 independence, productivity and full participation in the community; and

35 (2) The applicant has the ability to repay the loan. Any necessary loan limitation shall be
36 determined by the ~~board~~ Division. All loans must be repaid within such terms and at such interest
37 rates as the ~~board~~ Division may determine to be appropriate. However, no loan may extend
38 beyond sixty months from date of award and may be paid off anytime without prepayment penalty.
39 The ~~board~~ Division shall determine the interest rate to be charged on loans made pursuant to this
40 article, but in no event may the interest rate on any such loans be less than four or more than
41 ~~twenty-one~~ 21 percent per annum.

42 (c) The ~~board~~ Division may authorize loans up to ~~ninety~~ 90 percent of the cost of an item or
43 items.

44 (d) The ~~board~~ Division may award loans to qualifying borrowers for purposes, including,
45 but not limited to, the following:

46 (1) To assist one or more individuals with disabilities to improve their independence
47 through the purchase of technology-related devices; and

48 (2) To assist one or more individuals with disabilities to become more independent
49 members of the community and improve such individuals quality of life within the community
50 through the purchase of technology-related devices.

51 (e) If there is a failure of the borrower to repay the loan balance due and owing, the ~~board~~
52 Division shall seek to recover the loan balance by such legal or administrative action available to it.
53 Persons or representatives of persons who default on a loan are not eligible for a new loan. The

54 ~~board~~ Division shall retain ownership of all property, equipment, or devices until the borrower's
55 loan is paid in full.

56 (f) A new loan may not be issued to, or on behalf of, a disabled person if a previous loan
57 made to, or on behalf of, such person remains unpaid.

58 (g) The ~~board~~ Division may charge a fee for loan applications and processing. All funds
59 generated by fee charges shall be directly placed into the revolving loan fund to off-set the costs of
60 application processing.

61 (h) The ~~board~~ Division may accept federal funds granted by Congress or executive order
62 for the purposes of this chapter as well as gifts and donations from individuals, private
63 organizations, or foundations. The acceptance and use of federal funds does not commit state
64 funds and does not place an obligation upon the Legislature to continue the purposes for which the
65 federal funds are made available. All funds received in the manner described in this article shall be
66 deposited in the revolving loan fund to be disbursed as other moneys in the revolving loan fund.

§29-24-7. Fund created.

1 The technology-related assistance revolving loan fund for individuals with disabilities is
2 hereby created in the State Treasury to be expended by the ~~board~~ Division in accordance with the
3 provisions of and for the purposes of this article. Upon the effective date of this section, any funds
4 remaining in the technology-related assistance revolving loan fund for individuals with disabilities
5 created by ~~chapter two hundred forty-seven~~ Chapter 247, acts of the Legislature, regular session,
6 ~~one thousand nine hundred ninety-six~~ 1996, which is hereby abolished, shall be deposited into the
7 fund created by this section. Nothing contained herein may be construed to require any level of
8 funding by the Legislature.

§29-24-8. Deposits created by the ~~board~~ Division.

1 The ~~board~~ Division shall deposit all amounts paid, appropriated, granted or donated to it,
2 including interest accrued on loan balances, fees charged and funds received in repayment of
3 loans, in the revolving loan fund.

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§29-24-9. Fund use.

1 The moneys in the revolving loan fund shall be used only for the following purposes:

2 (a) Implementing revolving loan program for technology-related devices;

3 (b) Providing technology-related devices to individuals with severe disabilities who meet
4 economic criteria established by the ~~board~~ Division;

5 (c) Providing support for technology-related assistance;

6 (d) Providing technology-related and disability prevention education and research;

7 (e) Disseminating public information;

8 (f) Conducting program evaluation and needs assessment;

9 (g) Operating the ~~board~~ Division and other administrative and personnel costs;

10 (h) Conducting research and demonstration projects, including new and future uses of
11 technology-related services; and

12 (i) Developing a strategic plan.

13 Administrative costs are not to exceed ~~ten~~ 10 percent of the revolving loan fund's yearly
14 budget.

15 All unexpended moneys contained in this fund at the end of the fiscal year shall be carried
16 forward from year to year.

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 16. TRUSTS FOR CHILDREN WITH AUTISM.

§44-16-7. Repeal of article.

1 The provisions of this section shall sunset, expire, and be of no force and effect on or after
2 January 1, 2027: *Provided*, That qualifying trusts established and having received qualifying
3 contributions on or prior to December 31, 2026, by fulfillment of the requirements of this article,
4 shall continue to qualify for the benefits established in § 11-21-12i of this code.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.
§49-2-913. Juvenile Justice Reform Oversight Committee.

1 [Repealed.]

NOTE: The purpose of this bill is reform of state board and commissions system by eliminating unnecessary, expired, or outdated board, shifting essential functions of several boards or commissions to various agencies or entities, reducing the number of members on several continuing boards and commissions, modifying or eliminating several reports of various boards or commissions, and technical cleanup throughout.

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