WEST VIRGINIA CODE: §31-15-23a

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section:

"Eligible broadband provider" has the meaning provided in §31-15-8a of this code.

"Federally funded broadband expansion program" has the meaning provided in §31-15-8a of this code.

"High-impact development project" means a project meeting the following criteria, according to a resolution adopted by the authority:

(A) The Governor has requested, in writing, that the project be approved for certain economic development financial assistance by the authority in an amount of $50 million or greater;

(B) The industrial development agency or enterprise undertaking the project will privately invest an amount of $50 million or greater in the project; and

(C) The project meets or exceeds the loan per job ratio criteria for high-impact development projects that may be established, in consultation with the Secretary of the Department of Commerce and the Executive Director of the Division of Economic Development, by the board of directors. In assessing a project and the economic development financial assistance package proposed by the Governor, the board of directors shall take regional and local economic factors into account when making a determination that the loan per job ratio criteria has been met.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. The fund shall consist of all moneys appropriated to the authority during the regular session of the Legislature, 2022, from available revenue surplus funds; transfers from the Industrial Development Loans Fund; gifts, grants, and contributions to the fund; any earnings or interest accruing to said fund; and any other moneys appropriated to said fund by the Legislature. The authority may invest and reinvest moneys in the fund with the West Virginia Investment Management Board or the Board of Treasury Investments.

(c) The authority may transfer funds in the Industrial Development Loans Fund to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans Fund may be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to offer incentives for business formation or expansion and provide assistance with site development

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or other concerns to industrial development agencies or enterprises according to the requirements of this article as set forth in this subsection: *Provided*, That annually up to $20 million may be exempted from the requirements of the high-impact development project definition and be allowable to be spent out of the Economic Development Project Fund.

(1) High-impact development projects. — In addition to any powers granted to the authority under any other section of this code, the authority may finance any high-impact development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, grants, or other offers of financial assistance or aid upon such terms as the Governor may request and the authority shall deem appropriate: *Provided*, That the board of directors shall consider the overall availability of funds in the Economic Development Project Fund and the Industrial Development Loan Fund in making determinations related to economic development financial assistance packages for high-impact development projects. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for high-impact projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(2) Traditional loans. — The authority may finance any economic development project under this section by offering incentives for business formation or expansion to industrial development agencies or enterprises in this state in the form of loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such traditional loans may not exceed $250 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for traditional loans as set forth in this subsection and shall not revert to the General Revenue Fund.

(3) Business retention projects. — The authority may finance any economic development project under this section by offering incentives for business development and expansion to industrial development agencies or enterprises already existing and operating in the state of West Virginia in the form of loans, which shall be repaid to provide financing for subsequent borrowers: *Provided*, That moneys available to fund such business retention loans may not exceed $50 million dollars annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments received pursuant to this subsection. Funds which are paid back to the authority as principal pursuant to this subsection may be utilized and reloaned by the authority for the same purpose. Any interest accruing shall be retained and made available for business retention projects as set forth in this subsection and shall not revert to the General Revenue Fund.

(4) Federal broadband expansion projects. — The authority may use moneys in the fund to provide incentives for eligible broadband providers to participate in federally funded broadband expansion programs: *Provided*, That the moneys available for such incentives

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may not exceed $25 million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys.

(5) Broadband loan insurance. — The authority may transfer moneys from the fund to the Insurance Fund, created in §31-15-8 of this code, in amounts necessary to issue loan insurance to eligible broadband providers: *Provided*, That the moneys available for transfer pursuant to this subdivision may not exceed $125 million annually, on a rolling basis, unless otherwise appropriated by the Legislature or increased by interest payments or investment earnings on said moneys. With regard to any loan insurance issued using the moneys transferred pursuant to this subdivision, the authority shall follow the requirements of §31-15-8a of this code.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of the Economic Development Project Fund expenditures. In administering the fund, the authority shall adopt appropriate accounting practices and internal controls, including, but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

(1) The outstanding amount of authority financing for each project;

(2) The total amount of private investment in each project;

(3) The number of jobs created by each project since the project's inception; and

(4) The number of jobs maintained by each project.

(g) Except for the records and audit required under subsection (e) of this section, and the annual reports required under subsection (f) of this section, any documentary material, data, or other writing made or received by the authority relating to high-impact development projects under this section, shall be exempt from §29B-1-1 *et seq*. of this code: *Provided*, That any agreement or resolution entered into or signed by the authority which obligates public funds for any high-impact development project shall be subject to inspection and copying pursuant to §29B-1-1 *et seq*. of this code as of the date the agreement or resolution is entered into, signed, or otherwise made public.

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