WEST VIRGINIA CODE CHAPTER 5b ARTICLE 2

WV Legislature

§5B-2-1. West Virginia Division of Economic Development; confidentiality.

(a) The West Virginia Division of Economic Development, formerly the Department of Economic Development and formerly the Development Office, is hereby continued as a division of the Department of Commerce.

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

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

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

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

(d) The Secretary of the Department of Commerce shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal law, federal regulation, or the requirements for receipt of federal funding or assistance.

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

(f) Nothing in this section shall exempt the Division of Economic Development from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

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

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

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§5B-2-2. Office of Executive Director of the Division of Economic Development.

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

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

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§5B-2-3. Powers and duties of the Executive Director.

(a) The Executive Director shall enhance economic growth and development through the development of a comprehensive economic development strategy for West Virginia. "Comprehensive economic development strategy" means a plan that outlines strategies and activities designed to continue, diversify or expand the economic base of the state as a whole; create jobs; develop a highly skilled workforce; facilitate business access to capital, including venture capital; advertise and market the resources offered by the state with respect to the needs of business and industry; facilitate cooperation among local, regional and private economic development enterprises; improve infrastructure on a state, regional and community level; improve the business climate generally; and leverage funding from sources other than the state, including federal and private sources.

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

WV Legislature

§5B-2-3a.

Repealed.

Acts, 2015 Reg. Sess., Ch. 40.

WV Legislature

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

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

WV Legislature

§5B-2-4. Public-private partnerships.

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

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

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

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

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

WV Legislature

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

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

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

WV Legislature

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

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

WV Legislature

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

(a) Any property owner of a tract of land that is a brownfield or voluntary remediated site pursuant to §22-22-1 *et seq*. of this code may, if the site and surrounding area were involved in the extraction and processing of coal, limestone, or other natural resources, apply to the division to become a brownfield economic development district.

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

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

(3) Brownfield economic development districts:

(A) May not contain single-family housing;

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

§5B-2-6b.

Repealed.

Acts, 1992 Reg. Sess., Ch. 55.

WV Legislature

§5B-2-6c.

Repealed.

Acts, 1992 Reg. Sess., Ch. 55.

WV Legislature

§5B-2-6d.

Repealed.

Acts, 1992 Reg. Sess., Ch. 55.

WV Legislature

§5B-2-6e.

Repealed.

Acts, 1992 Reg. Sess., Ch. 55.

WV Legislature

§5B-2-7.

Repealed.

Acts, 2015 Reg. Sess., Ch. 40.

WV Legislature

§5B-2-8

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

§5B-2-8a

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

§5B-2-9

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

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

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

(b) Notwithstanding any other provision of this code to the contrary, the Secretary of the Department of Tourism, with the advice of the tourism advisory council, and in consultation with the Secretary of the West Virginia Department of Commerce, is directed to coordinate and supervise the activities of the state, to coordinate and cooperate with the political subdivisions and municipalities of the state, to cooperate with the National Railroad Passenger Corporation and with the other states served by the Cardinal Passenger Train to achieve the public policy set forth in subsection (a) of this section. The secretary may conduct such studies, and make such investigations, as may be reasonable and appropriate to advance the public policy set forth in subsection (a) of this section.

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

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

(e) There is hereby created a special revenue account, designated the "Cardinal Passenger

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

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

The tourism advisory council, the Division of Economic Development, and any other authorities, boards, commissions, corporations or other entities created or amended under this chapter and §18B-11-1 *et seq*. of this code, shall prepare and submit to the Joint Committee on Government and Finance on or before December 1, 1995, and each year thereafter, a program and policy action statement which shall outline in specific detail according to the purpose, powers and duties of the office or section, its procedure, plan and program to be used in accomplishing its goals and duties as required under this article.

WV Legislature

§5B-2-11

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

§5B-2-12

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

§5B-2-12a

Repealed

Acts, 2017 Reg. Sess., Ch. 238.

WV Legislature

§5B-2-13.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§5B-2-14. Certified development community program.

The certified development community program is continued and is transferred to, incorporated in and administered as a program of the Division of Economic Development. The program shall provide funding assistance to the participating economic development corporations or authorities through a matching grant program. The division shall establish criteria for awarding matching grants to the corporations or authorities within the limits of funds appropriated by the Legislature for the program. The matching grants to eligible corporations or authorities are in the amount of $50,000 for each fiscal year, if sufficient funds are appropriated by the Legislature. The division shall recognize existing county, regional or multicounty corporations or authorities where appropriate.

In developing its plan, the division shall consider resources and technical support available through other agencies, both public and private, including, but not limited to, the state college and university systems; the West Virginia Housing Development Fund; the West Virginia Economic Development Authority; the West Virginia Parkways Authority; the West Virginia Round Table; the West Virginia Chamber of Commerce; Regional Planning and Development Councils; Regional Partnership for Progress Councils; and state appropriations.

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§5B-2-15. Upper Kanawha Valley Resiliency and Revitalization Program.

(a) Definitions. —

(1) General. — Terms defined in this section have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition in this section.

(2) Terms Defined. —

"Contributing partners" means those entities or their representatives described in subsection (f) of this section.

"Prioritize" means, with regard to resources, planning, and technical assistance, that the members of the revitalization council are required to waive their discretionary program guidelines to allow funding requests that may fall outside of the program's guidelines but address the Upper Kanawha Valley communities' goals for revitalization: *Provided*, That properly filed funding applications by Upper Kanawha Valley communities shall be given preferential treatment.

"Program" means the Upper Kanawha Valley Resiliency and Revitalization Program established in this section.

"Revitalization council" means those entities or their representatives described in subsection (d) of this section.

"Technical assistance" means resources provided by the state, revitalization council, contributing partners, or any other individuals or entities providing programming, funding, or other support to benefit the Upper Kanawha Valley under the program.

"Upper Kanawha Valley" means an area historically known as the Upper Kanawha Valley including municipalities and surrounding areas from the Charleston city limits to Gauley Bridge or other communities in the vicinity of the West Virginia University Institute of Technology.

"Upper Kanawha Valley Resiliency and Revitalization Program" means the entire process undertaken to further the goals of this section, including collaboration development and implementation between the members, contributors, and technical assistance resource providers.

(b) Legislative purpose, findings, and intent. —

(1) The decision to relocate the historic campus of the West Virginia University Institute of Technology from Montgomery, West Virginia, to Beckley, West Virginia, will have a dramatic economic impact on the Upper Kanawha Valley.

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(2) The purpose of this section is to establish the Upper Kanawha Valley Resiliency and Revitalization Program. To further this purpose, this program creates a collaboration among state government, higher education, and private and nonprofit sectors to streamline technical assistance capacity, existing services, and other resources to facilitate community revitalization in the Upper Kanawha Valley.

(3) It is the intent of the Legislature to identify existing state resources that can be prioritized to support the Upper Kanawha Valley, generate thoughtful and responsible ideas to mitigate the negative effects of the departure of the West Virginia Institute of Technology from the Upper Kanawha Valley, and help chart a new course and prosperous future for the Upper Kanawha Valley.

(c) Upper Kanawha Valley Resiliency and Revitalization Program established; duration of program. —

(1) The Development Office shall establish the Upper Kanawha Valley Resiliency and Revitalization Program in accordance with the provisions of this section. The program shall inventory existing assets and resources, prioritize planning and technical assistance, and determine such other assistance as might be available to revitalize communities in the Upper Kanawha Valley.

(2) The program shall remain active until it concludes its work on June 30, 2024, and delivers a final report to the Joint Committee on Government and Finance no later than October 1, 2024.

(d) Revitalization council created. — There is created a revitalization council to fulfill the purposes of this section. The revitalization council shall be coordinated by the Department of Economic Development and be subject to oversight by the secretary of the department. The following entities shall serve as members of the revitalization council:

(1) The Secretary of the Department of Economic Development or their designee, who shall serve as chairperson of the council;

(2) The Secretary of the Department of Health or their designee;

(3) The Commissioner of the Department of Agriculture or their designee;

(4) The Executive Director of the West Virginia Housing Development Fund or their designee;

(5) A representative from the Kanawha County Commission;

(6) A representative from the Fayette County Commission;

(7) The mayor, or their designee, from the municipalities of Montgomery, Smithers, Pratt, and Gauley Bridge;

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(8) A representative from Bridge Valley Community and Technical College; and

(9) A representative from West Virginia University.

(e) Duties of the revitalization council. —

(1) The council shall identify existing state resources that can be prioritized to support economic development efforts in the Upper Kanawha Valley.

(2) The council shall direct existing resources in a unified effort and in conjunction with contributing partners, as applicable, to support the Upper Kanawha Valley.

(3) The council shall develop a rapid response strategy to attract or develop new enterprises and job-creating opportunities in the Upper Kanawha Valley.

(4) The council shall conduct or commission a comprehensive assessment of assets available at the campus of the West Virginia Institute of Technology and determine how those assets will be preserved and repurposed.

(5) The council shall assist communities in the Upper Kanawha Valley by developing an economic plan to diversify and advance the community.

(6) Members of the council shall support both the planning and implementation for the program and shall give priority wherever possible to programmatic activity and discretionary, noncompetitive funding during the period the program remains in effect.

(7) Members of the council shall work together to leverage funding or other agency resources to benefit efforts to revitalize the Upper Kanawha Valley.

(f) Contributing partners. — To the extent possible, the revitalization council shall incorporate the resources and expertise of additional providers of technical assistance to support the program, which shall include but not be limited to:

(1) The West Virginia Small Business Development Center;

(2) The Center for Rural Health Development;

(3) The West Virginia University Brickstreet Center for Entrepreneurship;

(4) The West Virginia University Land Use and Sustainability Law Clinic;

(5) The West Virginia University Center for Big Ideas;

(6) The New River Gorge Regional Development Authority;

(7) The Appalachian Transportation Institute;

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(8) The Marshall University Center for Business and Economic Research;

(9) TechConnect;

(10) The West Virginia Community Development Hub;

(11) The West Virginia University Northern Brownfields Assistance Center;

(12) West Virginia State University Extension Service; and

(13) West Virginia University Extension Service, Community, Economic and Workforce Development.

(g) Reporting and agency accountability. — The revitalization council, in coordination with its contributing partners, as applicable, shall report annually to the Governor and the Legislature detailing the progress of the technical assistance support provided by the program, the strategic plan for the Upper Kanawha Valley, and the results of these efforts. The annual report to the Legislature shall be made to the Joint Committee on Government and Finance regarding the previous fiscal year no later than October 1 of each year. Copies of the annual report to the Legislature shall be provided to the county commissions and the mayors of the Upper Kanawha Valley.

(h) Economic incentives for businesses investing in the Upper Kanawha Valley. — The Department of Economic Development and the revitalization council, as applicable, shall work to educate businesses investing, or interested in investing, in the Upper Kanawha Valley, about the availability of, and access to, economic development assistance, including but not limited to, the economic opportunity tax credit provided in §11-13Q-19 of this code; the manufacturing investment tax credit provided under §11-13S-1 *et seq*. of this code; and any other applicable tax credit or development assistance.

(i) Use of state property and equipment; faculty. — The Department of Economic Development or other owner of state property and equipment in the Upper Kanawha Valley is authorized to provide for the low cost and economical use and sharing of state property and equipment, including computers, research labs, and other scientific and necessary equipment to assist any business within the Upper Kanawha Valley at a nominal or reduced-cost reimbursements to the state for that use.

wv Legislature

§5B-2-16. Entrepreneurship and Innovation Investment Fund.

(a) The Entrepreneurship and Innovation Investment Fund is hereby created. The fund shall be administered by the Division of Economic Development and shall consist of all moneys made available for the purposes and from the sources set forth in this section of the code.

(b) The fund consists of moneys received from the following sources:

(1) All appropriations provided by the Legislature;

(2) Any moneys available from external sources; and

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

(c) The Division of Economic Development shall use moneys in the fund to support entrepreneurship, creation of business startups, improvements in workforce participation, and attracting individuals to relocate to West Virginia.

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

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

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

(a) The West Virginia Motorsport Committee is hereby continued.

(b) The committee consists of 18 members, including its chairperson. The chairperson shall be selected by the committee from among its members. The committee members shall represent:

(1) Asphalt oval racing;

(2) Dirt drag racing;

(3) Dirt oval racing;

(4) Drag racing;

(5) Drift racing;

(6) Hill climb racing;

(7) Karting racing;

(8) Motor cross racing;

(9) Motorcycle road course racing;

(10) Mud racing;

(11) Off-road racing;

(12) Rallying racing;

(13) Rallycross racing;

(14) Road course racing;

(15) Time Trials racing;

(16) Truck/Tractor pulls;

(17) Remote control racing; and

(18) Boat racing.

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

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(d) The committee shall:

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

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

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

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

WV Legislature

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Defined program goals;

(B) Program research to be conducted;

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

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

(d) The pilot program shall continue in duration through December 31, 2023, and unless continued by the legislature, the program will terminate at midnight on January 1, 2024. Prior to the conclusion of the program, the division, in coordination with Marshall University, shall report to the Legislature's Joint Commission on Economic Development on the following:

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

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

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

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

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

WV Legislature

§5B-2-18a. Applicability of federal laws and Federal Aviation Administration regulations; permissible use of uncrewed aircraft.

(a) Notwithstanding any provision of this article to the contrary, any person or entity operating an uncrewed aircraft system may do so in compliance with applicable federal law and applicable regulations of the Federal Aviation Administration.

(b) Except as authorized by law, a political subdivision of the state shall not enact or adopt an ordinance, policy, or rule that relates to the ownership or operation of an advanced air mobility aircraft or advanced air mobility system, and shall not otherwise engage in the regulation of any uncrewed aircraft system, advanced air mobility aircraft, or advanced air mobility system. Any ordinance, policy, or rule, to the extent that it violates any provision of this subsection, whether enacted or adopted by the political subdivision before or after the effective date of this section, is void.

(c) As used in this section, “advanced air mobility aircraft” or “advanced air mobility system” means a system that transports people and property by air between points in the United States using aircraft, as defined in §29-2A-1 of this code, including electric aircraft and electric vertical takeoff and landing aircraft, in both controlled and uncontrolled airspace.

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

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

(2) The division shall establish an application process and forms through which an applicant may begin to participate in the program and identify and describe potential sites for economic development and investment. The application process and forms should include site specific information such as property ownership and control, descriptions and mapping, historical and current uses, access to various forms of transportation, availability of various utility services, environmental studies, conceptual plans, marketing materials, and all other information requested by the department.

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

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

(5) The division may provide to applicants funding assistance up to a 50 percent match through a matching grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The division shall establish criteria and an application process for awarding matching grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than a maximum amount established by the division through this grant matching program. Applications for this grant matching program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the division. Grant matching funds must be spent, contracted to be spent, or returned to the department within 12 months of the date of receipt of the grant matching funds. Grant matching funds shall be paid back to the division when a participating site is sold or leased for development. The division shall take prudent steps to receive a security interest in a participating site in the amount of the grant matching funds award including, but not limited to, placing of record in the county where the participating site is located, an appropriate lien against the title. All funds repaid under

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this section shall remain within the program for use on participating sites. The division shall monitor, and request appropriate evidence documenting the cured deficiencies and thereafter reevaluate and recertify a participating site as part of this grant matching program.

(6)(A) The division may provide funding assistance to applicants through a micro grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The division shall establish criteria and an application process for awarding the micro grants to improve an applicant's site readiness. Applications for this micro grant program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the division. Micro grant funds must be spent, contracted to be spent, or returned to the division within 12 months of the date of receipt of the micro grant funds. All funds returned under this section shall remain within the program for use on participating sites. The division shall monitor and request appropriate evidence documenting the cured deficiency and thereafter reevaluate and recertify a participating site as part of this micro grant program.

(B) (i) Sites that are a minimum of five acres in size may receive an amount up to $100,000 through the micro grant program.

(ii) Sites that exceed 20 acres in size may receive an amount up to $250,000 through the micro grant program.

(iii) Notwithstanding these limitations on acreage, sites eligible for participation in the West Virginia Business Ready Sites Program, as defined in §24-2-1n of this code, are eligible for access to funds from the Certified Sites and Development Readiness Fund as established in §5B-2-19(b) of this code: *Provided*, That the Department of Commerce must approve each such application for funding.

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

(A) Appropriations provided by the Legislature;

(B) Any moneys available from external sources; and

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

(2) The Division of Economic Development shall use moneys in the fund to support The Certified Sites and Development Readiness Program.

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

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

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

(a) The Director of the Division of Economic Development shall:

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

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

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

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

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§5B-2-21. Certified Microgrid Development Program.

(a) Program established. — The Certified Microgrid Development Program is hereby created and is to be administered as a program within the Division of Economic Development to encourage the continued development, construction, operation, maintenance, and expansion in West Virginia of high impact i plants and facilities, in certain circumstances where the availability of electricity generated is demonstrated to be necessary. In order to effectuate the purposes of this section, the Division of Economic Development, or any agency, division, or subdivision thereof, may propose for promulgation of legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq*. of this code.

(b) District certification. — The Secretary of the Department of Commerce may identify and certify microgrid districts in this state upon a finding that the following requirements are met:

(1) Certification of the microgrid district and location of new or expanded businesses within the microgrid district will have a significant and positive economic impact on the state;

(2) Certification of the microgrid district is necessary to attract at least two businesses to locate or expand in this state;

(3) The area to be certified as a microgrid district shall be no greater than 2,250 acres and nearly contiguous;

(4) The electricity generated within the microgrid district will be used only within the microgrid district or delivered to the wholesale market;

(5) The information described in §5B-2-21(h) of this code has been provided to the Department of Commerce;

(6) The requirements of §5B-2-21(i) of this code have been satisfied; and

(7) The requirements of §5B-2-21(b)(5) and (6) of this code may not apply to microgrid districts certified on or before January 1, 2024;

(8) The requirements of subsections (d), (e), (g), (h), and (j) of this section enacted during the regular session of the Legislature, 2025, shall not apply to any microgrid district certified on or before January 1, 2024, or any special contract entered into and approved by the Public Service Commission on or before January 1, 2025. No amendments to this section enacted during the regular session of the Legislature, 2025, shall be interpreted to remove an existing microgrid district certification.

The Secretary of the Department of Commerce may not certify more than two microgrid districts: *Provided*, That this limit on certifying microgrid districts shall not apply to any microgrid district wherein greater than 70% of the electricity generated within the microgrid district is consumed by one or more high impact data centers, as defined in

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§11-6N-2 of this code, or will be consumed by one or more high impact data centers, when such data centers are completed and fully operational. A designation made pursuant to this section by the secretary as to the certification of a microgrid district is final.

(c) Providing electric service within a certified microgrid district. — Within a microgrid district, any person, firm, corporation, or entity or their lessees and tenants seeking to provide electric service through the generation or distribution of electricity within the microgrid district to businesses locating within the microgrid district may:

(1) Not be subject to the jurisdiction of the Public Service Commission with respect to rates, obtaining a certificate of convenience and necessity, conditions of service or complaints pursuant to chapter 24 of this code;

(2) Not be subject to the net metering and interconnection standards as set forth in §24-2F-8 of this code;

(3) Elect to qualify as an exempt wholesale generator under federal law for purposes of furnishing electric service through the generation of electricity to a utility or regional transmission organization without being subject to the Public Service Commission's siting certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-1o of this code;

(4) Provide any such electric service to businesses making a capital investment in a new or expanded facility located within the certified microgrid district;

(5) Not provide any such electric service for purposes of encouraging businesses already receiving electric service from a regulated utility in this state to relocate to the certified microgrid district; and

(6) Not deliver outside the microgrid district more than 10% of the electricity generated within the certified microgrid district and only delivered to the wholesale market.

(d) Microgrid customers; eligibility. — In order to take advantage of the provisions of this section, a plant or facility choosing to locate and operate within a microgrid district must constitute new electric load. Any owner, lessee, or tenant of a plant or facility that has not previously received electric service from a regulated public electric utility located within this state, or who is making a capital investment in a new facility within the microgrid district shall be considered eligible new electric load. Electric service to any such plant or facility shall be considered new electric load so long as any customer making a new capital investment within the microgrid district does not decrease the load of an existing facility outside the microgrid district in this state in conjunction with the new capital investment within the microgrid district, and regardless of whether or not a person or entity previously received service from a public electric utility at or near the same location prior to the certification of the microgrid district.

An eligible plant or facility choosing to locate and operate within a microgrid district is not

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required to connect with and use any public electric utility: *Provided*, That any connection with and use of a public electric utility for purposes of the initial construction and development within the microgrid district shall not impact a plant or facility's status as new electric load in order to take advantage of the provisions of this section.

(e) Microgrid customers; special contracts and rates. — After certification of a microgrid district, the Public Service Commission may approve special contracts for a a microgrid customer within the microgrid district. For purposes of this section, a “special contract” is:

(1) a written agreement between an electric utility and an eligible retail electric microgrid customer within the microgrid district that is filed with the Public Service Commission and that provides that an eligible retail electric microgrid customer will receive utility service on terms and conditions, including rates, that vary from the utility’s tariff on file with the Public Service Commission, or

(2) electric utility service terms and conditions, including rates, ordered by the Public Service Commission that vary from the electric utility’s tariff to be in effect between a utility and an eligible retail electric microgrid customer when the electric utility and the eligible retail electric microgrid customer are unable to negotiate a written agreement.

A microgrid customer seeking a special contract shall first enter into negotiations with the utility within whose service territory the microgrid district is located regarding the terms and conditions of a mutually agreeable special contract. If the negotiations result in an agreement between the microgrid customer and the utility within 120 days, the microgrid customer and the utility shall jointly file with the Public Service Commission the special contract. If the negotiations are unsuccessful in the 120-day period, the microgrid customer may file a petition with the Public Service Commission to consider establishing a special contract. The Public Service Commission shall consider all relevant factors in establishing a special contract. Upon the filing of a petition pursuant to this section, the Public Service Commission shall establish a special contract for the provision of requested service, including backup and supplemental service to a microgrid customer within the microgrid district. Microgrid customers’ load within the microgrid district not covered by a contract for back up and supplemental service shall be considered non-firm and interruptible. The Public Service Commission shall establish a special contract upon the filing of a petition pursuant to this section and shall do so within 90 days of filing.

(f) Electrical infrastructure costs. — Regulated electric utility customers shall not bear any costs including, but not limited to, construction, operational, ancillary services, grid-related, energy-related, or capacity-related costs, associated with any electricity generation, transmission or distribution facilities that provide electrical service to a microgrid district. Any costs of this nature are to be borne by the generator or electricity consumers situated within the microgrid district.

(g)(1) Payment In Lieu Of Taxes Electricity Generation and Distribution. — Notwithstanding the provisions of §5D-1-14, §7-5-13, §7-11B-3(b), §7-11B-8(c)(4), §7-11B-15(a)(7),

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§7-11B-15(a)(15), §7-11B-18, §8-19-4, §8-29A-7, §8A-12-12, §11-13-2p, §11-13C-5(l)(1)(A), §16-13A-21, §16-15-18(b)(6), §17-16A-16(b), §17-16B-20(b), §18-9A-12(c), § 31-21-5, and §31-21-15 of this code, or any other provision of this code, no payment in lieu of taxes shall be entered into with relation to the property of any electricity generating plant, facility, or generating unit or any property comprising, in whole or in part, any electricity distribution apparatus, equipment, lines or facilities (A) located in the county and (B) directly or indirectly dedicated to providing electric power to any plant, facility or property subject to this subsection. Nor shall any payment in lieu of taxes be entered into with relation to any leasehold interest or any other property interest related thereto.

(2) Tax Increment Financing. — Notwithstanding the provisions of §7-11B-1 *et seq*. of this code, or any other provision of this code, no tax increment financing project, plan or arrangement shall be entered into or undertaken with relation to any electricity generation or distribution property subject to this subsection.

(3) For purposes of this subsection, an electricity generating plant, facility, or generating unit or electricity distribution apparatus, equipment, lines, or facilities shall be deemed to be "dedicated" to providing electric power to any plant, facility, or property subject to this subsection if not less than 75% of the output of the electricity generation property or electricity distribution property, measured in kilowatt hours, are used to supply electricity to a facility, project, or series of related or integrated facilities within the county or counties subject to this subsection.

(4) For purposes of this section, property includes all real property, all buildings and structures affixed to land, and all tangible personal property, including, but not limited to equipment, inventories and mobile equipment, and also including property subject to special salvage valuation under §11-6A-1 *et seq*., §11-6E-1 *et seq*., §11-6H-1 *et seq*., §11-6J-1 *et seq*., §11-6F-1 *et seq*., and §11-6L-1 *et seq*. of this code, or any other special ad valorem property valuation provision of this code; *Provided*, That property subject to special valuation shall be allowed that special valuation as authorized by law, for purposes of calculating and determining the ad valorem property tax imposed with relation thereto, notwithstanding being otherwise subject to the provisions of this section.

(h) Microgrid District Development; Letters of Intent. — To become a certified microgrid district under this section, the person or entity must present the Secretary of the Department of Commerce with a confidential letter of intent. The letter of intent shall include sufficient economic, financial, and engineering information concerning the proposed project with sufficient detail to adequately inform the department of the size, scope, and nature of the target customers of the project, including, without limitation, the approximate proposed acreage and location, estimated capital investment, evidence of financial capacity, estimated project completion date, major project milestones, estimated generation capacity, estimated power loading internal to the microgrid, estimated power, including backup power, needed from the local distribution electric utility, estimated power supplied to the wholesale market, and the types or sources of each electric power generation unit. The letter of intent and all supplied information shall be held in confidence pursuant to §5B-2-21a(e) of

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this code by the department.

(i) Microgrid District Development; Notice Period and Negotiation. — At least 120 days before submitting a letter of intent and other materials to the department, an applicant seeking a microgrid district certification must make good faith efforts to negotiate for the supply of all or part of its electricity needs for the project from the local distribution electric utility. The letter of intent must also include documentation evidencing the good faith efforts to negotiate. This time-period limitation and negotiation requirement does not apply to microgrid districts proposing to produce 300 megawatts or more of electricity or for microgrid districts that are proposing to not be connected in any way to the local distribution electric utility after completion of all construction.

(j) Microgrid District Development; Special Contracts and Power Rates. — (1) A certified microgrid district seeking a special contract from a local distribution electric utility located in the state shall first enter negotiations for not more than 120 days with the local distribution utility regarding the terms and conditions of a special contract. The microgrid district shall provide reasonable access and terms to the local distribution utility to enable the electric utility's transmission and/or distribution facilities to tie into those of the microgrid district. The 120-day negotiation period required by this section may be satisfied by the precertification negotiation period required by §5B-2-21(i) of this code.

(2) If the negotiations result in a mutually agreeable special contract, the contracting parties shall jointly file the special contract pursuant to the rules of the commission.

(3) If negotiations for a special contract with the local distribution utility are unsuccessful, a certified microgrid district may file a petition with the commission to establish a special contract.

(4) The commission shall establish a special contract upon the filing of a petition pursuant to this section. The Public Service Commission shall consider all relevant factors in establishing special contracts. The Public Service Commission shall establish a special rate for the requested service, including backup and supplemental service to a microgrid district. The microgrid district's load not covered by a contract shall be considered non-firm and interruptible. The commission shall issue a final order determining the terms of a special contract within 90 days of filing of a petition.

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§5B-2-21a. Data Centers.

(a) Findings and purpose. — The Legislature hereby finds and declares the following:

(1) Data centers represent a significant and growing sector of the economy, generating substantial economic activity, including jobs, infrastructure investments, and technological innovation.

(2) Data centers are critical national infrastructure that require abundant, low-cost energy to protect sensitive data, operate high-level computation assets, and ensure the resilience of the digital economy.

(3) The People’s Republic of China is positioning itself to be the global leader of data centers and is investing in technology to encourage the flow of data toward China instead of toward the United States.

(4) It is in the United States’ national security interests to limit the flow of data to China and to protect the flow of data and maximize computational power inside the United States. The President has declared that it is the policy of the United States "to sustain and enhance America’s global AI dominance in order to promote human flourishing, economic competitiveness and national security." Removing Barriers to American Leadership in Artificial Intelligence, Executive Order 14179 (Jan 23, 2025).

(5) As of early 2025, the highest concentration of high-level computational power and data centers in the world is located in Loudoun County, Virginia. This severe concentration of data centers in one location is a national security vulnerability because it invites the potential for cyberattacks and espionage against the Nation’s critical data infrastructure.

(6) Data centers have historically obtained their electricity from the electric grid. Some data center developers now seek or require the use of microgrids to provide their primary and backup power.

(7) West Virginia is strategically positioned as the best location in the United States to place data centers due to: (A) its close proximity to Washington, D.C., and the federal government; (B) its close proximity to the majority of the Nation’s population; (C) its low tax rates; (D) it having the least restrictive regulatory environment in the Nation; (E) its supply of abundant energy and natural resources to power the data centers; (F) its supply of resources, such as coal mine methane blended with natural gas, to assist data centers locating in West Virginia to meet their energy needs and environmental goals; and (G) its skilled and loyal workforce that has some of the lowest turnover rates in the Nation.

As such, the state has a significant interest in encouraging the development and expansion of data centers, which can serve as drivers of broader economic growth. The Legislature finds that these externalities transcend local borders, including environmental concerns, energy consumption, and regional economic growth. Additionally, the provisions in this

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section align with the Legislature's goal of fostering a competitive, forward-thinking economy that benefits all residents.

(b) Program established. — The High Impact Data Center Program is hereby created and is to be administered as a program within the Division of Economic Development to encourage the continued development, construction, operation, maintenance, and expansion in West Virginia of high impact data centers. In order to effectuate the purposes of this section, the Division of Economic Development, or any agency, division, or subdivision thereof, may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq*. of this code.

(c) Notification. — Any data center shall compare its current or planned operations against the definition of "high impact data center" established in §11-6N-2 of this code and provide notification to the Division of Economic Development when the data center becomes aware that it will satisfy or has satisfied that definition. The notification will include information addressing the elements of that definition, including known or expected power consumption of the data center. This notification shall be made (1) within 30 days after the data center determines that it meets these requirements, or (2) when the data center reasonably anticipates that it will, at some future date, meet these requirements, in which case the data center may provide that anticipated future date in its notification.

(d) Certification. — The Secretary of the Department of Commerce shall identify and certify high impact data centers in this state upon a finding that a data center satisfies the requirements for the definition of "high impact data center" set forth in §11-6N-2 of this code. The Secretary shall issue confirmation of certification to a high impact data center within 14 days following receipt of the notification from the data center required by this section.

(e) Recordkeeping. — Any information provided by a data center pursuant to this section that is identified by the data center as confidential business information shall be exempt from the Freedom of Information Act. The Secretary shall take reasonable and appropriate steps to protect this information. Notwithstanding the foregoing, the Secretary shall maintain a complete list of all certified high impact data centers and all relevant information that can be made available to the Governor and Legislature, removing specifically identifying information to ensure confidentiality of any such information as identified by any high impact data center.

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§5B-2-21b. Authority to assist certified microgrid district projects and certified high impact data center projects; legislative findings.

(a) Findings and purpose. — The Legislature hereby finds and declares the following:

(1) The findings and purpose set forth in §5B-2-21a(a) (2025), except to the extent expressly modified herein, are hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

(2) It is in the best interests of the state to induce and assist in development of these projects, in order to advance the public purposes of relieving unemployment by preserving and creating jobs, and preserving and creating new and greater sources of revenue for the support of public services provided by the state and local government.

(3) It is the intent of the Legislature to occupy the whole field of the creation and regulation of certified microgrid districts and certified high impact data centers. The stated purpose of this section is to promote uniform and consistent application of the act within the state.

(b) The Department of Commerce shall assist projects developing or operating a certified microgrid district pursuant to §5B-2-21 of this code or a certified high impact data center pursuant to §5B-2-21a of this code. The Secretary of Commerce shall designate one of their personnel as "Data Economy Liaison" to serve as a single point-of-contact for certified microgrid districts and high impact data centers to assist coordinate and expedite their development and operation, including, but not limited to site selection and permitting. A "certified microgrid district" is a microgrid project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21 of this code. A "certified high impact data center" is a data center project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21a of this code.

(c) This section prohibits:

(1) Counties and municipalities, whether by ordinance, resolution, administrative act, or otherwise, from enacting, adopting, implementing, or enforcing ordinances, regulations, or rules which limit, in any way, the creation of, and acquisition, construction, equipping, development, expansion, and operation of any certified microgrid district or certified high impact data center project; and

(2) Counties and municipalities from imposing or enforcing local laws and ordinances concerning the creation or regulation of any certified microgrid district or certified high impact data center therein.

(d) In accordance with §5B-2-21(b) and §5B-2-21(c) of this code, and notwithstanding any provision of this code to the contrary, or any municipality’s home rule powers with respect to ordinances and ordinance procedures, including any authority pursuant to the Municipal

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Home Rule Program under §8-1-5a of this code, certified microgrid districts and certified high impact data centers may not be subject to the following:

(1) County or municipal zoning, horticultural, noise, viewshed, lighting, development, or land use ordinances, restrictions, limitations, or approvals;

(2) County or municipal building permitting, inspection, or code enforcement;

(3) County or municipal license requirements;

(4) The legal jurisdiction of the county or municipality in which the certified microgrid district or certified high impact data center is entirely or partially located, except as specifically provided in this article;

(5) Any requirement under state law for the consent or approval of the municipality in which a certified microgrid district or certified high impact data center is entirely or partially located of any state or county action pursuant to this code, specifically including, but not limited to, §7-11B-1 *et seq*. of this code, for formal consent of the governing body of a municipality for county or state action regarding the establishment of tax increment financing development or redevelopment districts or the approval of tax increment financing development or redevelopment plans.

(e) Notwithstanding the creation of a certified microgrid district or a certified high impact data center, the owner, operator, or manager, as applicable, and all tenants, lessees or licensees thereof, of a certified microgrid district or a certified high impact data center shall:

(1) Pay business and occupation tax, if applicable, pursuant to §8-13-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(2) Collect and remit municipal sales and service tax and municipal use tax, if applicable, pursuant to §8-1-5a, §8-13C-4, and §8-13C-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(3) Pay ad valorem real and personal property tax pursuant to the same millage rates as any other business or commercial venture located within the county and municipality;

(4) Pay all municipal and county service fees enacted pursuant to §8-13-13, §7-15-17, and §7-17-12 of this code, including, but not limited to, fire, ambulance, police, sanitation, or city service fees: Provided, That in no event shall any owner, operator, or manager, as applicable, and all tenants, lessees or licensees thereof, of a certified microgrid district or a certified high impact data center be required to pay both county and municipal fees for fire protection.

(5) Pay all utility rates, fees, and charges for utilities used or consumed during construction and operation of premises within the certified microgrid district or certified high impact data

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center, including, but not limited to, water, sewer, stormwater, and garbage and recycling collection: Provided, That (A) The rates, fees, and charges for such services shall be based on the cost of providing such service and the utility shall enter into a contract under the rules of the Public Service Commission for each such service with the developer and file the special contract with the Public Service Commission; and (B) the developer shall only be required to pay any capacity improvement fee or impact fee to the extent that capital additions, betterments, and improvements must be designed, acquired, constructed, and equipped by the utility to provide such service to the project; Utility customers outside of the microgrid district shall not bear any construction or operational costs associated with any new utility property built solely to provide service within a microgrid district;

(6) Be entitled to police protection and fire protection, if available, in the same manner as any other business or commercial venture located within the county or municipality; and

(7) Design, acquire, construct, and equip the certified microgrid district or certified data center pursuant to the State Building Code in accordance with §8-12-13 of this code and the corresponding State Rule 87 CSR 4.

(f) The Department of Commerce, Department of Environmental Protection, and Department of Transportation may take actions necessary in support of the development of any certified microgrid district or certified data center, including, but not limited to, the development or improvement of such highways, roads, thoroughfares, and sidewalks within any county or municipality in which the certified microgrid district or certified data center is partially or entirely located.

(g) In order to effectuate the purposes of this section, the Department of Commerce, or any agency, division, or subdivision thereof, may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq*. of this code.

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