WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2005

ENROLLED

House Bill No. 2891
(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

Passed April 9, 2005
In Effect from Passage
ENROLLED

H. B. 2891

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AN ACT to repeal §5-1B-1, §5-1B-2, §5-1B-3, §5-1B-4, §5-1B-5, §5-1B-6, §5-1B-7 and §5-1B-8 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §5A-6-1, §5A-6-2, §5A-6-3, §5A-6-4, §5A-6-5, §5A-6-6, §5A-6-7 and §5A-6-8; to amend and reenact §5A-7-4 of said code; to amend and reenact §5A-8-15 of said code; to amend and reenact §5B-1-2 of said code; to amend and reenact §5B-3-4 and §5B-3-5 of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §10-5-2; to amend said code by adding thereto a new section, designated §10-5-5a; to amend and reenact §11-10A-6 and §11-10A-7 of said code; to amend and reenact §17-16A-3 and §17-16A-10 of said code; and to amend and reenact §49-9-15 of said code, all relating to the reorganization of the executive branch of state government; transferring the Office of Technology from the Office of the Governor to the Department of Administration; providing that the Director of Information Services and Communications Division shall report to the Chief Technology Officer; providing that the Director of Information Services and Communications Division shall develop
and maintain an information systems disaster recovery system; modifying membership of the Records Management and Preservation Board to include a county sheriff and a county assessor; limiting the time period for department secretaries to transfer funds within their respective departments; requiring secretaries of departments to cooperate with the Office of the Pharmaceutical Advocate in purchasing prescription drugs; transferring the Bureau of Employment Programs to the Department of Commerce; providing that the Governor will chair the Educational Broadcasting Authority for a limited term; providing that the Governor will appoint to Executive Director of the Educational Broadcasting Authority to serve for a limited term; modifying the term of the chief administrative law judge of the Office of Tax Appeals; providing that the Governor has the authority to appoint two administrative law judges to the Office of Tax Appeals; providing for Governor to chair the West Virginia Parkways, Economic Development and Tourism Authority; authorizing the Governor to appoint an Executive Director of the Virginia Parkways, Economic Development and Tourism Authority and set salary annually; modifying membership of the Missing Children Information Clearinghouse; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §5-1B-1, §5-1B-2, §5-1B-3, §5-1B-4, §5-1B-5, §5-1B-6, §5-1B-7 and §5-1B-8 of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding thereto a new article, designated §5A-6-1, §5A-6-2, §5A-6-3, §5A-6-4, §5A-6-5, §5A-6-6, §5A-6-7 and §5A-6-8; that §5A-7-4 of said code be amended and reenacted; that §5A-8-15 of said code be amended and reenacted; that §5B-1-2 of said code be amended and reenacted; that §5B-3-4 and §5B-3-5 of said code be amended and reenacted; that §5F-2-1 and §5F-2-2 of said code be amended and reenacted; that §10-5-2 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §10-5-5a; that §11-10A-6 and §11-10A-7 of said code be amended and reenacted;
that §17-16A-3 and §17-16A-10 of said code be amended and reenacted; and that §49-9-15 of said code be amended and reenacted, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 6. OFFICE OF TECHNOLOGY

§5A-6-1. Findings and purposes.

The Legislature finds and declares that information technology is essential to finding practical solutions to the everyday problems of government, and that the management goals and purposes of government are furthered by the development of compatible, linked information systems across government. Therefore, it is the purpose of this article to create, as an integral part of the Department of Administration, the Office of Technology with the authority to advise and make recommendations to all state spending units on their information systems.

§5A-6-2. Definitions.

As used in this article:

(a) “Information systems” means computer-based information equipment and related services designed for the automated transmission, storage, manipulation and retrieval of data by electronic or mechanical means;

(b) “Information technology” means data processing and telecommunications hardware, software, services, supplies, personnel, maintenance and training, and includes the programs and routines used to employ and control the capabilities of data processing hardware;

(c) “Information equipment” includes central processing units, front-end processing units, minicomputers, microprocessors and related peripheral equipment, including data storage devices, networking equipment, services, routers, document scanners, data entry equipment, terminal controllers, data
terminal equipment, computer-based word processing systems other than memory typewriters;

(d) “Related services” include feasibility studies, systems design, software development and time-sharing services whether provided by state employees or others;

(e) “Telecommunications” means any transmission, emission or reception of signs, signals, writings, images or sounds of intelligence of any nature by wire, radio or other electromagnetic or optical systems. The term includes all facilities and equipment performing those functions that are owned, leased or used by the executive agencies of state government;

(f) “Chief Technology Officer” means the person holding the position created in section three of this article and vested with authority to assist state spending units in planning and coordinating information systems that serve the effectiveness and efficiency of the individual state spending units, and further the overall management goals and purposes of government; and

(g) “Experimental program to stimulate competitive research” (EPSCoR) means the West Virginia component of the national EPSCoR program which is designed to improve the competitive research and development position of selected states through investments in academic research laboratories and laboratory equipment. The recognized West Virginia EPSCoR, which is part of the Office of Technology, is the responsible organization for the coordination and submission of proposals to all federal agencies participating in the EPSCoR program.

§5A-6-3. Office of Technology; Chief Technology Officer; appointment and qualifications.

The Office of Technology is created within the Department of Administration. A Chief Technology Officer shall be appointed by and shall serve at the will and pleasure of the Governor. The Chief Technology Officer shall have knowledge
in the field of information technology, experience in the design and management of information systems and an understanding of the special demands upon government with respect to budgetary constraints, the protection of privacy interests and federal and state standards of accountability.

§5A-6-4. Powers and duties; professional staff.

(a) With respect to all state spending units the Chief Technology Officer may:

1. Develop an organized approach to information resource management for this state;

2. Provide, with the assistance of the Information Services and Communications Division of the Department of Administration, technical assistance to the administrators of the various state spending units in the design and management of information systems;

3. Evaluate, in conjunction with the information services and communications division, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of information equipment and contracts for related services by the state spending units;

4. Develop a mechanism for identifying those instances where systems of paper forms should be replaced by direct use of information equipment and those instances where applicable state or federal standards of accountability demand retention of some paper processes;

5. Develop a mechanism for identifying those instances where information systems should be linked and information shared, while providing for appropriate limitations on access and the security of information;

6. Create new technologies to be used in government, convene conferences and develop incentive packages to encourage the utilization of technology;
(7) Engage in any other activities as directed by the Governor; and

(8) Charge a fee to the state spending units for evaluations performed and technical assistance provided under the provisions of this section. All fees collected by the Chief Technology Officer shall be deposited in a special account in the state treasury to be known as the “Chief Technology Officer Administration Fund”. Expenditures from the fund shall be made by the Chief Technology Officer for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code. Amounts collected which are found to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(b) With respect to executive agencies, the Chief Technology Officer may:

(1) Develop a unified and integrated structure for information systems for all executive agencies;

(2) Establish, based on need and opportunity, priorities and time lines for addressing the information technology requirements of the various executive agencies of state government;

(3) Exercise the authority inherent to the chief executive of the state as the Governor may, by executive order, delegate, to overrule and supersede decisions made by the administrators of the various executive agencies of government with respect to the design and management of information systems and the purchase, lease or acquisition of information equipment and contracts for related services;

(4) Draw upon staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies; and
(5) Recommend to the Governor transfers of equipment and human resources from any executive agency and the most effective and efficient uses of the fiscal resources of executive agencies, to consolidate or centralize information-processing operations.

(c) The Chief Technology Officer may employ the personnel necessary to carry out the work of the Office of Technology and may approve reimbursement of costs incurred by employees to obtain education and training.

§5A-6-5. Notice of request for proposals by state spending units required to make purchases through the State Purchasing Division.

Any state spending unit that is required to submit a request for proposal to the State Purchasing Division prior to purchasing goods or services shall notify the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information and telecommunication systems. The notice shall contain a brief description of the goods and services to be purchased. The state spending unit shall provide the notice to the Chief Technology Officer at the same time it submits its request for proposal to the State Purchasing Division.

§5A-6-6. Notice of request for proposals by state spending units exempted from submitting purchases to the State Purchasing Division.

(a) Any state spending unit that is not required to submit a request for proposal to the State Purchasing Division prior to purchasing goods or services shall notify the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information or telecommunication systems. The notice shall contain a detailed description of the goods and services to be purchased. The state spending unit shall provide the notice to the Chief Technology Officer a minimum of ten days prior to the time it requests bids on the provision of the goods or services.
(b) If the Chief Technology Officer evaluates the suitability of the information and telecommunication equipment and related services under the provisions of subdivision (3), subsection (a), section four of this article and determines that the goods or services to be purchased are not suitable, he or she shall, within ten days of receiving the notice from the state spending unit, notify the state spending unit, in writing, of any recommendations he or she has regarding the proposed purchase of the goods or services. If the state spending unit receives a written notice from the Chief Technology Officer within the time period required by this section, the state spending unit shall not put the goods or services out for bid less than fifteen days following receipt of the notice from the Chief Technology Officer.

§SA-6-7. Biannual report.

The Chief Technology Officer shall report biannually to the Legislative Joint Committee on Government and Finance on the activities of his or her office.

§SA-6-8. Exemptions.

The provisions of this article do not apply to the Legislature or the Judiciary.

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS DIVISION.

§SA-7-4. Powers and duties of division generally; professional staff; telephone service.

(a) The Division is responsible for providing technical services and assistance to the various state spending units with respect to developing and improving data processing and telecommunications functions. The Division may provide training and direct data processing services to the various state agencies. The Division shall, upon request of the Chief Technology Officer, provide technical assistance in evaluating the economic justification, system design and suitability of
equipment and systems used in state government. The Director shall report to the Chief Technology Officer.

(b) The Director is responsible for the development of personnel to carry out the technical work of the Division and may approve reimbursement of costs incurred by employees to obtain education and training.

(c) The Director may assess each state spending unit for the cost of any evaluation of the economic justification, system design and suitability of equipment and systems used by the state spending unit or any other technical assistance that is provided or performed by the Chief Technology Officer and the Division under the provisions of section four, article six of this chapter.

(d) The Director shall transfer any moneys received as a result of the assessments that he or she makes under subsection (c) of this section to the Office of Technology. The Director shall report quarterly to the Joint Committee on Government and Finance on all assessments made pursuant to subsection (c) of this section.

(e) The Director shall maintain an accounting system for all telephone service to the state.

(f) The provisions of this article do not apply to the Legislature or the Judiciary.

(g) In consultation with the Adjutant General, Chairman of the Public Service Commission, the Superintendent of the State Police and the Director of the Division of Homeland Security and Emergency Management, the Director is responsible for the development and maintenance of an information systems disaster recovery system for the State of West Virginia with sites in one or more locations isolated from reasonably perceived threats to the primary operation of state government. The Director shall develop specifications, funding mechanisms and participation requirements for all executive branch agencies to protect the State’s essential data, information systems and
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critical government services in times of emergency, inopera-
tiveness, or disaster. Each executive branch agency shall assist
the Director in planning for its specific needs and provide to the
Director any information or access to information systems or
equipment that may be required in carrying out this purpose. No
state-wide or executive branch agency procurement of disaster
recovery services may be initiated, let or extended without the
expressed consent of the Director.

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.

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

(a) The governing body and the chief elected official of a
county, hereinafter referred to as a county government entity,
whether organized and existing under a charter or under general
law, shall promote the principles of efficient records manage-
ment and preservation of local records. A county governing
entity may, as far as practical, follow the program established
for the uniform management and preservation of county records
as set out in a rules proposed for legislative approval in
accordance with the provisions of article three, chapter twenty-
nine-a of this code as proposed by the Records Management
and Preservation Board.

(b) In the event a county government entity decides to
destroy or otherwise dispose of a county record, the county
government entity may, prior to destruction or disposal thereof,
offer the record to the Director of the Section of Archives and
History of the Division of Culture and History for preservation of the record as a document of historical value. Unless authorized by the Supreme Court of Appeals, the records of courts of record and magistrate courts are not affected by the provisions of this section.

(c)(1) A preservation duplicate of a county government entity record may be stored in any format approved by the Board in which the image of the original record is preserved in a form, including CD-ROM and optical image storage media, in which the image is incapable of erasure or alteration and from which a reproduction of the stored record may be retrieved that truly and accurately depicts the image of the original county government record.

(2) Except for those formats, processes and systems used for the storage of records on the effective date of this section, no alternate format for the storage of county government entity records described in this section is authorized for the storage of county government entity records unless the particular format has been approved pursuant to a legislative rule promulgated by the Board in accordance with the provisions of chapter twenty-nine-a of this code. The Board may prohibit the use of any format, process or system used for the storage of records upon its determination that the same is not reasonably adequate to preserve the records from destruction, alteration or decay.

(3) Upon creation of a preservation duplicate that stores an original county government entity record in an approved format that is incapable of erasure or alteration and that may be retrieved in a format that truly and accurately depicts the image of the original record, the county government entity may destroy or otherwise dispose of the original in accordance with the provisions of section seven-c, article one, chapter fifty-seven of this code.

(d) A Records Management and Preservation Board for county government entities is continued to be composed of nine members.
(1) Three members shall serve ex officio. One member shall be the Commissioner of the Division of Culture and History or designee who shall be the chair of the Board. One member shall be the Administrator of the Supreme Court of Appeals or designee. One member shall be the Chief Technology Officer or designee.

(2) The Governor shall appoint eight members of the Board with the advice and consent of the Senate. Not more than five appointments to the Board may be from the same political party and not more than three members may be appointed from the same congressional district. Of the eight members appointed by the Governor:

(i) Five appointments shall be county elected officials, one of whom shall be a clerk of a county commission, one of whom shall be a circuit court clerk, one of whom shall be a county commissioner, one of whom shall be a county sheriff, and one of whom shall be a county assessor, to be selected from a list of fifteen names. The names of three clerks of county commissions and three circuit court clerks shall be submitted to the Governor by the West Virginia Association of Counties. The names of three county commissioners shall be submitted to the Governor jointly by the West Virginia Association of Counties and the West Virginia County Commissioners Association. The names of three county sheriffs shall be submitted to the Governor by the West Virginia Sheriff’s Association. And the names of three county assessors shall be submitted to the Governor by the Association of West Virginia Assessors;

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

(iii) One appointment shall be an attorney licensed in West Virginia and in good standing as a member of the West Virginia State Bar with experience in real estate and mineral title examination, to be selected from a list of three names submitted by the State Bar; and
(iv) One appointment shall be a representative of a local historical or genealogical society.

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

(f) The staff of the Board shall consist of the Director of the Archives and History Section of the Division of Culture and History and any additional staff as needed.

(g) The Board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to establish a system of records management and preservation for county governments: Provided, That, for the retention and disposition of records of courts of record and magistrate courts, the implementation of the rule is subject to action by the Supreme Court of Appeals of West Virginia. The proposed rules shall include provisions for establishing a program of grants to county governments for making records management and preservation uniform throughout the state. The Board is not authorized to propose or promulgate emergency rules under the provisions of this section.

(h) In addition to the fees charged by the clerk of the county commission under the provisions of section ten, article one, chapter fifty-nine of this code, the clerk shall charge and collect an additional one-dollar fee for every document containing less than ten pages filed for recording and an additional one-dollar fee for each additional ten pages of document filed for recording. At the end of each month, the clerk of the county commission shall deposit into the Public Records and Preservation Account as established in the State Treasury all fees collected: Provided, That the clerk may retain not more than ten percent
of the fees for costs associated with the collection of the fees. Clerks shall be responsible for accounting for the collection and deposit in the State Treasury of all fees collected by the clerk under the provisions of this section.

(i) There is hereby created in the State Treasury a special account entitled the “Public Records and Preservation Revenue Account”. The account shall consist of all fees collected under the provisions of this section, legislative appropriations, interest earned from fees, investments, gifts, grants or contributions received by the Board. Expenditures from the account shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code.

(j) Subject to the above provision, the Board may expend the funds in the account to implement the provisions of this article. In expending funds from the account, the Board shall allocate not more than fifty percent of the funds for grants to counties for records management, access and preservation purposes. The Board shall provide for applications, set guidelines and establish procedures for distributing grants to counties including a process for appealing an adverse decision on a grant application. Expenditures from the account shall be for the purposes set forth in this section, including the cost of additional staff of the Division of Archives and History.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-2. Agencies, boards, commissions, divisions and offices comprising the Department of Commerce.

The Department of Commerce consists of the following agencies, boards, commissions, divisions and offices, including all of the allied, advisory, affiliated or related entities, which are
incorporated in and administered as part of the Department of Commerce:

(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

(2) Office of Miners’ Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners’ Health, Safety and Training for purposes of administrative support and liaison with the Office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and

(C) Mine Inspectors’ Examining Board provided in article nine, chapter twenty-two-a of this code;

(3) The West Virginia Development Office, which includes the Division of Tourism and the Tourism Commission, provided in article two, chapter five-b of this code;

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;
(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

(7) The Bureau of Employment Programs provided in chapter twenty-one-a of this code.

ARTICLE 3. WEST VIRGINIA ECONOMIC DEVELOPMENT STRATEGY: A VISION SHARED.

§5B-3-4. Commission review of procedural rules, interpretive rules and existing legislative rules.

(a) The Joint Commission on Economic Development may review any procedural rule, interpretive rule or existing legislative rule and make recommendations concerning the rules to the Legislature.

(b) The Development Office and the Tourism Commission established pursuant to article two of this chapter, the Economic Development Authority established pursuant to article fifteen, chapter thirty-one of this code, the Bureau of Employment Programs established pursuant to article four, chapter twenty-one-a of this code, the Workers’ Compensation Commission established pursuant to article one, chapter twenty-three of this code, the Workforce Investment Commission established pursuant to article two-c of this chapter, West Virginia Jobs Investment Trust, regional planning and development councils, West Virginia Rural Development Council, Office of Technology and West Virginia Clearinghouse for Workforce Education shall each file a copy of its legislative rules with the commission as provided for in this section. Each agency that proposes legislative rules in accordance to the provisions of article three, three-a or three-b, chapter twenty-nine-a of this code relating to economic development or workforce development shall file the rules with the Joint Commission at the time the rules are filed with the Secretary of State prior to the public comment period or public hearing required in said chapter.

§5B-3-5. Joint Commission on Economic Development Studies.
(a) The Joint Commission on Economic Development shall study the following:

(1) The feasibility of establishing common regional configurations for local workforce investment areas, regional educational service agencies and for all other purposes the commission considers feasible. The study should review the existing levels of cooperation between state and local economic developers, complete an analysis of possible regional configurations and outline examples of other successful regional systems or networks found throughout the world. If the study determines that the common regional configurations are feasible, the Commission shall recommend legislation establishing common regional designations for all feasible purposes. In making the designation of regional areas, the study shall take into consideration, but not be limited to, the following:

(A) Geographic areas served by local educational agencies and intermediate educational agencies;

(B) Geographic areas served by post-secondary educational institutions and area vocational education schools;

(C) The extent to which the local areas are consistent with labor market areas;

(D) The distance that individuals will need to travel to receive services provided in the local areas; and

(E) The resources of the local areas that are available to effectively administer the activities or programs;

(2) The effectiveness and fiscal impact of incentives for attracting and growing businesses, especially technology-intensive companies; and

(3) A comprehensive review of West Virginia’s existing economic and community development resources and the recommendation of an organizational structure, including, but not limited to, the reorganization of the Department of Com-
merce and the Development Office that would allow the state to successfully compete in the new global economy.

(b) In order to effectuate in the most cost-effective and efficient manner the studies required in this article, it is necessary for the Joint Commission to assemble and compile a tremendous amount of information. The Development Office will assist the Joint Commission in the collection and analysis of this information. The Tourism Commission established pursuant to article two of this chapter, the Economic Development Authority established pursuant to article fifteen, chapter thirty-one of this code, the Bureau of Employment Programs established pursuant to article four, chapter twenty-one-a of this code, the Workers' Compensation Commission established pursuant to article one, chapter twenty-three of this code, the Workforce Investment Commission established pursuant to article two-c of this chapter, West Virginia Jobs Investment Trust, regional planning and development councils, West Virginia Rural Development Council, Office of Technology and West Virginia Clearinghouse for Workforce Education shall provide a copy of the their annual reports as submitted to the Governor in accordance with the requirements set forth in section twenty, article one, chapter five of this code to the West Virginia Development Office. The Development Office shall review, analyze and summarize the data contained in the reports, including its own annual report, and annually submit its findings to the Joint Commission on or before the thirty-first day of December.

(c) The Legislative Auditor shall provide to the Joint Commission a copy of any and all reports on agencies listed in subsection (b) of this section, which are required under article ten, chapter four of this code.

(d) The Joint Commission shall complete the studies set forth in this section and any other studies the Joint Commission determines to undertake prior to the first day of December of each year and may make recommendations, including recommended legislation for introduction during the regular session of the Legislature.
CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

1. Building Commission provided in article six, chapter five of this code;
2. Public Employees Insurance Agency and Public Employees Insurance Agency Advisory Board provided in article sixteen, chapter five of this code;
3. Governor’s Mansion Advisory Committee provided for in article five, chapter five-a of this code;
4. Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of this code;
5. Education and State Employees Grievance Board provided for in article twenty-nine, chapter eighteen of this code and article six-a, chapter twenty-nine of this code;
6. Board of Risk and Insurance Management provided for in article twelve, chapter twenty-nine of this code;
7. Boundary Commission provided in article twenty-three, chapter twenty-nine of this code;
8. Public Defender Services provided in article twenty-one, chapter twenty-nine of this code;
9. Division of Personnel provided in article six, chapter twenty-nine of this code;
(10) The West Virginia Ethics Commission provided in article two, chapter six-b of this code; and

(11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this code.

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

(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

(2) Office of Miners’ Health, Safety and Training provided in article one, chapter twenty-two of this code. The following boards are transferred to the Office of Miners’ Health, Safety and Training for purposes of administrative support and liaison with the Office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two of this code; and

(C) Mine Inspectors’ Examining Board provided in article nine, chapter twenty-two of this code;

(3) The West Virginia Development Office, which includes the Division of Tourism and the Tourism Commission provided in article two, chapter five-b of this code;
(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

(7) The Bureau of Employment Programs provided in chapter twenty-one-a of this code.

c The Economic Development Authority provided in article fifteen, chapter thirty-one of this code is continued as an independent agency within the executive branch.

d The Water Development Authority and Board provided in article one, chapter twenty-two-c of this code is continued as an independent agency within the executive branch.

e Workers’ Compensation Commission provided in article one, chapter twenty-three of this code is continued as an independent agency within the executive branch.

f The following agencies and boards, including all of the allied, advisory and affiliated entities, are transferred to the department of environmental protection for purposes of administrative support and liaison with the office of the governor:

1 Air Quality Board provided in article two, chapter twenty-two-b of this code;

2 Solid Waste Management Board provided in article three, chapter twenty-two-c of this code;

3 Environmental Quality Board, or its successor board, provided in article three, chapter twenty-two-b of this code;
(4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

(5) Oil and Gas Inspectors’ Examining Board provided in article seven, chapter twenty-two-c of this code;

(6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this code; and

(7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c of this code.

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

(1) Library Commission provided in article one, chapter ten of this code;

(2) Educational Broadcasting Authority provided in article five, chapter ten of this code;

(3) Division of Culture and History provided in article one, chapter twenty-nine of this code;

(4) Division of Rehabilitation Services provided in section two, article ten-a, chapter eighteen of this code.

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

(1) Human Rights Commission provided in article eleven, chapter five of this code;

(2) Division of Human Services provided in article two, chapter nine of this code;
(3) Bureau for Public Health provided in article one, chapter sixteen of this code;

(4) Office of Emergency Medical Services and Advisory Council provided in article four-c, chapter sixteen of this code;

(5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

(6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of this code;

(7) Women’s Commission provided in article twenty, chapter twenty-nine of this code; and

(8) The Child Support Enforcement Division provided in chapter forty-eight of this code.

(i) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Military Affairs and Public Safety:

(1) Adjutant General’s Department provided in article one-a, chapter fifteen of this code;

(2) Armory Board provided in article six, chapter fifteen of this code;

(3) Military Awards Board provided in article one-g, chapter fifteen of this code;

(4) West Virginia State Police provided in article two, chapter fifteen of this code;

(5) Division of Homeland Security and Emergency Management and Disaster Recovery Board provided in article five, chapter fifteen of this code and Emergency Response Commission provided in article five-a of said chapter;
(6) Sheriffs’ Bureau provided in article eight, chapter fifteen of this code;

(7) Division of Corrections provided in chapter twenty-five of this code;

(8) Fire Commission provided in article three, chapter twenty-nine of this code;

(9) Regional Jail and Correctional Facility Authority provided in article twenty, chapter thirty-one of this code;

(10) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code; and

(11) Division of Veterans’ Affairs and Veterans’ Council provided in article one, chapter nine-a of this code.

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

(1) Tax Division provided in article one, chapter eleven of this code;

(2) Racing Commission provided in article twenty-three, chapter nineteen of this code;

(3) Lottery Commission and position of Lottery Director provided in article twenty-two, chapter twenty-nine of this code;

(4) Agency of Insurance Commissioner provided in article two, chapter thirty-three of this code;

(5) Office of Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;
(6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-a of this code;

(7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;

(8) Division of Banking provided in article two, chapter thirty-one-a of this code;

(9) The State Budget Office provided in article two of this chapter;

(10) The Municipal Bond Commission provided in article three, chapter thirteen of this code;

(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.

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

(1) Division of Highways provided in article two-a, chapter seventeen of this code;

(2) Parkways, Economic Development and Tourism Authority provided in article sixteen-a, chapter seventeen of this code;

(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

(4) Driver’s Licensing Advisory Board provided in article two, chapter seventeen-b of this code;

(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;
(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and

(7) Port Authority provided in article sixteen-b, chapter seventeen of this code.

(1) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the position of administrator and the powers, authority and duties of each administrator and agency are not affected by the enactment of this chapter.

(m) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the existence, powers, authority and duties of boards and the membership, terms and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers shall not have their appellate or independent decision-making status affected by the enactment of this chapter.

(n) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in section two, article one of this chapter, the reference means a division of the appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

(o) When an agency, board or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary or a bureau. Nothing in this section extends the powers of department secretaries under section two of this article to any person other than a department secretary and nothing limits or abridges the statutory powers
and duties of statutory commissioners or officers pursuant to
this code.

§5F-2-2. Power and authority of secretary of each department.

(a) Notwithstanding any other provision of this code to the
contrary, the secretary of each department shall have plenary
power and authority within and for the department to:

(1) Employ and discharge within the office of the secretary
employees as may be necessary to carry out the functions of the
secretary, which employees shall serve at the will and pleasure
of the secretary;

(2) Cause the various agencies and boards to be operated
effectively, efficiently and economically, and develop goals,
objectives, policies and plans that are necessary or desirable for
the effective, efficient and economical operation of the depart-
ment;

(3) Eliminate or consolidate positions, other than positions
of administrators or positions of board members, and name a
person to fill more than one position;

(4) Delegate, assign, transfer or combine responsibilities or
duties to or among employees, other than administrators or
board members;

(5) Reorganize internal functions or operations;

(6) Formulate comprehensive budgets for consideration by
the Governor, and transfer within the department funds appro-
priated to the various agencies of the department which are not
expended due to cost savings resulting from the implementation
of the provisions of this chapter: Provided, That no more than
twenty-five percent of the funds appropriated to any one agency
or board may be transferred to other agencies or boards within
the department: Provided, however, That no funds may be
transferred from a special revenue account, dedicated account,
capital expenditure account or any other account or funds
specifically exempted by the Legislature from transfer, except
that the use of appropriations from the State Road Fund
transferred to the Office of the Secretary of the Department of
Transportation is not a use other than the purpose for which the
funds were dedicated and is permitted: Provided further, That
if the Legislature by subsequent enactment consolidates
agencies, boards or functions, the secretary may transfer the
funds formerly appropriated to the agency, board or function in
order to implement consolidation. The authority to transfer
funds under this section shall expire on the thirtieth day of June,
two thousand five;

(7) Enter into contracts or agreements requiring the
expenditure of public funds, and authorize the expenditure or
obligation of public funds as authorized by law: Provided, That
the powers granted to the secretary to enter into contracts or
agreements and to make expenditures or obligations of public
funds under this provision shall not exceed or be interpreted as
authority to exceed the powers granted by the Legislature to the
various commissioners, directors or board members of the
various departments, agencies or boards that comprise and are
incorporated into each secretary’s department under this
chapter;

(8) Acquire by lease or purchase property of whatever kind
or character and convey or dispose of any property of whatever
kind or character as authorized by law: Provided, That the
powers granted to the secretary to lease, purchase, convey or
dispose of such property shall not exceed or be interpreted as
authority to exceed the powers granted by the Legislature to the
various commissioners, directors or board members of the
various departments, agencies or boards that comprise and are
incorporated into each secretary’s department under this
chapter;

(9) Conduct internal audits;

(10) Supervise internal management;
(11) Promulgate rules, as defined in section two, article one, chapter twenty-nine-a of this code, to implement and make effective the powers, authority and duties granted and imposed by the provisions of this chapter in accordance with the provisions of chapter twenty-nine-a of this code;

(12) Grant or withhold written consent to the proposal of any rule, as defined in section two, article one, chapter twenty-nine-a of this code, by any administrator, agency or board within the department. Without written consent, no proposal for a rule shall have any force or effect;

(13) Delegate to administrators the duties of the secretary as the secretary may deem appropriate from time to time to facilitate execution of the powers, authority and duties delegated to the secretary; and

(14) Take any other action involving or relating to internal management not otherwise prohibited by law.

(b) The secretaries of the departments hereby created shall engage in a comprehensive review of the practices, policies and operations of the agencies and boards within their departments to determine the feasibility of cost reductions and increased efficiency which may be achieved therein, including, but not limited to, the following:

(1) The elimination, reduction and restriction of the state’s vehicle or other transportation fleet;

(2) The elimination, reduction and restriction of state government publications, including annual reports, informational materials and promotional materials;

(3) The termination or rectification of terms contained in lease agreements between the state and private sector for offices, equipment and services;

(4) The adoption of appropriate systems for accounting, including consideration of an accrual basis financial accounting and reporting system;
(5) The adoption of revised procurement practices to facilitate cost-effective purchasing procedures, including consideration of means by which domestic businesses may be assisted to compete for state government purchases; and

(6) The computerization of the functions of the state agencies and boards.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, none of the powers granted to the secretaries herein shall be exercised by the secretary if to do so would violate or be inconsistent with the provisions of any federal law or regulation, any federal-state program or federally delegated program or jeopardize the approval, existence or funding of any program.

(d) The layoff and recall rights of employees within the classified service of the state as provided in subsections five and six, section ten, article six, chapter twenty-nine of this code shall be limited to the organizational unit within the agency or board and within the occupational group established by the classification and compensation plan for the classified service of the agency or board in which the employee was employed prior to the agency or board’s transfer or incorporation into the department: Provided, That the employee shall possess the qualifications established for the job class. The duration of recall rights provided in this subsection shall be limited to two years or the length of tenure, whichever is less. Except as provided in this subsection, nothing contained in this section shall be construed to abridge the rights of employees within the classified service of the state as provided in sections ten and ten-a, article six, chapter twenty-nine of this code, or the right of classified employees of the Board of Regents to the procedures and protections set forth in article twenty-six-b, chapter eighteen of this code.

(e) Notwithstanding any other provision of this code to the contrary, the secretary of each department with authority over programs which are payors for prescription drugs, including but
not limited to, the Public Employees Insurance Agency, the
Children’s Health Insurance Program, the Division of Correc-
tions, the Division of Juvenile Services, the Regional Jail and
Correctional Facility Authority, the Workers’ Compensation
Fund, state colleges and universities, public hospitals, state or
local institutions including nursing homes and veteran’s homes,
the Division of Rehabilitation, public health departments, the
Bureau of Medical Services and other programs that are payors
for prescription drugs, shall cooperate with the Office of the
Pharmaceutical Advocate established pursuant to section four,
article sixteen-d, chapter five of this code for the purpose of
purchasing prescription drugs for any program over which they
have authority.

CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECRE­
ATION; ATHLETIC ESTABLISHMENTS; MONUMENTS
AND MEMORIALS; ROSTER OF SERVICEMEN;
EDUCATIONAL BROADCASTING AUTHORITY.

ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.

§10-5-2. West Virginia Educational Broadcasting Authority;
members; organization; officers; employees;
meetings; expenses.

(a) The West Virginia Educational Broadcasting Authority
is hereby continued as a public benefit corporation. The
Authority shall consist of eleven voting members, who shall be
residents of the state, including the Governor or designee, the
State Superintendent of Schools, one member of the West
Virginia Board of Education to be selected by it annually, and
one member of the West Virginia Higher Education Policy
Commission to be selected by it annually. The other seven
members shall be appointed by the Governor by and with the
advice and consent of the Senate for overlapping terms of seven
years, one term expiring each year. Not less than one appoint-
ive member shall come from each congressional district.
Employees of noncommercial broadcasting stations in West Virginia are not eligible for appointment to the Authority. Any vacancy among the appointive members shall be filled by the Governor by appointment for the unexpired term.

(b) As of the effective date of the reenactment of this section during the Regular Session of 2005, the Governor or designee serves as chair, for a term not to exceed four years unless extended by act of the Legislature. Thereafter, the Authority shall select the chair. The Authority shall annually select one of its public members as vice chair and shall appoint a secretary who need not be a member of the Authority and who shall keep records of its proceedings.

(c) As of the effective date of the reenactment of this section during the Regular Session of 2005, the Governor shall appoint an Executive Director, at a salary fixed by the Governor, to serve for a term not to exceed four years unless extended by act of the Legislature. Thereafter the Authority shall appoint the Executive Director and fix his or her salary. The Executive Director is responsible for managing and administering the daily functions of the Authority and for performing all other functions necessary to the effective operation of the Authority. The Authority is authorized to establish offices for the proper performance of its duties.

(d) The Authority shall hold at least one annual meeting. The time and place of the meetings shall be established upon its own resolution or at the call of the chairperson of the Authority. The members shall serve without compensation but may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.
§10-5-5a. Advisory Committee on Journalistic and Editorial Integrity.

(a) The Authority shall appoint an Advisory Committee on Journalistic and Editorial Integrity, which shall consist of five qualified members to serve staggered terms of three years. The Advisory Committee shall annually elect a chair, vice chair and secretary.

(b) The Advisory Committee shall advise the Authority on issues related to the journalistic independence and editorial integrity of public education and public broadcasting stations, which have the same constitutional protections as other journalistic enterprises in West Virginia.

CHAPTER 11. TAXATION.

ARTICLE 10A. WEST VIRGINIA OFFICE OF TAX APPEALS.

§11-10A-6. Chief Administrative Law Judge; appointment, term and vacancy; qualifications; compensation; conflicts of interest prohibited; removal.

(a) The Governor, with the advice and consent of the Senate, shall appoint the Chief Administrative Law Judge from a list of three qualified nominees submitted to the Governor by the Board of Governors of the West Virginia State Bar for a four-year term. An appointment to fill a vacancy in the position shall be for the unexpired term.

(b) Prior to appointment, the Chief Administrative Law Judge shall be a citizen of the United States and a resident of this state who is admitted to the practice of law in this state and who has five years of full-time or equivalent part-time experience as an attorney with federal or state tax law expertise or as a judge of a court of record.
(c) The salary of the Chief Administrative Law Judge shall be set by the Secretary of the Department of Revenue created in section two, article one, chapter five-f of this code. The salary shall be within the salary range for comparable chief administrative law judges as determined by the State Personnel Board created by section six, article six, chapter twenty-nine of this code.

(d) The Chief Administrative Law Judge during his or her term shall:

1. Devote his or her full time to the duties of the position;

2. Not otherwise engage in the active practice of law or be associated with any group or entity which is itself engaged in the active practice of law: Provided, That nothing in this paragraph may be construed to prohibit the Chief Administrative Law Judge from being a member of a national, state or local bar association or committee, or of any other similar group or organization, or to prohibit the Chief Administrative Law Judge from engaging in the practice of law by representing himself, herself or his or her immediate family in their personal affairs in matters not subject to this article.

3. Not engage directly or indirectly in any activity, occupation or business interfering or inconsistent with his or her duties as Chief Administrative Law Judge;

4. Not hold any other appointed public office or any elected public office or any other position of public trust; and

5. Not be a candidate for any elected public office, or serve on or under any committee of any political party.

(e) The Governor may remove the Chief Administrative Law Judge only for incompetence, neglect of duty, official misconduct or violation of subsection (d) of this section, and
removal shall be in the same manner as that specified for
removal of elected state officials in section six, article six,
chapter six of this code.

§11-10A-7. Powers and duties of Chief Administrative Law
Judge; all employees, except Chief Administrative
Law Judge, members of classified service; qualifi­
cations of administrative law judges.

1 (a) The Chief Administrative Law Judge is the chief
executive officer of the Office of Tax Appeals and he or she
may employ one person to serve as executive director, one staff
attorney and other clerical personnel as necessary for the proper
administration of this article. The Chief Administrative Law
Judge may delegate administrative duties to other employees,
but the Chief Administrative Law Judge shall be responsible for
all official delegated acts.

9 (1) Upon the request of the Chief Administrative Law
Judge, the Governor may appoint up to two administrative law
judges as necessary for the proper administration of this article.

12 (2) All employees of the Office of Tax Appeals, except the
Chief Administrative Law Judge, shall be in the classified
service and shall be governed by the provisions of the statutes,
rules and policies of the classified service in accordance with
the provisions of article six, chapter twenty-nine of this code.

17 (3) Prior to employment by the Office of Tax Appeals, all
administrative law judges shall be admitted to the practice of
law in this state and have at least two years of full-time or
equivalent part-time experience as an attorney with federal or
state tax law expertise.

22 (4) The Chief Administrative Law Judge and all administra-
tive law judges shall be members of the public employees
retirement system and do not qualify as participants in the
judicial retirement system during their tenure with the Office of
Tax Appeals.
(b) The Chief Administrative Law Judge shall:

(1) Direct and supervise the work of the legal staff;

(2) Make hearing assignments;

(3) Maintain the records of the Office of Tax Appeals;

(4) Review and approve decisions of administrative law judges as to legal accuracy, clarity and other requirements;

(5) Publish decisions in accordance with the provisions of section sixteen of this article;

(6) Submit to the Legislature, on or before the fifteenth day of February, an annual report summarizing the Office of Tax Appeals’ activities since the end of the last report period, including a statement of the number and type of matters handled by the Office of Tax Appeals during the preceding fiscal year and the number of matters pending at the end of the year; and

(7) Perform the other duties necessary and proper to carry out the purposes of this article.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.


(a) The West Virginia Parkways, Economic Development and Tourism Authority is continued as an agency of the state, and the exercise by the Parkways Authority of the powers conferred by this article in the construction, reconstruction, improvement, operation and maintenance of parkway, economic development and tourism projects shall be deemed an essential governmental function of the state.
(b) The West Virginia Parkways, Economic Development and Tourism Authority shall consist of seven members, including the Governor or designee, the Transportation Secretary and five public members appointed by the Governor, by and with the advice and consent of the Senate. The appointed members shall be residents of the state and shall have been qualified electors for a period of at least one year next preceding their appointment. Public members are appointed for eight-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. Any member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. Each appointed member of the Parkways Authority before entering upon his or her duties shall take an oath as provided by section five, article IV of the constitution of West Virginia.

(c) The Governor or designee shall serve as chair and the Authority shall annually elect one of the appointed members as vice chair, and shall also elect a secretary and treasurer who need not be members of the Parkways Authority.

(d) The Governor appoints an Executive Director of the Authority with the advice and consent of the Senate. The Executive Director serves at the Governor’s will and pleasure. The Executive Director is responsible for managing and administering the daily functions of the Authority and for performing all other functions necessary to the effective operation of the Authority. The compensation of the Executive Director is annually fixed by the Governor.

(e) Four members of the Parkways Authority shall constitute a quorum and the vote of a majority of members present shall be necessary for any action taken by the Parkways Authority. No vacancy in the membership of the Parkways Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Parkways Authority. The Parkways Authority shall meet at least monthly and either the
chair or any four members shall be empowered to call special
meetings for any purpose: Provided, That notice of any meeting
shall be given to all members of the Parkways Authority not
less than ten days prior to said special meetings.

(f) Before the issuance of any parkway revenue bonds or
revenue refunding bonds under the provisions of this article,
each appointed member of the Parkways Authority shall
execute a surety bond in the penal sum of twenty-five thousand
dollars and the secretary and treasurer shall execute a surety
bond in the penal sum of fifty thousand dollars, each surety
bond to be conditioned upon the faithful performance of the
duties of his or her office, to be executed by a surety company
authorized to transact business in West Virginia as surety and
to be approved by the Governor and filed in the Office of the
Secretary of State.

(g) The members of the Parkways Authority shall not be
entitled to compensation for their services, but shall be reim-
bursed for all reasonable and necessary expenses actually
incurred in the performance of their duties in a manner consis-
tent with guidelines of the Travel Management Office of the
Department of Administration.

(h) All expenses incurred in carrying out the provisions of
this article shall be payable solely from funds provided under
the authority of this article and no liability or obligation shall be
incurred by the Parkways Authority beyond the extent to which
moneys shall have been provided under the authority of this
article.

(i) Pursuant to the provisions of article ten, chapter four of
this code, the West Virginia Parkways, Economic Development
and Tourism Authority shall continue to exist until the first day
of July, two thousand seven.


(a) The Parkways Authority is authorized to provide by
resolution for the issuance of parkway revenue bonds of the
state for the purpose of paying all or any part of the cost of one
or more projects: Provided, That this section shall not be
construed as authorizing the issuance of parkway revenue bonds
for the purpose of paying the cost of the West Virginia Turn-
pike, which parkway revenue bonds may be issued only as
authorized under section eleven of this article. The principal of
and the interest on bonds shall be payable solely from the funds
provided for payment.

(b) The bonds of each issue shall be dated, shall bear
interest at a rate as may be determined by the Parkways
Authority in its sole discretion, shall mature at a time not
exceeding forty years from their date or of issue as may be
determined by the Parkways Authority, and may be made
redeemable before maturity, at the option of the Parkways
Authority at a price and under the terms and conditions as may
be fixed by the Parkways Authority prior to the issuance of the
bonds.

(c) The Parkways Authority shall determine the form of the
bonds, including any interest coupons to be attached thereto,
and shall fix the denomination of the bonds and the place of
payment of principal and interest, which may be at any bank or
trust company within or without the state.

(d) The bonds shall be executed by manual or facsimile
signature by the chair of the Parkways Authority, and the
official seal of the Parkways Authority shall be affixed to or
printed on each bond, and attested, manually or by facsimile
signature, by the secretary and treasurer of the Parkways
Authority. Any coupons attached to any bond shall bear the
manual or facsimile signature of the chair of the Parkways
Authority.

(e) In case any officer whose signature or a facsimile of
whose signature appears on any bonds or coupons shall cease
to be an officer before the delivery of the bonds, the signature
or facsimile shall nevertheless be valid and sufficient for all
purposes the same as if he had remained in office until delivery.
In case the seal of the Parkways Authority has been changed after a facsimile has been imprinted on the bonds, then the facsimile seal will continue to be sufficient for all purposes.

(f) All bonds issued under the provisions of this article shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the Parkways Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the recorders into coupon bonds of any bonds registered as to both principal and interest.

(g) The Parkways Authority may sell the bonds at a public or private sale at a price it determines to be in the best interests of the state.

(h) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the parkway project or projects for which the bonds were issued, and shall be disbursed in a manner consistent with the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds.

(i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than the cost, then additional bonds may in like manner be issued to provide the amount of the deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued.

(j) If the proceeds of the bonds of any issue exceed the cost of the project or projects for which the bonds were issued, then the surplus shall be deposited to the credit of the sinking fund for the bonds.
(k) Prior to the preparation of definitive bonds, the Parkways Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Parkways Authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost.

(1) Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau or agency of the state in accordance with this article.

CHAPTER 49. CHILD WELFARE.

ARTICLE 9. MISSING CHILDREN INFORMATION ACT.

§49-9-15. Clearinghouse Advisory Council; members, appointments and expenses; appointment, duties and compensation of director.

(a) The Clearinghouse Advisory Council is continued as a body corporate and politic, constituting a public corporation and government instrumentality. The Council shall consist of eleven members, who are knowledgeable about and interested in issues relating to missing or exploited children, as follows:

(1) Six members to be appointed by the Governor, with the advice and consent of the Senate, with not more than four belonging to the same political party, three being from different congressional districts of the state and, as nearly as possible, providing broad state geographical distribution of members of the Council, and at least one representing a nonprofit organization involved with preventing the abduction, runaway or exploitation of children or locating missing children;

(2) The Secretary of the Department of Health and Human Resources or his or her designee;

(3) The Superintendent of the West Virginia State Police or his or her designee;
(4) The State Superintendent of Schools or his or her designee;

(5) The Director of the Criminal Justice and Highway Safety Division or his or her designee; and  
(6) The Executive Director of the Governor’s Cabinet on Children and Families.

(b) The Governor shall appoint the six Council members for staggered terms. The terms of the members first taking office on or after the effective date of this legislation shall expire as designated by the Governor. Each subsequent appointment shall be for a full three-year term. Any appointed member whose term is expired shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. A member is eligible for only one successive reappointment. A vacancy shall be filled by the Governor in the same manner as the original appointment was made.

(c) Members of the Council are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(d) A majority of serving members constitutes a quorum for the purpose of conducting business. The chair of the Council shall be designated by the Governor from among the appointed Council members who represent nonprofit organizations involved with preventing the abduction, runaway or exploitation of children or locating missing children. The term of the chair shall run concurrently with his or her term of office as a member of the Council. The Council shall conduct all meetings in accordance with the open governmental meetings law pursuant to article nine-a, chapter six of this code.

(e) The employee of the West Virginia State Police who is primarily responsible for the clearinghouse established by section three of this article shall serve as the Executive Director
of the Council. He or she shall receive no additional compensa-
tion for service as the Executive Director of the Council but
shall be reimbursed for any reasonable and necessary expenses
actually incurred in the performance of his or her duties as
Executive Director in a manner consistent with the guidelines
of the Travel Management Office of the Department of Admin-
istration.

(f) The expenses of Council members and the Executive
Director shall be reimbursed from funds provided by foundation
grants, in-kind contributions or funds obtained pursuant to
subsection (b), section seventeen of this article.

(g) The Executive Director shall provide or obtain informa-
tion necessary to support the administrative work of the Council
and, to that end, may contract with one or more nonprofit
organizations or state agencies for research and administrative
support.

(h) The Executive Director of the Council shall be available
to the Governor and to the Speaker of the House of Delegates
and the President of the Senate to analyze and comment upon
proposed legislation and rules which relate to or materially
affect missing or exploited children.

(i) The Council shall prepare and publish an annual report
of its activities and accomplishments and submit it to the
Governor and to the Joint Committee on Government and
Finance on or before the fifteenth day of December of each
year.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 8th day of May, 2005.

Governor
PRESENTED TO THE
GOVERNOR

MAY 2 2005

Time 4:05 PM