

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

House Bill 2019

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 MAR - 8 P 12: 40

FILED

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed February 26, 2021; in effect ninety days from passage.]

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1 AN ACT to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §5B-2-1, §5B-2-2, §5B-2-3, §5B-2-3b, §5B-2-4, §5B-2-4a, §5B-2-5,
3 §5B-2-6, §5B-2-6a, §5B-2-9a, §5B-2-10, §5B-2-14, §5B-2-15, §5B-2-16, and §5B-2-17 of
4 said code; to amend and reenact §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-
5 2I-7, and §5B-2I-8 of said code; to amend and reenact §5F-1-2 of said code; and to amend
6 and reenact §5F-2-1 of said code, all relating to reorganizing and redesignating certain
7 agencies of the Department of Commerce; clarifying the divisions that report to the cabinet
8 secretary of the Department of Commerce; removing the West Virginia Development
9 Office from the Department of Commerce and redesignating the West Virginia
10 Development Office as the Department of Economic Development; removing reference to
11 the Division of Energy under the Department of Commerce; removing the West Virginia
12 Tourism Office from the Department of Commerce and redesignating the West Virginia
13 Tourism Office as the Department of Tourism; removing the Tourism Commission from
14 the Department of Commerce and redesignating the Tourism Commission as the Tourism
15 Advisory Council; redesignating the executive director of the Development Office as the
16 secretary of the Department of Economic Development and providing for his or her
17 appointment and term of office; providing that the Department of Economic Development
18 will utilize existing resources of the Department of Commerce to the fullest extent
19 practicable and efficient; providing that the Secretary of the Department of Economic
20 Development may exempt employees from coverage under the state's classified service;
21 providing that the Department of Economic Development is exempt from of §5A-3-1 *et*
22 *seq.* of this code; redesignating the Development Office Promotion Fund as the Economic
23 Development Promotion and Closing Fund and allowing further uses of such fund;
24 redesignating the executive director of the Tourism Office as the secretary of the
25 Department of Tourism and providing for his or her appointment and term of office;
26 providing that the Department of Tourism will utilize existing resources of the Department

27 of Commerce to the fullest extent practicable and efficient; providing that the Department
28 of Tourism is exempt from §5A-3-1 *et seq.*; adding the Secretary of the Department of
29 Economic Development to the membership of the Tourism Advisory Council; updating
30 references to the secretary and Department of Economic Development; and updating
31 references to the secretary and Department of Tourism.

Be it enacted by the Legislature of West Virginia:

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.

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

4 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

5 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
6 this code; and

7 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
8 of this code;

9 (2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code.

10 The following boards are transferred to the Office of Miners' Health, Safety and Training for
11 purposes of administrative support and liaison with the Office of the Governor:

12 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
13 Committee provided in §22A-6-1 *et seq.* of this code;

14 (B) Board of Miner Training, Education and Certification provided in §22A-7-1 *et seq.* of
15 this code; and

- 16 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code;
- 17 (3) Division of Natural Resources and Natural Resources Commission provided in §20-
- 18 1-1 *et seq.* of this code;
- 19 (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;
- 20 (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; and
- 21 (6) Workforce West Virginia provided in Chapter 21 of this code, which includes:
- 22 (A) Division of Unemployment Compensation;
- 23 (B) Division of Employment Service;
- 24 (C) Division of Workforce Development; and
- 25 (D) Division of Research, Information and Analysis.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

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

1 (a) The West Virginia Development Office, previously continued from the Governor's office

2 of community and industrial development, is hereby continued but is hereafter raised to a separate

3 and distinct department of the executive branch of state government and is designated and shall

4 be known as the West Virginia Department of Economic Development. All references in this code

5 to the West Virginia Development Office, the office of community and industrial development, or

6 the Governor's office of community and industrial development shall be construed as references

7 to the West Virginia Department of Economic Development. As used in this article, "Department"

8 means the Department of Economic Development.

9 (b) Any documentary material, data or other writing made or received by the Department

10 of Economic Development or other public body whose primary responsibility is economic

11 development, for the purpose of furnishing assistance to a new or existing business shall be

12 exempt from §29B-1-1 *et seq.* of this code: *Provided*, That any agreement entered into or signed

13 by the Department of Economic Development or other public body which obligates public funds

14 shall be subject to inspection and copying pursuant to §29B-1-1 *et seq.* of this code as of the date
15 the agreement is entered into, signed or otherwise made public.

§5B-2-2. Office of Secretary of Department of Economic Development.

1 (a) The Secretary of the Department of Economic Development is the chief executive
2 officer of the department. The Governor shall appoint the secretary, by and with the advice and
3 consent of the Senate, for the term for which the Governor is elected, and the secretary shall
4 serve at the will and pleasure of the Governor. Any reference in this code to the Executive Director
5 of the West Virginia Development Office means the Secretary of the Department of Economic
6 Development. As used in this article, "secretary" means the Secretary of the Department of
7 Economic Development. Subject to the provisions of the contract provided in §5B-2-4 of this code,
8 the secretary may hire, and fire economic development representatives employed pursuant to
9 §5B-2-5 of this code.

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

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

1 (a) The secretary shall enhance economic growth and development through the
2 development of a comprehensive economic development strategy for West Virginia.
3 "Comprehensive economic development strategy" means a plan that outlines strategies and
4 activities designed to continue, diversify or expand the economic base of the state as a whole;
5 create jobs; develop a highly skilled workforce; facilitate business access to capital, including
6 venture capital; advertise and market the resources offered by the state with respect to the needs
7 of business and industry; facilitate cooperation among local, regional and private economic

8 development enterprises; improve infrastructure on a state, regional and community level;
9 improve the business climate generally; and leverage funding from sources other than the state,
10 including federal and private sources.

11 (b) The Department of Economic Development shall utilize, to the fullest extent practicable
12 and efficient, existing resources of the Department of Commerce for functions necessary for the
13 operation of the department but which functions are not directly related to the purposes of the
14 department listed in subsection (a) of this section. The Department of Economic Development
15 may enter into such agreements with the Department of Commerce or other agencies of this state
16 as may be necessary or advisable to utilize existing resources of this state.

17 (c) The Secretary of the Department of Economic Development may designate, in writing,
18 a list of positions within the department that shall be exempt from coverage under the state's
19 classified service.

20 (d) The Department of Economic Development shall be exempt from §5A-3-1 *et seq.* of
21 this code.

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

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

§5B-2-4. Public-private partnerships.

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

20 From time to time the secretary may enter into joint ventures wherein the department and
21 the nonprofit corporation share in the development and funding of economic development
22 programs.

23 All contracts and joint venture agreements must be approved by the secretary. Contracts
24 entered into pursuant to this section for longer than one fiscal year shall contain, in substance, a
25 provision that the contract shall be considered cancelled without further obligation on the part of

26 the state if the State Legislature or, where appropriate, the federal government, shall fail to
27 appropriate sufficient funds therefor or shall act to impair the contract or cause it to be cancelled.

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

1 The Department of Economic Development may enter into contractual agreements with
2 the regional councils formed under §8-25-5 of this code to provide funding to the regional councils
3 to be used to obtain federal matching grants and for other purposes determined to be appropriate
4 by the department. The maximum state allocation to each eligible regional council shall be
5 \$40,000: *Provided*, That the amount of the allocation shall be determined by dividing the number
6 of eligible regional councils into the total amount of funds made available for allocation by the
7 Legislature. The Department of Economic Development shall develop criteria to determine a
8 regional council's eligibility for the state allocation.

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

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

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

15 development representative, the employee relinquishes the protections provided for in §6C-2-1
16 *et seq.* and §29-6-1 *et seq.* of this code.

17 (c) On the last Monday in January, in years 2017, 2019 and 2021, the secretary shall
18 submit to the Legislature a written report. The secretary shall provide copies of his or her report
19 to the President of the Senate, the Speaker of the House of Delegates, the chair of the Senate
20 Committee on Economic Development and the chair of the House Committee on Small Business,
21 Entrepreneurship and Economic Development. The secretary's report shall do the following:

22 (1) Identify and describe loans, grants or other funding sources that economic
23 development representatives have assisted small businesses acquire during the immediately
24 preceding reporting cycle;

25 (2) Identify and describe generally inquiries, requests for assistance or other matters that
26 other state or federal agencies have presented to the department in the immediately preceding
27 reporting cycle in connection with those agencies' efforts to regulate or assist small businesses;

28 (3) Identify and describe issues with formation, registration and licensure requirements
29 that state law imposes on small businesses that small businesses have identified to the
30 department in the immediately preceding reporting cycle as burdensome;

31 (4) Identify specific forms, processes or requirements imposed by state law that small
32 businesses have identified to the department in the immediately preceding reporting cycle that
33 may be streamlined, simplified, combined, or eliminated in order to reduce unnecessary costs,
34 delays, or other burdens on small businesses;

35 (5) Propose and describe concrete and specific steps that any branch, agency or level of
36 state government may take to streamline, simplify, combine, or eliminate the forms, processes or
37 requirements identified in subdivision (4) of this subsection; and

38 (6) Provide the following information:

39 (A) The number of small businesses counseled by the department during the immediately
40 preceding reporting cycle;

41 (B) The number of new businesses created while being counseled by the department
42 during the immediately preceding reporting cycle;

43 (C) The number of jobs created by businesses counseled by the department during the
44 immediately preceding reporting cycle; and

45 (D) Any other information that, in the opinion of the executive director, demonstrates the
46 performance of the department or economic development representatives during the immediately
47 preceding reporting cycle.

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

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

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

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

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

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

9 (3) Brownfield economic development districts:

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

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

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

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

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

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

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

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

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

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

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

33 (b) The department shall propose rules for legislative approval in accordance with §29-3-
34 1 *et seq.* of this code to implement this section and the rules shall include, but not be limited to,
35 the application and time line process, notice provisions, additional application consideration
36 criteria and application fees sufficient to cover the costs of the consideration of an application.

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

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

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

21 (c) The secretary may enter into contracts and memoranda of understanding with the
22 National Railroad Passenger Corporation, with the other states served by the Cardinal Passenger
23 Train, and with the political subdivisions and municipalities of this state, to achieve the public

24 policy set forth in subsection (a) of this section. The secretary is further authorized to cooperate
25 with the aforesaid other states and National Railroad Passenger Corporation in the formation of
26 an interstate committee for the purpose of achieving the public policy set forth in subsection (a)
27 of this section, to participate in said committee and appoint other designees thereto.

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

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

§5B-2-10. Program and policy action statement; submission to joint committee on government and finance.

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

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

1 The certified development community program is continued and is transferred to,
2 incorporated in and administered as a program of the Department of Economic Development. The
3 program shall provide funding assistance to the participating economic development corporations
4 or authorities through a matching grant program. The department shall establish criteria for
5 awarding matching grants to the corporations or authorities within the limits of funds appropriated
6 by the Legislature for the program. The matching grants to eligible corporations or authorities are
7 in the amount of \$30,000 for each fiscal year, if sufficient funds are appropriated by the
8 Legislature. The department shall recognize existing county, regional or multicounty corporations
9 or authorities where appropriate.

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

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

1 (a) *Definitions.* —

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

5 (2) *Terms Defined.* —

6 “Contributing partners” means those entities or their representatives described in
7 subsection (f) of this section.

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

13 “Program” means the Upper Kanawha Valley Resiliency and Revitalization Program
14 established in this section.

15 “Revitalization council” means those entities or their representatives described in
16 subsection (d) of this section.

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

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

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

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

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

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

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

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

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

47 (2) The program shall remain active until it concludes its work on June 30, 2024, and
48 delivers a final report to the Joint Committee on Government and Finance no later than October
49 1, 2024.

50 (d) *Revitalization council created.* — There is hereby created a revitalization council to
51 fulfill the purposes of this section. The revitalization council shall be coordinated by the

52 Development Office in the Department of Commerce and be subject to oversight by the secretary
53 of the department. The following entities shall serve as members of the revitalization council:

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

56 (2) The Secretary of the Department of Health and Human Resources or their designee;

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

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

60 (5) A representative from the Kanawha County Commission;

61 (6) A representative from the Fayette County Commission;

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

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

65 (9) A representative from West Virginia University.

66 (e) *Duties of the revitalization council.* —

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

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

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

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

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

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

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

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

- 86 (1) The West Virginia Small Business Development Center;
- 87 (2) The Center for Rural Health Development;
- 88 (3) The West Virginia University Brickstreet Center for Entrepreneurship;
- 89 (4) The West Virginia University Land Use and Sustainability Law Clinic;
- 90 (5) The West Virginia University Center for Big Ideas;
- 91 (6) The New River Gorge Regional Development Authority;
- 92 (7) The Appalachian Transportation Institute;
- 93 (8) The Marshall University Center for Business and Economic Research;
- 94 (9) TechConnect;
- 95 (10) The West Virginia Community Development Hub;
- 96 (11) The West Virginia University Northern Brownfields Assistance Center;
- 97 (12) West Virginia State University Extension Service; and
- 98 (13) West Virginia University Extension Service, Community, Economic and Workforce
99 Development.

100 (g) *Reporting and agency accountability.* — The revitalization council, in coordination with
101 its contributing partners, as applicable, shall report annually to the Governor and the Legislature
102 detailing the progress of the technical assistance support provided by the program, the strategic
103 plan for the Upper Kanawha Valley, and the results of these efforts. The annual report to the

104 Legislature shall be made to the Joint Committee on Government and Finance regarding the
105 previous fiscal year no later than October 1 of each year. Copies of the annual report to the
106 Legislature shall be provided to the county commissions and the mayors of the Upper Kanawha
107 Valley.

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

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

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

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

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

5 (1) All appropriations provided by the Legislature;

6 (2) Any moneys available from external sources; and

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

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

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

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

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

1 (a) The West Virginia Motorsport Committee is hereby created.

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

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

6 (d) The committee shall:

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

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

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

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

15 (f) Members of the committee will receive no compensation but are entitled to
16 reimbursement for mileage expenses while attending meetings of the committee to the extent that
17 funds are available through the Department of Economic Development.

18 (g) The committee shall report on the status of its duties, goals, accomplishments, and
19 recommendations to the Legislature on at least an annual basis.

ARTICLE 2I. DEPARTMENT OF TOURISM.

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

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

§5B-2I-3. Office of Secretary of Department of Tourism.

1 (a) The Secretary of the Department of Tourism is the chief executive officer of the
2 department. The Governor shall appoint the secretary, by and with the advice and consent of the
3 Senate, for the term for which the Governor is elected, and the secretary shall serve at the will
4 and pleasure of the Governor. Any reference in this code to the "Executive Director" or
5 "Commissioner" of the West Virginia Tourism Office means the Secretary of the Department of
6 Tourism. As used in this article, "secretary" means the Secretary of the Department of Tourism.

§5B-2I-4. Powers and duties of the Department of Tourism.

1 (a) The Department of Tourism, under the direction and charge of the secretary, shall
2 develop and implement a comprehensive tourism advertising, promotion, and development
3 strategy for West Virginia. "Comprehensive tourism advertising, promotion and development
4 strategy" means a plan that outlines strategies and activities designed to continue, diversify and
5 expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled

6 tourism workforce; facilitate business access to capital for tourism; advertise and market the
7 resources offered by the state with respect to tourism advertising, promotion and development;
8 facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure
9 on a state, regional and community level in order to facilitate tourism development; improve the
10 tourism business climate generally; and leverage funding from sources other than the state,
11 including local, federal and private sources. In addition to all other power and duties of the
12 department by other provisions of this code, the department shall:

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

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

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

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

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

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

27 (b) In developing its strategies, plans and campaigns, the department shall consider the
28 following:

29 (1) Improvement and expansion of existing tourism marketing and promotion activities;

30 (2) Promotion of cooperation among municipalities, counties and the West Virginia
31 Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the
32 potential for tourism development.

33 (c) The Department of Tourism shall have the following powers and duties:

34 (1) To acquire for the state in the name of the department by purchase, lease, or
35 agreement, or to accept or reject for the state, in the name of the department, gifts, donations,
36 contributions, bequests or devises of money, security or property, both real and personal, and
37 any interest in such property, to effectuate or support the purposes of this article;

38 (2) To make recommendations to the Governor and the Legislature of any legislation
39 deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to
40 exercise any other power that may be necessary or proper for the orderly conduct of the business
41 of the department and the effective discharge of the duties of the department;

42 (3) To cooperate and assist in the production of motion pictures and television and other
43 communications;

44 (4) To purchase advertising time or space in or upon any medium generally engaged or
45 employed for said purpose to advertise and market the resources of the state or to inform the
46 public at large or any specifically targeted group or industry about the benefits of living in, investing
47 in, producing in, buying from, contracting with, or in any other way related to, the State of West
48 Virginia or any business, industry, agency, institution, or other entity therein;

49 (5) To promote and disseminate information related to the attractions of the state through
50 the operation of the state's telemarketing initiative, which telemarketing initiative shall include a
51 centralized reservation and information system for state parks and recreational facilities;

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

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

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

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

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

80 desired service. The committee shall then rank, in order of preference, the three firms selected
81 and shall commence scope of service and price negotiations with the first-ranked firm. If the
82 department is unable to negotiate a satisfactory contract with the first-ranked firm, at a fee
83 determined to be fair and reasonable, price negotiations with the firm of second choice shall
84 commence. Failing accord with the second-ranked firm, the committee shall undertake price
85 negotiations with the third-ranked firm. If the department is unable to negotiate a satisfactory
86 contract with any of the selected firms, the office shall select additional firms in order of their
87 competence and qualifications and it shall continue negotiations in accordance with this section
88 until an agreement is reached.

89 If the procurement of the services is estimated by the secretary to cost less than \$250,000,
90 the department shall conduct discussions with three or more firms solicited on the basis of known
91 or submitted qualifications for the assignment prior to the awarding of any contract: *Provided*,
92 That if a judgment is made that special circumstances exist and that seeking competition is not
93 practical, the department may select a firm on the basis of previous satisfactory performance and
94 knowledge of the department's needs. After selection, the department and selected firm shall
95 develop the scope of desired services and negotiate a contract.

96 (g) The secretary of the Department of Tourism may, in order to carry out the powers and
97 duties of the department described in this article, employ necessary personnel, contract with
98 professional or technical experts or consultants and purchase or contract for the necessary
99 equipment or supplies.

100 (h) The secretary of the Department of Tourism may designate, in writing, a list of positions
101 within the department that shall be exempt from coverage under the state's classified service.

102 (i) The Department of Tourism shall submit a report annually to the Governor and the
103 Legislature about the development of the tourism industry in the state and the necessary funding
104 required by the state to continue the development of the tourism industry.

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

108 (k) The Department of Tourism shall utilize, to the fullest extent practicable and efficient,
109 existing resources of the Department of Commerce for functions necessary for the operation of
110 the department but which functions are not directly related to the purposes of the department
111 listed above. The Department of Tourism may enter into such agreements with the Department
112 of Commerce or other agencies of this state as may be necessary or advisable to utilize existing
113 resources of this state.

114 (l) The Department of Tourism shall be exempt from §5A-3-1 *et seq.* of this code.

§5B-2I-5. Public-private partnerships.

1 (a) The Department of Tourism may enter into contractual or joint venture agreements
2 with one or more nonprofit corporations organized pursuant to the corporate laws of the state,
3 organized to permit qualification pursuant to Section 501(c) of the Internal Revenue Code and
4 organized for purposes of the promotion and development of tourism in West Virginia, and funded
5 from sources other than the state. Members of the Tourism Advisory Council provided in this
6 article are authorized to sit on the board of directors of such private nonprofit corporations.

7 (b) From time to time the department may enter into joint ventures wherein the Department
8 of Economic Development and one or more said nonprofit corporations share in the development
9 and funding of tourism advertising, promotion and development programs and campaigns.

10 (c) All contracts and joint venture agreements entered into pursuant to this section for
11 longer than one fiscal year shall contain, in substance, a provision that the contract shall be
12 considered canceled without further obligation on the part of the state if the Legislature, or, where

13 appropriate, the federal government shall fail to appropriate sufficient funds therefor or shall act
14 to impair the contract or cause it to be canceled.

§5B-2I-6. Tourism Promotion Fund; use of funds.

1 (a) There is continued in the State Treasury the special revenue fund known as the
2 Tourism Promotion Fund created under prior enactment of §5B-1-9 of this code.

3 (b) Moneys deposited in the fund each year shall be used solely for marketing, direct
4 advertising, business development and public relations promoting travel and tourism within the
5 state or the state's image and brand identity at the discretion and direction of the secretary of the
6 Department of Tourism. "Direct advertising" means advertising which includes, but is not limited
7 to, television, radio, mailings, newspaper, magazines, digital marketing, including the Internet and
8 social media, and outdoor billboards or any combination thereof. Any balance remaining at the
9 end of any fiscal year does not revert to the General Revenue Fund, but shall remain in the fund
10 for expenditures in accordance with this section.

11 (c) Effective July 1, 2017, the Tourism Advertising Partnership Program and all related
12 legislative or procedural rules shall cease, except as necessary for the Tourism Advisory Council
13 to settle, finalize and conclude all outstanding advertising grants or other financial obligations of
14 the Tourism Advisory Council respecting funds in the Tourism Promotion Fund previously
15 approved, expended or obligated by the Tourism Advisory Council as of the effective date of this
16 article pursuant to §5B-2I-7(e) (2) of this code and be replaced by a cooperative advertising
17 program to be created and established by the Department of Tourism, under and pursuant to §5B-
18 2I-4 of this code, to offer, facilitate and allow participation in the department's advertising and
19 marketing campaigns and activities, to state agencies, departments, units of state or local
20 government, private tourism enterprises and other persons, entities or private enterprises,
21 including, without limitation, convention and visitors' bureaus. The secretary of the Department
22 of Tourism shall establish and publish a fee schedule, which shall include a match of state funds
23 to program participant's funds, for participation in the cooperative advertising program.

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

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

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

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

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

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

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

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

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

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

25 (e) The Tourism Advisory Council shall:

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

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

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

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

§5B-2I-8. Confidentiality.

1 Any documentary material, data or other writing made or received by the Department of
2 Tourism, the West Virginia Department of Economic Development, or the Tourism Advisory
3 Council, for the purpose of furnishing assistance to a new or existing business, or of developing
4 or implementing a comprehensive tourism advertising, promotion, and development strategy
5 pursuant to §5B-2I-4 of this code, are exempt from §29B-1-1 *et seq.* of this code: *Provided*, That
6 any agreement entered into or signed by the Department of Tourism or the Department of
7 Economic Development which obligates public funds is subject to inspection and copying
8 pursuant to §29B-1-1 *et seq.* of this code as of the date the agreement is entered into, signed or
9 otherwise made public.

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-2. Executive departments created; offices of secretary created.

1 (a) There are created, within the executive branch of the state government, the following
2 departments:

- 3 (1) Department of Administration;
- 4 (2) Department of Environmental Protection;
- 5 (3) Department of Health and Human Resources;
- 6 (4) Department of Homeland Security;
- 7 (5) Department of Revenue;
- 8 (6) Department of Transportation;
- 9 (7) Department of Commerce;
- 10 (8) Department of Veterans' Assistance;
- 11 (9) Department of Economic Development; and
- 12 (10) Department of Tourism.

13 (b) Each department will be headed by a secretary appointed by the Governor with the
14 advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

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

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

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

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

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

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

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

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

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

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

19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
21 this code; and

22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
23 of this code.

24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
28 Committee provided in §22A-6-1 *et seq.* of this code;

29 (B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of
30 this code; and

31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 (3) Division of Natural Resources and Natural Resources Commission provided in §20-1-
33 1 *et seq.* of this code;

34 (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

35 (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

36 (6) Workforce West Virginia provided in chapter 21A of this code, which includes:

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development; and

40 (D) Division of Research, Information and Analysis; and

41 (7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

42 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is
43 continued as an independent agency within the executive branch.

44 (d) The Water Development Authority and the Water Development Authority Board
45 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the
46 executive branch.

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
48 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
49 continued as separate independent agencies within the Department of Arts, Culture, and History,
50 which shall provide administrative support for both entities.

51 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
52 continued as a separate independent agency within the Executive Branch as the Department of
53 Arts, Culture, and History. All references throughout this code to the "Division of Culture and
54 History" means the "Department of Arts, Culture, and History".

55 (g) The following agencies and boards, including all of the allied, advisory, and affiliated
56 entities, are transferred to the Department of Environmental Protection for purposes of
57 administrative support and liaison with the Office of the Governor:

- 58 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;
- 59 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;
- 60 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of
61 this code;
- 62 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;
- 63 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;
- 64 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and
- 65 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.
- 66 (h) The following agencies and boards, including all of the allied, advisory, affiliated, or
67 related entities and funds associated with any agency or board, are incorporated in and
68 administered as a part of the Department of Health and Human Resources:
- 69 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;
- 70 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;
- 71 (3) Office of Emergency Medical Services and the Emergency Medical Service Advisory
72 Council provided in §16-4C-1 *et seq.* of this code;
- 73 (4) Health Care Authority provided in §16-29B *et seq.* of this code;
- 74 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;
- 75 (6) Women's Commission provided in §29-20-1 *et seq.* of this code; and
- 76 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.
- 77 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or
78 related entities and funds associated with any agency or board, are incorporated in and
79 administered as a part of the Department of Homeland Security:
- 80 (1) West Virginia State Police;
- 81 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and
82 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided, That*
83 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule

84 promulgated thereunder, a reference is made to the Division of Homeland Security and
85 Emergency Management, it shall be construed to mean the Division of Emergency Management;

86 (3) Division of Administrative Services;

87 (4) Division of Corrections and Rehabilitation;

88 (5) Fire Commission;

89 (6) The State Fire Marshal;

90 (7) Board of Probation and Parole;

91 (8) The West Virginia Fusion Center;

92 (9) The Division of Protective Services; and

93 (10) Any other agency or entity hereinafter established within the Department of Homeland
94 Security by an act of the Legislature.

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

98 (1) Tax Division provided in chapter 11 of this code;

99 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

100 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

101 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

102 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
103 this code and §60-2-1 *et seq.* of this code;

104 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

105 (7) Lending and Credit Rate Board provided in chapter 47A of this code;

106 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

107 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

108 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

109 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

110 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

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

114 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

115 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

116 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

117 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

118 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

119 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

120 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

121 (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,
122 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is
123 incorporated in and administered as a part of the Department of Veterans' Assistance.

124 (m) Except for powers, authority, and duties that have been delegated to the secretaries
125 of the departments by of §5F-2-2 of this code, the position of administrator and the powers,
126 authority, and duties of each administrator and agency are not affected by the enactment of this
127 chapter.

128 (n) Except for powers, authority, and duties that have been delegated to the secretaries
129 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards
130 and the membership, terms, and qualifications of members of the boards are not affected by the
131 enactment of this chapter. All boards that are appellate bodies or are independent decision
132 makers may not have their appellate or independent decision-making status affected by the
133 enactment of this chapter.

134 (o) Any department previously transferred to and incorporated in a department by prior
135 enactment of this section means a division of the appropriate department. Wherever reference is

136 made to any department transferred to and incorporated in a department created in §5F-1-2 of
137 this code, the reference means a division of the appropriate department and any reference to a
138 division of a department so transferred and incorporated means a section of the appropriate
139 division of the department.

140 (p) When an agency, board, or commission is transferred under a bureau or agency other
141 than a department headed by a secretary pursuant to this section, that transfer is solely for
142 purposes of administrative support and liaison with the Office of the Governor, a department
143 secretary, or a bureau. Nothing in this section extends the powers of department secretaries
144 under §5F-2-2 of this code to any person other than a department secretary and nothing limits or
145 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
146 code.

147 (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this
148 code is continued as a separate independent agency within the Executive Branch.

149 (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued
150 as a separate independent agency within the Executive Branch.

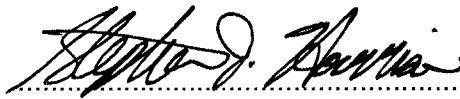
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

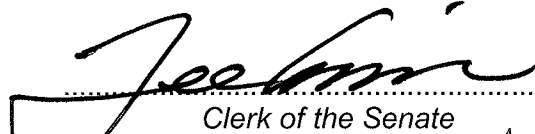

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Chairman, House Committee

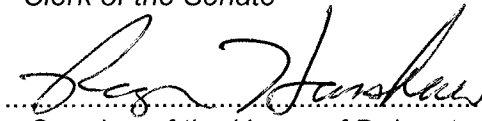

.....
Chairman, Senate Committee

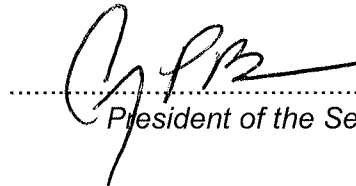
Originating in the House.

In effect ninety days from passage.


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Clerk of the House of Delegates


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Clerk of the Senate


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Speaker of the House of Delegates

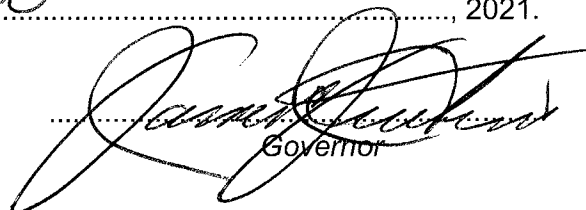

.....
President of the Senate

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 MAR - 8 P 12:41

FILED

The within is approved this the 8th
day of March, 2021.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 02 2021

Time 3:37 pm