

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 380

FISCAL
NOTE

BY SENATORS HAMILTON AND ROMANO

[Introduced February 22, 2021; referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5B-10-1, §5B-10-2, §5B-10-3, §5B-10-4, §5B-10-5, §5B-10-6, §5B-10-7,
 3 §5B-10-8, §5B-10-9, §5B-10-10, §5B-10-11, §5B-10-12, §5B-10-13, and §5B-10-14; and
 4 to amend said code by adding thereto a new article, designated §18-31A-1 and §18-31A-
 5 2, all relating to structuring the Electronic Telecommunication Open Infrastructure Act;
 6 conducting an inventory and developing coordinated deployment and operation of
 7 technology infrastructure within this state; definitions; legislative findings; technology
 8 infrastructure inventory, local government cooperation, inventory survey reporting
 9 requirements; rule-making authority of Secretary of Department of Administration;
 10 exemption from disclosure of confidential information; creating Joint Legislative Oversight
 11 Commission on Transportation and Infrastructure; powers and duties of the Secretary of
 12 Commerce; rule-making authority of Council for Community and Economic Development
 13 relating to secretary; study by secretary and inventory of management practices of
 14 technology and technology infrastructure; reporting requirements; providing technical and
 15 funding assistance to develop technology infrastructure; authorizing secretary to engage
 16 in consulting services for fee; contractual and joint venture agreements; liberal
 17 construction of article; and utilizing broadband infrastructure, technology, and information
 18 to enhance early childhood development.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 10. ELECTRONIC TELECOMMUNICATION OPEN INFRASTRUCTURE

ACT.

§5B-10-1. Short title.

1 This article may be cited as the Electronic Telecommunication Open Infrastructure Act
 2 and may be referred to as "ETOPIA."

§5B-10-2. Definitions.

1 The following terms, wherever used or referred to in this article, shall have the following
2 meanings unless a different meaning clearly appears from the context:

3 (1) "Broadband developer" means a person selected by the secretary to acquire,
4 construct, develop, or create any part of the broadband infrastructure.

5 (2) "Broadband infrastructure" means all facilities, hardware and software, and other
6 intellectual property necessary to provide broadband services in this state, including, but not
7 limited to, voice, video and data.

8 (3) "Broadband operator" means a person selected by the secretary to operate any part
9 of the broadband infrastructure.

10 (4) "Broadband services" means the services, including, but not limited to, voice, video
11 and data, that provide capacity for transmission in excess of two hundred kilobits per second in
12 at least one direction, regardless of the technology or medium used, including, but not limited to,
13 wireless, copper wire, fiber-optic cable or coaxial cable.

14 (5) "Department of Commerce" means the department within the executive branch of West
15 Virginia state government, established by §5F-1-2(a)(8) of this code. It is headed by the Secretary
16 of Commerce, who is appointed by the Governor with the advice and consent of the Senate.

17 (6) "E-business" means "electronic business" and includes any business process that
18 relies on automated information systems that are principally performed with web-based
19 technologies. E-business involves business processes spanning electronic purchasing and
20 supply-chain management, the processing of orders electronically, the handling of customer
21 service and cooperation with business partners. Special technical standards for e-business
22 facilitate the exchange of data between companies. E-business software solutions allow the
23 integration of intra- and inter-firm business processes. E-business can be conducted using the
24 world wide web (web), the internet, intranets, extranets, or a combination of these tools.

25 (7) "E-commerce" means "electronic commerce" or any range of transactions that consists

26 primarily of the distributing, buying, selling, marketing, and servicing of products or services over
27 an electronic system such as the internet or other computer networks. The information technology
28 industry may view this activity as an electronic business application aimed at commercial
29 transactions. In this context, e-commerce can involve electronic funds transfer, supply-chain
30 management, e-marketing, online marketing, online transaction processing, electronic data
31 interchange (EDI), automated inventory management systems, and automated data collection
32 systems. Electronic commerce typically uses the electronic communications technology of the
33 world wide web at some point in the transaction's lifecycle, although electronic commerce
34 frequently depends on computer technologies other than the world wide web such as databases
35 and e-mail and on other noncomputer technologies such as transportation for physical goods sold
36 via e-commerce.

37 (8) "E-government" means "electronic government" or the use of telecommunications
38 technology to facilitate and provide for access by the public to:

39 (A) Proceedings and operations of government;

40 (B) Records and information regarding the programs and services that are currently
41 implemented or are to be proposed or discontinued by a governmental entity;

42 (C) Any records, not otherwise exempt by law from disclosure, that are kept by
43 governmental entities and that would otherwise be available through nonweb-based means; and

44 (D) Transactions between the government and the public such as a citizen's receipt and
45 return of forms and applications, including, but not limited to, driver's license applications, the
46 payment of fines or penalties, or the filing of taxes. "E- government" also includes the use of
47 telecommunications technology to facilitate and provide for exchanges of information between
48 separate governmental entities, whether local, state or federal, and the use of videoconferencing
49 to conduct governmental proceedings with remote participants, including, but not limited to, the
50 establishment of telecourts that adequately provide for the protection of the constitutional rights
51 and privileges of persons involved in civil or criminal litigation, such as arraignments, hearings,

52 conferences, trials and appeals held before such tribunals, and allow for appropriate rulings to be
53 made with dispatch.

54 (9) "E-learning" means "electronic learning" or the use of telecommunications technology
55 to facilitate and provide education, through lectures or other instructional training, as well as
56 providing access to stored knowledge and information and other learning resources. The most
57 common application of e-learning is asynchronous e-learning which uses web-based learning
58 modules but does not support real time interaction between the instructor and the students, and
59 other asynchronous functions that typically support the learning environment. Synchronous e-
60 learning requires more bandwidth than asynchronous e-learning and consists principally of on-
61 line real-time lectures which typically have to be joined by students at the time of their delivery.
62 Most demanding in terms of bandwidth are forms of collaborative e- learning in which students
63 have to interact continuously to solve problems or engage in other learning activities.

64 (10) "E-media and entertainment" means "electronic media" that utilizes electronics or
65 electromechanical energy for the end user (audience) to access the content. This is in contrast to
66 static media (mainly print media), which is most often created electronically, but which does not
67 require electronics to be accessed by the end user in the printed form. The primary electronic
68 media sources familiar to the general public are better known as video recordings, audio
69 recordings, multimedia presentations, slide presentations, CD-ROM, and online content. Most
70 new media is in the form of digital media. However, electronic media may be in either analog or
71 digital format. Although the term is usually associated with content recorded on a storage medium,
72 recordings are not required for live broadcasting and online networking. Any equipment used in
73 the electronic communication process (e.g. television, radio, telephone, desktop computer, game
74 console, handheld device) may also be considered electronic media.

75 (11) "Facilitator" or "nonprofit facilitator" means a nonprofit corporation or any other lawfully
76 constituted not-for- profit organization or entity that can:

77 (A) Ally itself with both public and private partners to form a strategic alliance with

78 governmental entities, technology-minded companies, institutions of higher learning and any
79 other public and private entities that support the growth and expansion of electronic access to
80 technology, technology planning, public policy and public-relations; and

81 (B) Design a workforce recruitment plan that will necessarily be required to construct and
82 implement the necessary broadband to which this state has committed, i.e., to provide access to
83 the internet for all of the citizens of this state.

84 (12) "Information equipment" includes central processing units, front-end processing units,
85 miniprocessors, microprocessors and related peripheral equipment such as data storage devices,
86 networking equipment, services, routers, document scanners, data entry equipment, terminal
87 controllers, data terminal equipment, and computer-based word processing systems other than
88 memory typewriters;

89 (13) "Information systems" mean computer-based information equipment and related
90 services designed for the automated transmission, storage, manipulation and retrieval of data by
91 electronic or mechanical means;

92 (14) "Information technology" means data processing and telecommunications hardware,
93 software, services, supplies, personnel, maintenance and training and includes the programs and
94 routines used to employ and control the capabilities of data processing hardware.

95 (15) "Local government" means any municipality, county, metro or regional government,
96 entities, or affiliates of such entities, in the state of West Virginia.

97 (16) "Person" means an individual, corporation, limited or general partnership, joint
98 venture, limited liability company or a government entity, including state authorities, municipalities,
99 counties, police, fire and other public safety organizations, judicial entities, medical entities,
100 schools, colleges, universities, hospitals, libraries, community centers and local economic
101 development entities. Except to the extent that state authorities, police, fire, and other public
102 safety organizations, judicial entities, medical entities, schools, colleges, universities, hospitals
103 and libraries may constitute state entities, "person" does not include the State of West Virginia.

104 (17) “Public body” means a governmental entity or institution and its employees, including,
105 but not limited to, any department, division, agency, bureau, board, commission, court of law in
106 its nonjudicial functions only, council, institution, spending unit, authority or other instrumentality
107 thereof of whatever description of the State of West Virginia, any county commission, any county
108 board of education, any incorporated municipality, metro or regional government, or any other
109 political subdivision;

110 (18) “Technology infrastructure” means information systems, information technology,
111 information equipment and facilities, equipment, lines and services designed for or used for the
112 transmission, emission or reception of signs, signals, writings, images or sounds of intelligence
113 of any nature by wire, radio, microwave or other electromagnetic or optical systems, related
114 hardware, software and programming and specifically including, but not limited to, all features,
115 facilities, equipment, systems, functions, programming and capabilities and technical support
116 used by:

117 (A) A cable operator;

118 (B) A commercial mobile service carrier;

119 (C) An open video system operator;

120 (D) A satellite carrier;

121 (E) A telecommunications carrier;

122 (F) Any other wireless carrier, providing current generation broadband services or next
123 generation broadband services to subscribers through such qualified equipment; or

124 (G) Any carrier or operator using any other technology.

125 (19) “Telecommuting” means not only telecommuting, but also includes or is related to “e-
126 commuting”, “e-work”, “telework” or “working from home” through an arrangement under which
127 the employee enjoys limited flexibility in working location and hours and avoids commuting to a
128 central place of work by utilizing telecommunication links. Telework is a broader term, referring to
129 substituting telecommunications for any form of work-related travel, thereby eliminating the

130 distance restrictions of teleworking. A telecommuting program requires a management style which
131 is based on results and not on close scrutiny of individual employees.

132 (20) “Telemedicine” means the use of telecommunications technology to facilitate and
133 broaden the application of the practice of medicine, thus enabling healthcare providers to deliver
134 health care services from a distance, including, but not limited to, diagnosis, consultation,
135 treatment, transfer of medical data, use of remote medical instruments and equipment and
136 generally establishing a convenient means of delivering medical services to patients for whom
137 such services might otherwise be unavailable. In addition to clinical applications, telemedicine
138 also includes web- based information and communications technology that can provide education
139 (including continuing education programs) and reduce the administrative costs of health care
140 providers.

141 (21) “West Virginia Development Office” means the executive branch agency within the
142 Department of Commerce whose primary responsibility is economic development, for the purpose
143 of furnishing assistance to a new or existing business, as described in §5B-2-1 of this code.

§5B-10-3. Legislative findings generally.

1 The Legislature finds as follows:

2 (1) It is a primary goal of this state, by the year 2024, to make every municipality,
3 community and rural area in this state, border to border, accessible to the internet, through the
4 expansion and extension of broadband services and technology.

5 (2) An increased availability of broadband technology will allow more West Virginians to
6 connect with the “information super-highway” of the internet at high speeds. With present
7 technology, West Virginia can feasibly take action to assure that all of its citizens will have access
8 to broadband services through cable television or telephone networks that support two-way
9 communications using cable modems or telephone lines and also by utilizing wireless mobile
10 technologies, satellite transmissions and other means of communication. Ultimately, other means
11 of achieving higher speed connections will be conceived, evolved and made available for use as

12 conduits for the transmission and diffusion of data, information and knowledge. West Virginia
13 must be positioned to be on the edge of each such development.

14 (3) Access to broadband services and the accompanying applications of broadband
15 technology will provide the State of West Virginia with the capacity to foster or support new
16 economic and social opportunities and developments locally, regionally, nationally, and
17 internationally.

18 (4) In achieving this primary goal of maximizing internet accessibility, particular concerns
19 of the Legislature and the executive branch of government should be concentrated on and
20 directed toward those of our citizens who are located in rural areas of the state where access
21 appears to be geographically or physically difficult or economically impracticable. An idealized
22 achievement of this primary goal would equalize internet availability to all of our citizens and
23 communities, give them access to the internet regardless of their location, provide them with the
24 knowledge, information, and technology available on the internet and expose them to a myriad of
25 other broadband digital applications and services with their attendant benefits.

26 (5) The development of broadband and its diffusion to residential subscribers is still in the
27 early stages and the market is far from mature. The expansion of broadband into unserved areas
28 of the state requires capital investments for financing, for building the appropriate broadband
29 infrastructure, and for providing the services and applications that can carry high-speed data,
30 quality video, and voice traffic. Deployment costs are high, particularly in remote and scarcely
31 populated areas. In these circumstances, private operators often do not offer broadband because
32 it is not perceived as profitable to do so. This presents a territorial gap in broadband coverage,
33 with urban households and businesses having ready options and access to broadband while rural
34 population areas may have no options for access. Moreover, in rural areas, broadband speeds, if
35 available, tend to be slower and prices tend to be higher, thus discouraging the use by rural
36 consumers of more technically advanced services.

37 (6) The primary goal of subdivision (1) of this section may be achieved by the legislative

38 and executive branches of state government by:

39 (A) Aggressively expanding and extending broadband and other telecommunications
40 services;

41 (B) Creating incentives for private and nonprofit entities to establish broadband and other
42 telecommunications services;

43 (C) Undertaking telecommunications planning at the local, regional and state levels and
44 requiring that in such planning, that the participants shall include:

45 (i) citizens and organizations representing and speaking on behalf of the public;

46 (ii) officers of, or spokesmen for, any involved or affected governmental body; and

47 (iii) representatives of various private sectors, including, but not limited to, representatives
48 of industry and commerce, healthcare and education and research;

49 (D) Removing barriers to the full deployment of broadband digital applications and
50 services and providing incentives for the removal of those barriers; and

51 (E) Removing barriers to public-private partnerships in areas of the state where business
52 entities in the private sector are unable to economically justify capital investments in the
53 broadband infrastructure.

54 (7) There is little doubt that rapid growth of the internet is increasingly altering and driving
55 our country in terms of commerce, learning, medicine, and other fields so that information
56 technology offers increased economic opportunities, higher living standards, increased health,
57 better education, more individual choices and wider and more meaningful participation in
58 government and public life. The past decade has brought considerable advancement in
59 telecommunications and the way people communicate worldwide. Accordingly,
60 telecommunications in general, and the internet in particular, are becoming increasingly important
61 to the efficient and effective operation of both private and public sector entities. With the advent
62 of the internet and its applications to e-business, e-commerce, e-government, telemedicine, e-
63 learning, telecommuting, and media and entertainment, the ability of people in all parts of this

64 state to access the internet has become an important component in the ability of the state and its
65 people and institutions to remain competitive in the information-based global economy.

§5B-10-4. Legislative findings related to business, commerce and industry.

1 With regard to the projected impact of internet access on business, commerce and
2 industry, the Legislature finds that there is a need to create and develop a foundation and structure
3 for “e-business”, or “electronic business”, as defined in §5B-10-3(7) of this code and for “e-
4 commerce” or “electronic commerce” as defined in §5B-10-3(8) of this code.

5 (1) That a private nonprofit facilitator, in partnership with government and private
6 enterprise, will best enable the implementation of a legislative plan to expand and extend the
7 boundaries of technology-based business and enhance West Virginia’s future workforce;

8 (2) That a broadband alliance formed by a nonprofit facilitator and other entities should be
9 focused on building and sustaining a vital West Virginia economy through job creation and
10 improved business processes, technology, education, and advocacy;

11 (3) That a significant part of the mission of a nonprofit facilitator is to promote technology-
12 based economic development for the state by fostering collaboration among the leadership of
13 public and private companies, government agencies and institutions of higher education and that
14 by working with these entities the private nonprofit facilitator will enable the State of West Virginia
15 to create more effective manufacturing processes, improve communications, increase efficiency,
16 expand market opportunities and develop corporate growth strategies;

17 (4) That our modern economy is driven by processes and goods with high technical
18 content and superiority, competitiveness and progress and such an economy relies upon a highly
19 trained technical workforce.

20 (5) That in the face of growing evidence that the dominance of our national economy is
21 eroding, we must assume that West Virginia’s ability to compete is also eroding and that in the
22 competition for economic development and quality jobs, West Virginia must therefore be
23 innovative and must sharpen its edge as a competitor;

24 (6) That the citizens of West Virginia now live and work in the midst of an economic and
25 cultural environment that connects the world through advanced communications and information
26 technology and, accordingly, progressive policies and the innovative use of technology present
27 the State of West Virginia with an opportunity to thrive in this new environment;

28 (7) That in order to compete and thrive, West Virginia must proactively improve the ability
29 of its citizens and businesses to adopt and use advantageous resources;

30 (8) That the use of computers, the Internet and related technologies advance the
31 development of the skills that fuel a progressive economy and, increasingly, companies will
32 choose locations and hire workers based upon the availability of workers who possess
33 technologically centric skills and resources.

§5B-10-5. Legislative findings related to access to government.

1 (a) The Legislature finds that access to government information is fundamental to our
2 democratic society. Streamlining state and local government processes through Internet-based
3 tools has proven to be a highly effective and cost-efficient way to improve services.

4 (b) E-government can:

5 (1) Permit the resources, services and nonsecure information of an agency of government
6 to be promptly and easily electronically accessed by other governmental entities or by
7 constituents of government, thus allowing those governmental bodies and their constituents to
8 efficiently and economically interact;

9 (2) Facilitate communications and transactions between state and local government
10 bodies with vendors or contractors who provide goods or services to governmental entities or to
11 private programs funded by public moneys;

12 (3) Ensure that West Virginia's governmental officers and employees who deal directly
13 with the public, wherever located in the state, have access to high-speed internet connectivity so
14 that their electronic access will, for example, speed up license renewals, provide online
15 employment information and improve overall service levels.

16 (c) As state and local governments provide an increasing number of services online, the
17 ability to access them through a faster connection becomes paramount. Government, in
18 partnership with an alliance of a private nonprofit facilitator and other entities, must take the lead
19 in developing e-government solutions, in reducing administrative costs, and in increasing access
20 to services and the demand for broadband internet applications. As a technology-based resource
21 in those situations where private investment in infrastructure is not available, a public-private
22 partnership with a facilitator can keep government officials apprised of policy issues and build
23 citizen participation through the development of new applications, emergency preparedness
24 information, employment opportunities and links to other valuable governmental resources.

§5B-10-6. Legislative findings related to healthcare or “telemedicine.”

1 The Legislature finds as follows:

2 (1) New technologies are enabling doctors to view and send medical images from any
3 location with access to broadband services securely and quickly.

4 (2) Broadband access can reduce the disadvantages of physical remoteness from cities,
5 connecting rural healthcare providers with potentially life-saving information. In addition,
6 consumers can use the internet to search for health care information that was previously only
7 available by visiting their health care provider.

8 (3) The cost for health care providers to offer services steadily increases, while the amount
9 of revenue remains flat or even decreases. As hospitals and physicians look for ways to lower
10 costs, broadband applications provide efficiencies and cost-saving opportunities. Broadband
11 connectivity can improve the quality of services and profits for health care providers where
12 reliability is essential, speed is important and cost is a defining factor. High-bandwidth connections
13 enhance the dependability of web-based mission-critical applications, reducing some of the cost
14 and burden of providing care. Ultimately, improved service levels are the key to quality of life for
15 both patients and physicians.

§5B-10-7. Legislative findings related to e-learning.

1 The Legislature finds as follows:

2 (1) State, business and education leaders use information obtained through broadband
3 communications in the design of their plans for enhancing West Virginia's competitiveness in the
4 networked world.

5 (2) Access to information technology in West Virginia will enhance the state's
6 competitiveness in the networked world by creating a better understanding of the existing
7 technological infrastructure, the availability of access to that infrastructure and how it is being
8 used today.

9 (3) Education leaders recognize the important role information technology and broadband
10 technologies will play in the long-term success of the state's economy. Through the adoption of
11 new technologies, education resources can be made available to our citizens, even in the most
12 rural parts of West Virginia.

§5B-10-8. Technology infrastructure needs assessment, inventory and mapping; agency
and local government cooperation; information gathering; reporting requirements;
rule-making authority.

1 (a) The state encourages the coordinated deployment and operation of technology
2 infrastructure for present and future use. Therefore, it is necessary for the state to maintain an
3 ongoing, continually updated record of the nature and extent of its technology infrastructure
4 comprised of information systems, information equipment and information technology, the
5 demands on its technology infrastructure and those governmental entities which use or desire to
6 use the resources of the technology infrastructure providing information services, cable service,
7 advanced services, broadband services, internet, internet protocol enabled services,
8 telecommunications services or similar services or support.

9 (b) The Secretary of the Department of Administration shall develop systems and
10 processes for maintaining accurate information on the state of the technology infrastructure in the
11 state on an ongoing basis and conduct an infrastructure resources survey of the deployment and

12 operation of technology infrastructure in this state. The secretary shall determine the form and
13 format of the information submitted, including the use of electronic submissions.

14 (c) To facilitate the infrastructure resources survey the Secretary of the Department of
15 Administration shall propose emergency and legislative rules in accordance with §29A-3-1 et seq.
16 of this code. These rules may include:

17 (1) The manner of reporting the information;

18 (2) Promulgation of a form or forms for reporting purposes;

19 (3) A means of providing training to individuals responsible for the completion and
20 submission of the information on the proposed form;

21 (4) A means of reporting back to individual participating public bodies, from time to time,
22 at the request of a public body, on findings specific to that body to allow the public body to evaluate
23 independently the information provided;

24 (5) A limitation that the information is to be used solely for the purposes of this article;

25 (6) safeguards to protect the confidential information as provided in §5B-10-4 of this code;

26 (7) Methodology for collection of information and the analysis of the information;

27 (8) Protocols for an annual update of the infrastructure resources survey including
28 information collection, analysis, and reporting thereof by the Department of Administration.

29 (c) Every public body shall complete an infrastructure resources survey no later than
30 October 1, 2021, and a survey each year thereafter as provided in rules promulgated pursuant to
31 this section.

32 (d) The secretary shall file annually a report with the Joint Legislative Oversight
33 Commission on Transportation and Infrastructure created in section five of this article. The report
34 shall generally advise the Joint Oversight Commission on Transportation and Infrastructure about
35 the deployment and operation of technology infrastructure in this state and to make
36 recommendations on policy and statutory changes that may be needed . The report shall include
37 a discussion of each of the following:

38 (1) The connectivity, priorities, and interoperability of the technology infrastructure owned,
39 leased or used by public bodies;

40 (2) The technology infrastructure that is owned, leased, operated or used by the public
41 bodies of the state;

42 (3) Technology infrastructure as it affects homeland security, public safety and health,
43 systems reliability and providing continuity of government operations;

44 (4) Technology infrastructure identifying potential market demand areas where expanded
45 resources may be expected;

46 (5) Practices or suggestions to coordinate development of infrastructure related to
47 technology infrastructure and the deployment of services between the public bodies through the
48 coordinated delivery of these systems; and

49 (6) Any other topic that may be beneficial in adequately assessing technology
50 infrastructure.

51 (e) To the extent technology infrastructure information is readily provided by private
52 persons or otherwise available, the secretary shall utilize and incorporate that data to fulfill the
53 reporting requirements of this section.

54 (f) The provisions of this section shall be of no force or effect after December 31, 2024.

§5B-10-9. Confidential information; exemption from disclosure.

1 (a) Information submitted by a public body as part of the survey that may be a trade secret
2 or otherwise confidential shall be identified by that body as confidential information. The public
3 body claiming confidentiality shall provide written justification to the secretary at the time the
4 information is submitted stating the reasons for confidentiality and why the information should not
5 be released.

6 (b) In addition to records or documents that may be considered confidential under this
7 code, confidential information means records, reports or information, or a particular portion or any
8 combination or aggregation thereof, that if made public would present a threat to the safety and

9 security of any system or component relating to the technology infrastructure and related systems.

10 (c) Information designated as confidential and the written justification shall be maintained
11 in a file separate from the general records related to the public body. The confidential information
12 will be exempt from disclosure requirements under this code.

13 (d) Information designated as confidential may be released to the Department of
14 Administration, its employees, and agents when compiling and analyzing the infrastructure
15 resources survey information and as may be necessary to develop the report required by this
16 article. Any individual receiving information designated confidential shall protect the information
17 as confidential.

§5B-10-10. Joint Legislative Oversight Commission on Transportation and Infrastructure.

1 The President of the Senate and the Speaker of the House of Delegates shall each
2 designate five members of their respective houses, at least one of whom shall be a member of
3 the minority party, to serve on a joint legislative oversight commission charged with immediate
4 and ongoing oversight of transportation and infrastructure matters, specifically including, but not
5 limited to, the ongoing oversight of the management and coordination of the deployment and
6 operation of infrastructure related to technology. This commission shall be known as the Joint
7 Legislative Oversight Commission on Transportation and Infrastructure and shall regularly
8 investigate and monitor all matters relating to transportation and infrastructure.

§5B-10-11. Powers and duties of the Secretary of Commerce.

1 (a) The primary responsibility of the secretary is to foster and support economic
2 development and the advancement and commercialization of new and emerging technologies
3 through collaborative agreements between business, industry and the state.

4 (b) The secretary has the authority and power to provide consulting and additional
5 services, including, but not limited to, evaluation of technology, verification, and assessment of
6 market applications, grant administration for any person engaged in public-private collaborations
7 with the department pertaining to technology advancement and commercialization activities and

8 research into new areas of economic development relating to technology, technology
9 infrastructure and telecommunications.

10 (c) The secretary may receive and accept from any public body or person or entity of any
11 nature whatsoever grants to be expended in accomplishing the objectives of this article and to
12 receive and accept state appropriations and grants from any public body and from any other
13 source, aid or contributions of either money, property or other things of value to be held, used and
14 applied only for the purposes for which the grants and contributions may be made or collect fees
15 for consulting services rendered to any public body.

16 (d) The secretary may accept and expend any gift, grant, contribution, bequest,
17 endowment or other money for the purposes of this article and to make a maximum effort to
18 encourage external support for programs intended to expand broadband infrastructure into areas
19 of the state not currently served. Any transfer of endowment or other assets to the department
20 shall be formalized in a memorandum of agreement to assure, at a minimum, that any restrictions
21 governing the future disposition of funds are preserved.

22 (e) The Secretary of Commerce may promulgate rules to fulfill the purposes of this
23 section. These rules are not subject to the provisions of §29A-1-1 et seq. of this code, but shall
24 be filed with the Secretary of State.

§5B-10-12. Need for study; reporting requirements; information gathering.

1 (a) The secretary shall enhance well-being, prosperity, economic growth and community
2 development through the ongoing study and research into and development of best known
3 methods regarding the management practices, human factors, and cultural changes related to
4 the implementation, operation and utilization of technology, technology infrastructure and related
5 services. For the purposes of this section, “best known methods” refers to plans that outline
6 strategies and activities designed to continue, diversify or expand the economic base of the state
7 as a whole; create jobs; develop a highly capable workforce; enhance productivity; facilitate
8 business access to capital, including venture capital and capital markets; advertise and market

9 the resources offered by the state with respect to the technology needs of business and industry;
10 facilitate cooperation among state government, entrepreneurship efforts, public-private
11 partnerships, universities and colleges; and leverage funding from sources other than the state,
12 including federal and private sources.

13 (b) Upon completion of a study of best known methods in private industry and public policy,
14 the chief officer shall file an initial preliminary report with the Joint Legislative Oversight
15 Commission on Transportation and Infrastructure created in §5B-10-10 of this code no later than
16 November 1, 2021. The report shall include consideration of the following:

17 (1) Strategies and activities designed to continue, diversify or expand the resources
18 offered by the state with respect to the technology needs of business and industry;

19 (2) Strategies to facilitate cooperation among state government, local government,
20 entrepreneurship efforts, public-private partnerships and colleges and universities, with respect
21 to the technology needs of business and industry;

22 (3) Management and utilization of technology infrastructure identifying potential growth
23 areas where expanded resources may be expected;

24 (4) Practices or methods to coordinate development and utilization of technology
25 infrastructure and the deployment of technology infrastructure and related technology between
26 public bodies through the coordinated delivery of these systems; and

27 (5) Any other information that may be beneficial in adequately assessing technology
28 available in determining the need for and the preparation of technology infrastructure plans.

29 (6) The secretary shall report annually to the Joint Oversight Commission on
30 Transportation and Infrastructure to advise the commission about the deployment and operation
31 of technology infrastructure in this state and to make recommendations on policy and statutory
32 changes that may be needed.

33 (c) In developing its study, the department shall consider resources and technical support
34 available through other agencies, both public and private, including, but not limited to, the state

35 college and university systems; the West Virginia Housing Development Fund; the Consumer
 36 Advocates Office of the Public Service Commission; the West Virginia Economic Development
 37 Authority; the West Virginia Parkways, Economic Development and Tourism Authority; the West
 38 Virginia Chamber of Commerce; regional planning and development councils; for progress
 39 councils; and state appropriations. The Infrastructure and Jobs Development Council, as created
 40 by the provisions of §31-15A-3 of this code, is also included with the above-named agencies and
 41 entities, inasmuch as the broadband infrastructure project or projects to be undertaken under the
 42 provisions of this article are within the definition of the term “infrastructure project” as it is defined
 43 in §31-15A-2(l) of this code.

§5B-10-13. Providing technical and funding assistance to develop technology infrastructure; contractual and joint venture agreements.

1 (a) The department may:

2 (1) Provide assistance, including funding assistance to develop technology infrastructure,
 3 and related technology through a matching grant program. The department shall establish criteria
 4 for awarding matching grants within the limits of funds appropriated by the Legislature for the
 5 program or as may be available from other sources.

6 (2) Provide technical assistance, including consulting services for a fee to one or more
 7 public bodies pertaining to the development of technology and technology infrastructure.

8 (b) Enter into contractual or joint venture agreements with one or more persons and public
 9 bodies pertaining to the development of technology and technology infrastructure: *Provided*, That
 10 such agreements may not be considered a debt of the state or a pledge of the credit of the state.

§5B-10-14. Complete authority of article; liberal construction.

1 This article is full and complete authority for carrying out the powers and duties of the
 2 same as herein provided. The provisions of this article shall be liberally construed to accomplish
 3 its purpose and no procedure or proceedings, notices, consents or approvals, are required in
 4 connection therewith except as may be prescribed by this article.

CHAPTER 18. EDUCATION.

ARTICLE 31A. UTILIZING BROADBAND INFRASTRUCTURE, TECHNOLOGY AND IMPLEMENTATION TO ENHANCE EARLY CHILDHOOD DEVELOPMENT.

§18-31A-1. Legislative findings.

1 The Legislature finds as follows:

2 (1) There is a commitment by state government to make every community and rural area
3 in this state, border to border, accessible to broadband services by the year 2024.

4 (2) Access to broadband services and the accompanying applications of broadband
5 technology will provide the State of West Virginia with the economic and social capacity to support
6 new opportunities and developments locally, regionally, nationally and internationally.

7 (3) The expansion of broadband into unserved areas of the state requires capital
8 investments for financing and building the appropriate broadband infrastructure and for providing
9 the services and applications that can carry high-speed data, as well as quality video and voice
10 traffic.

11 (4) Developing and utilizing broadband applications that will allow internet users to interact
12 with educational programs (e-learning) and to connect with other online databases, such as e-
13 commerce and telemedicine, will require capital investments and the commitment of other
14 resources, both public and private, in these new and evolving information and communication
15 technologies.

16 (5) The Electronic Telecommunication Open Infrastructure Act (ETOPIA), created in §5B-
17 10-1 et seq. of this code has been enacted to support the conception and implementation of
18 infrastructure and technology through nonprofit corporations, in partnership and cooperation with
19 providers of broadband services and with the support of the West Virginia Department of
20 Commerce and other agencies of state government.

21 (6) Establishing a broadband connection at a local school will enable students to gain

22 access, in the classroom, to the knowledge and resources available on the internet, and through
23 high-speed cable, DSL, wireless or other means, will enable students access outside of the
24 classroom. And, importantly, broadband infrastructure will enable a school to provide interactive
25 programs that project information and training related to early childhood development directly into
26 the homes and families of children, zero to eight, in the school's community.

27 (7) Mandating that the availability of broadband access is a public or private service for all
28 communities and rural areas in this state requires recognition that the ongoing financial support
29 and resources of governmental and private entities must include the costs of providing such
30 access within their support and funding for education, social services, administration, etc.

31 (8) Public and private entities, in executing the provisions of ETOPIA as set forth in §5B-
32 10-1 et seq. of this code should be supported in their efforts to continue developing and providing
33 broadband infrastructure, information technologies and appropriate applications of technologies.
34 As those efforts impact the area of early childhood development, ETOPIA should be implemented
35 in cooperation and partnership with programs conceived and designed by the West Virginia Kids
36 First Board.

§18-31A-2. Duties of state departments and agencies.

1 (a) The Department of Administration shall cooperate with the West Virginia Kids First
2 Board to coordinate state resources as they relate to the expansion of broadband technology so
3 as to provide interactive programs that project information and training related to early childhood
4 development directly into the homes and families of children, zero to eight.

5 (b) Not later than December 1, 2021, the Governor's Chief Technology Officer, within the
6 Department of Administration, in cooperation with the Department of Commerce and the
7 Department of Education, shall submit a report to the Legislature that:

8 (1) Assesses the availability of, and access to, broadband technology in homes and
9 families with children zero to eight;

10 (2) Estimates the number of families with children zero to eight who are using broadband

- 11 technology in their homes;
12 (3) Estimates the unmet demand for broadband technology for families with children zero
13 to eight; and
14 (4) Sets forth a strategic plan to meet the demand described in subdivision (3) of this
15 subsection.

NOTE: The purpose of this bill is to authorize the Department of Administration to conduct an inventory of the technology infrastructure in the state and to authorize the Department of Commerce to facilitate a public-private partnership or partnerships to expand the broadband infrastructure system and related services to businesses and the public in areas of the state not currently being served.

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