

SENATE COMMITTEE ON FINANCE



2019 Regular Legislative Session
Bill Summaries

2019 West Virginia Senate Committee on Finance

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The Senate of West Virginia
Charleston

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To: Members of the Senate Committee on Finance
84th Legislature

From: Craig Blair, Chairman
Senate Committee on Finance

Re: Summary of Committee Work - 2019

Date: April 8, 2019

Thank you for your hard work during the 2019 regular session. This was a particularly busy session. As a Committee we wrestled with a number of issues.

The Committee continued to strive to make West Virginia a more “business friendly” environment. The Committee passed bills making higher education more accessible, lowering taxes to encourage businesses to locate here, and offering incentives to encourage businesses to increase production in the state. Senate Bill No. 1 provided for free community and technical colleges to West Virginians to make our workforce more desirable. House Bill No. 3144 lowered the severance tax on steam coal to encourage future development in that industry. Finally, House Bill No. 3142 provides rebates to coal producers who purchase equipment and create improvements in their facilities to promote increased coal production.

The Committee also passed House Bill 2001 that will eliminate the tax on Social Security over the next three (3) years providing a better tax base for our aging population and, hopefully, encouraging others to locate here. Additionally, the Committee also made some much-needed changes to the state’s foster care program with the passage of House Bill No. 2010.

As a Committee we worked very hard. There were a total of one-hundred-eighty-six bills referred to the Finance Committee. Of those, eleven were rules bills and eighteen were supplemental appropriation bills. As a Committee we took up one-hundred-twenty-five of those bills, including all eleven of the rules bills and the eighteen supplementals. Of those, thirty-seven were House bills and eighty-eight were Senate bills. Of the bills we passed out of the Committee, eighty-seven passed the entire Legislature.

Of course, the Committee also passed the budget bill. For the second year in a row, the budget was passed during the course of the sixty-day regular session. In House Bill No. 2020 we appropriated over \$13.6 billion dollars. \$4.630 billion of this was general revenue appropriations. The Governor's official general revenue estimate for fiscal year 2020 was just over \$4.675 billion. Leaving almost \$45.5 million dollars in unappropriated funds for the upcoming fiscal year. This budget saw \$104.5 million appropriated for all state employees to receive a 5% pay raise. The money for a teacher's and service personnel raise was included in this budget and the State Department of Education will have the authority to disburse this money once the corresponding piece of legislation passes. This budget also includes \$500,000 to increase broadband service to rural areas of the state, and over \$15 million dollars in Higher Education Improvements.

Attached you will find a bill summary of the bills which were the responsibility of our Committee and which were sent to the Governor. This does not include the rules bills. That summary may be obtained by contacting the Committee on the Judiciary. I thought it might be helpful to you as you respond to constituent inquiries to have these. Should you need more detail about a bill, or if you would like some detail about any of the legislative rules considered by the Committee, please feel free to contact Jeff Johnson, Counsel to the Committee on Finance.

Thank you again for your dedication to the citizens of West Virginia and your diligent work on the Committee on Finance.

cc: The Honorable Mitch Carmichael, President/Lt. Governor
West Virginia Senate

The Honorable Eric Householder, Chairman
House of Delegates, Committee on Finance

Committee Substitute for Committee Substitute Senate Bill 1

SHORT TITLE: Increasing access to career education and workforce training.

CODE REFERENCE: West Virginia Code §18-2-6 and §18-9A-2 - amended; and §18-2E-11 and §§18C-9-1 – 6 – NEW.

The purpose of this bill is to establish an Advanced Career Education (ACE) program and create the WV Invests Grant Program, both of which are for the purpose of increasing access to career education and workforce training.

ACE Programs §18-2E-11

The purpose of ACE programs is to:

1. Connect secondary schools with community and technical colleges and four-year colleges that offer associate degrees to prepare secondary students for success in post-secondary education and the workforce; and
2. To provide more opportunities for secondary students to earn post-secondary college credits, certifications, and associate degrees. [§18-2E-11(b)(1) and (2)]

The community and technical colleges, public baccalaureate institutions, career technical education centers, county boards of education, or both are required to establish partnerships that establish ACE programs. An ACE program would feature multiple defined pathways that begin when a student is in high school and end with the student obtaining a credential or an associate degree. The bill also requires that the ACE programs be available to public, non-public, and home school students. [§18-2E-11(c)]

An ACE program is required to include of a curriculum of courses leading to an associate degree or advanced certification that has been determined to satisfy an area of workforce need as determined the Department of Commerce. The Department of Commerce is required to at least annually provide written notification to the State Board of Education and the WV Council for Community and Technical College Education of a determination of areas of workforce need within the state. These areas of workforce need could be determined on a statewide basis or regional basis. [§18-2E-11(d)]

The State Superintendent, the Chancellor of the Council for Community and Technical College Education, the Chancellor of the Higher Education Policy Commission, or their designees, are required to facilitate the ACE programs. [§18-2E-11(e)(1 through 5)] At a minimum, an ACE program must satisfy the following objectives:

1. Provide additional opportunities to students to attain college credentials through ACE pathways;
2. Increase the number of students in this state that attain college credentials through ACE pathways;
3. Allow students to attain college credentials through ACE at little or no cost;
4. Ensure that ACE provides a clear roadmap to the courses and requirements necessary to attain college credentials; and

5. Ensure that course requirements within ACE pathways are not duplicated.

The State Board and the Council are required to jointly promulgate guidelines for the administration of ACE programs and pathways. [§18-2E-11(f) (1 through 5)] The guidelines are required to be adopted by both the State Board and the Council. At a minimum, the guidelines are required to include the following:

1. That ACE program partnerships be reduced to written partnership agreements;
2. The information required to be in the partnership agreements;
3. That ACE programs and pathways must meet the requirements of the accrediting entity for the community and technical college or the baccalaureate institution awarding the associate degrees;
4. That partnership agreements must be approved by the State Superintendent, the Chancellor for the Council for Community and Technical College Education and the Chancellor of the Higher Education Policy Commission; and
5. Any other necessary provisions.

Additionally, the bill requires that the Division of Vocational Education and the Council annually report certain information to the Governor and LOCEA. The reporting requirements are set out in the bill. [§18-2E-11 (g)]

This bill also provides that students that have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an ACE program are considered adults enrolled in regular secondary programs under the definition of "net enrollment" for state aid purposes. The number of adults enrolled in secondary vocational programs that may be included in "net enrollment" for state aid purposes is increased from 1,000 to 2,500. The bill also provides that, beginning with the 2021 fiscal year, a career technical education center can only receive funding for enrollment if the center has satisfied certain ACE requirements including the requirement to partner with at least one community and technical college. [§18-9A-2(i)(1)(A)]

WV Invests Grant Program §18C-9-1 et seq.

This bill also creates the WV Invests Grant Program which is to be administered by the vice chancellor for administration. Necessary terms are defined. [§18C-9-3] Under the program, the Council is to award grants pursuant to the following:

1. A grant can only be awarded to applicants satisfying the eligibility requirements;
2. The maximum amount of the grant is the cost of tuition charged to all students for coursework leading to completion of the chosen associate degree or certificate, less all other state and federal aid for which the student is eligible;
3. Grant payments are to be made directly to the eligible institutions;
4. In the event that a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;
5. The grant can be used at any eligible institution to seek an associate degree or certificate in an eligible post-secondary program; and
6. If the grant recipient terminates enrollment for any reason during the academic year, the unused portion must be returned by the institution to the council for return to the WV Invests Grant Fund for allocation and expenditure. [§18C-9-4]

The bill also requires the Council to report to the Legislature and Governor on the WV Invests Grant Program, which must include research and data concerning student success and grant retention. [§18C-9-4(c)]

The Council is required to propose legislative rules to implement the provisions of this article that provide for: (1) Application requirements and deadlines; (2) appeal procedures for the denial or revocation of the grant; and (3) any other necessary provisions. Authority for an emergency rule is also included. [§18C-9-4(d) and (e)]

To be eligible for a WV Invests Grant, an individual must satisfy the following requirements [§18C-9-5 (a)(1 through 11)]:

1. Be a citizen or legal resident of the United States and have been a resident of West Virginia for at least one year immediately preceding the date of application;
2. Have completed a secondary education program in a public, private, or home school;
3. Have not been previously awarded a post-secondary degree;
4. Be at least 18 years of age (except that individuals younger than 18 can qualify upon completion of a secondary education program in a public, private, or home school);
5. Meet the admission requirements of, and be admitted into, an eligible institution;
6. Satisfactorily meet any additional qualifications of financial need, enrollment, academic promise, or achievement as established by the Council through rule;
7. Have filed a completed FAFSA;
8. Be enrolled in an eligible post-secondary program;
9. Be enrolled in at least six credit hours per semester;
10. Have completed a WV Invests Grant application as provided by the Council in accordance with a schedule established by the Council; and
11. Have, prior to the start of each semester, satisfactorily passed a drug test administered by the eligible institution with the applicant being responsible for the actual cost of the drug test.

Also, each grant can be renewed until the course of study is completed, as long as the following qualifications, as determined by the vice chancellor for administration and Council, are satisfied[§18C-9-5(b)(1 through 5)]:

1. Maintaining satisfactory academic standing, including a cumulative GPA of at least 2.0;
2. Making adequate progress toward completion of the eligible post-secondary program;
3. Satisfactory participation in a community service program authorized by the Council (Council is required to promulgate rules to provide for the administration of this requirement, including, but not limited to, requiring completion of at least eight hours of unpaid community service during the time of study, which may include, but is not limited to, participating with nonprofit, governmental, institutional or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents or foster civic responsibility);
4. Continued satisfaction of the initial eligibility requirements; and
5. Satisfaction of any additional eligibility criteria established by the Council through legislative rule.

The bill also requires that each recipient of a WV Invests Grant enter into an agreement with the vice chancellor for administration, which requires repayment of an amount of the grants awarded to the recipient, in whole or in part, if a recipient chooses to reside outside the state within two years following obtainment of the degree or certificate for which the grant was awarded. The Council is prohibited from requiring a recipient to repay grants, in whole or in part, unless the

prospective recipient has been informed of this requirement in writing before initial acceptance of the grant award.

Each WV Invests Grant agreement must include the following:

1. Disclosure of the full terms and conditions under which assistance under this article is provided and under which repayment can be required; and
2. A description of the appeals procedure.

Recipients who are not in compliance with the agreement must be required to repay the amount of the grant awards received, plus interest, and where applicable, reasonable collection fees on a schedule and at a rate of interest, prescribed in the Council's rules. The Council also must provide for proration of the amount to be repaid by a recipient who maintains employment in the state for a period of time within the two-year time period.

The bill further provides that a recipient is not in violation of the agreement during any period in which the recipient is meeting any of the following conditions:

1. Pursuing a half-time course of study at an accredited institution of higher education;
2. Serving as a member of the armed forces of the United States;
3. Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician; or
4. Satisfying the provisions of any additional repayment exemptions prescribed by the Council through rule.

Lastly, the bill creates in the State Treasury a special revenue fund to be known as the "WV Invests Fund" which is to be expended for the purpose of administering the WV Invests Grant Program.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 13

SHORT TITLE: Relating to distributions from State Excess Lottery Fund.

CODE REFERENCE: West Virginia Code §29-22-18a - amended

This bill directs that for the fiscal year beginning July 1, 2019, and thereafter, the State Lottery Commission shall deposit the aggregate amount of \$11 million from the State Excess Lottery Fund into the funds of each of the four racetrack special funds that are used for the payment of regular purses. The distribution is to be on a pro rata basis based upon the actual purse earnings of each racetrack "as specified in §29-22A-10(c)(2) and §29-22A-10b(a)(2) of" the code.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: February 23, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 7, 2019.

Senate Bill 16

SHORT TITLE: Authorizing expenditure of surplus funds by Wyoming County Commission.

CODE REFERENCE: Local Bill

This bill allows the expenditure of unexpended sums and surplus funds of the Wyoming County Commission to be placed into a special fund to establish a K-9 Unit for drug searches.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Senate Bill 27

SHORT TITLE: Removing restrictions on where certain traditional lottery games may be played.

CODE REFERENCE: West Virginia Code §29-22-9 - amended

The purpose of this bill is to remove restrictions on where KENO themed lottery games may be played. Previously, these games could only be provided in licensed locations that serve individuals beer or alcoholic beverages. The new law allows all other retailers that are licensed to provide traditional lottery games to provide these KENO themed games as well.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 5, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on February 27, 2019.

Senate Bill 28

SHORT TITLE: Removing hotel occupancy tax limit collects for medical care and emergency services

CODE REFERENCE: West Virginia Code §7-18-14 – amended.

The purpose of this bill is to remove the current \$200,000 limitation on the amount collectable by a county via the hotel occupancy tax that may be used for medical care and emergency services. The change also added economic development and infrastructure projects to the list of allowable uses for the funds, but limits those to \$200,000.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 30

SHORT TITLE: Eliminating tax on annuity considerations collected by life insurer.

CODE REFERENCE: West Virginia Code §33-3-15 – amended.

The bill eliminates a 1% tax collected by life insurers on the gross amount of annuity considerations.

The bill provides that for the taxable years beginning on or after January 1, 2021, the tax imposed by W.Va. Code §33-3-15 is discontinued. That section requires every life insurer transacting insurance in West Virginia to report annually to the Insurance Commissioner the gross amount of annuity considerations collected and received by it during the previous calendar year on its annuity business transacted in this state. Such amount is then taxed 1% of the gross amount of the annuity considerations, less annuity considerations returned and less termination allowances on group annuity contracts.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Senate Bill 36

SHORT TITLE: Allowing adjustment of gross income for calculating personal income liability for certain retirees.

CODE REFERENCE: West Virginia Code §11-21-12d – amended.

The bill would provide protections for any person who retires under an employer-provided defined benefit pension plan. If that pension plan terminates prior to or after the retirement of that person and the pension plan is covered by a guarantor whose maximum benefit guarantee is less than the maximum benefit to which the retiree was entitled, the protection triggers. That protection is in the form of the retiree being able to adjust their income tax by an amount equal to the difference from the money that retiree should have received, and the maximum annual pension benefit received.

Furthermore, if the Tax Commissioner determines that this adjustment reduces the revenue of the state by 2 million or more in any one year, then the Tax Commissioner must reduce the percentage of the reduction to a level at which the Tax Commissioner believes will reduce the cost of the adjustment to 2 million for the following year.

This section of the code sunset for taxable year starting on January 1, 2015. The bill will re-effectuate this provision for the taxable years beginning on and after January 1, 2020 and then sunset the section again, making it inapplicable to taxable years after December 31, 2023.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Committee Substitute for Senate Bill 40

SHORT TITLE: Establishing Military Service Members Court program.

CODE REFERENCE: West Virginia Code §§62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, §62-16-13 and §62-16-14 – NEW.

The purpose of this bill is to allow the West Virginia Supreme Court to establish and operate a military court called the Military Service Members Court. The bill has a short title and defines terms.

The military court would be a stand-alone court operated in conjunction with drug courts and other specialty courts. The bill encourages the Supreme Court to give deference to circuits or regions operating Military Service Member Court programs to maximize flexibility, and to consider regional and other differences and circumstances. Once established, Military Service Member Court programs may not be terminated without at least six months written notice from the Supreme Court administrator to the Speaker of the House of Delegates and the President of the Senate.

Each Military Service Member Court judge may establish rules and make special orders as necessary that do not conflict with rules and orders promulgated by the Supreme Court of Appeals to effectuate the purposes of this article. Each Military Service Members Court, with the guidance of the Supreme Court of Appeals, may establish a schedule for the payment of reasonable fees and costs to be paid by participants necessary to conduct the program. However, Military Service Member Courts are not prohibited from obtaining supplemental funds or exploring grants to support the courts.

A military service member offender is eligible for admittance into a court program if he or she is eligible for probation based upon the nature of the offense for which he or she has been charged with, and in consideration of his or her criminal background. Upon making an application, a military service member offender may be admitted into a court program only upon the agreement of the prosecutor and the offender. A military service member offender may not participate in a court program if he or she has been charged with any of a number of enumerated offenses. Participation in a Military Service Members Court program, with the consent of both the prosecutor and the court, shall be pursuant to a written agreement, executed by the offender, which sets forth all of the agreed upon provisions to allow the military service member offender to proceed in the court. Upon successful completion of a court program, the judge shall dispose of an offender's case in the manner prescribed by the written agreement and by the applicable policies and procedures adopted by the court.

Upon receipt of an application the court shall order substance abuse and mental health screening. If appropriate, the court may order substance abuse treatment or mental health counselling. Violation of the terms of a written agreement by the military service member offender may result in the imposition of reasonable sanctions by the court including, but not limited to, imprisonment or dismissal of the offender from the program, reinstatement of criminal proceedings, conditional discharge, or supervision hearing. Upon successful completion of the terms and conditions of the

program, the court may dismiss the original charges against the offender, successfully terminate the offender's sentence, permit the offender to enter into a plea agreement to a lesser offense, or otherwise discharge him or her from any further proceedings against him or her in the original prosecution.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Committee Substitute for Senate Bill 90

SHORT TITLE: Transferring Safety and Treatment Program from DHHR to DMV.

CODE REFERENCE: West Virginia Code §17C-3-3c, §17C-5A-3 and §17C-5A-3a – amended.

This bill would do the following:

- Transfers the Safety Treatment Program, which treats and educates people whose licenses were revoked due to concerns of alcohol and/or drug use while operating a motor vehicle, from the DHHR to the DMV;
- Requires also that the moneys from the DHHR Safety and Treatment Fund be transferred to the DMV Treatment Fund;
- Creates a new subsection (l) that requires the DMV to create grievance and appellate procedures by promulgation of rules that allows participants to appeal to the regular courts of the state after they have exhausted administrative remedies.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 100

SHORT TITLE: Increasing court fees to fund law-enforcement standards training and expenses.

CODE REFERENCE: West Virginia Code §30-29-4 – amended.

This bill would modify the fee added to court costs in criminal actions, excluding municipal parking ordinances and to the amount of any case or property bond posted for a violation of criminal law. The current fee is \$2. This bill would change that to \$12. The fee is used to fund law-enforcement training programs, professional development programs, certification of law enforcement officers and to pay the expenses of the Governor's Committee on Crime, Delinquency, and Correction.

This fund was created in 1981 and the fee has not been amended since that time. There was an amendment to this section in 2015 but it was stylistic and added the Governor's Committee on Crime, Delinquency, and Correction as a recipient of the funds.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 103

SHORT TITLE: Relating generally to Public Defender Services.

CODE REFERENCE: West Virginia Code §29-21-6 and §29-21-13a – amended and §29-21-9a – NEW.

The bill would transfer the responsibility for the approval of attorney fees and costs paid by the State to private attorneys appointed to represent criminal defendants and others entitled to counsel from Circuit Judges to the state agency known as Public Defender Services (PDS). The bill would also make a number of other changes, including:

§29-21-6 would be amended to:

1. Allow PDS to contract with attorneys that provide legal services in specialized areas of the law other than criminal defense or defense of parents in abuse and neglect proceedings if, *inter alia*, it will reduce costs.
2. Allow PDS to reduce or reject vouchers for attorney fees and costs submitted by appointed counsel.
3. Allow PDS to promulgate emergency rules to effectuate the amended provisions of this article.

§29-21-9a is a new section that would allow the Governor to borrow up to \$20 million per year from the State's Rainy Day fund to pay appointed attorneys if the Governor certifies that a "supplemental budget appropriation" to "repay" the borrowed amount will be submitted to the Legislature.

§29-21-13a would be amended to:

1. Require that an appointed attorney's records of time and expenses be maintained in a certain form.
2. Require appointed attorneys to submit their vouchers for payment to PDS instead of being submitted to the court that appointed the attorney. Processes are provided for exchange of information, and if necessary, a final decision by the court, in the event of disagreement between PDS and the appointed attorney. PDS would be authorized to use in-house counsel at any court hearings on this issue.
3. Current law pays appointed attorneys \$45 per hour for out-of-court work, and \$65 per hour for in-court work. The bill would increase these amounts by \$15 per hour, as per: \$60 per hour for out-of-court work, and \$80 per hour for in-court work. Paralegal work for an appointed attorney would be paid at the flat rate of \$20 per hour.

The bill would also require PDS to operate a division within the agency for the purpose of prosecuting writs of habeas corpus on behalf of eligible clients in the circuit courts of the state and before the Supreme Court of Appeals, upon appointment by a court.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for Senate Bill 147

SHORT TITLE: Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

CODE REFERENCE: West Virginia Code §7-5-22 and §22-16-4 – amended.

The purpose of this bill is to shift funds from the Solid Waste Landfill Closure Assistance Program to county solid waste assessment fees. Current law provides that county or regional solid waste authorities impose a \$.50 fee per ton upon the disposal of solid waste in the county. Additionally, a DEP solid waste assessment fee of \$3.50 per ton is assessed for disposal at a solid waste disposal facility. This bill would raise the county solid waste assessment from to \$1.50 and lower the DEP to \$2.50.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: The Governor vetoed the bill on March 27, 2019. The Governor stated:

“Enrolled Committee Substitute for Senate Bill No. 147 shifts \$1.00 of the solid waste assessment fee imposed by §22-16-4, currently \$3.50, to county and regional solid waste authorities. The \$1.00 per ton reduction in the assessment would affect the Landfill Closure Assistance Fund administered by Department of Environmental Protection, which is used to close landfills in an environmentally protective and sound manner and to pay ongoing maintenance costs on the closed landfills as they age. The annual reduction in this Fund is approximately \$2.1 million dollars.

Enrolled Community Substitute for Senate Bill 147 is concerning because the fee reduction to the Closure Fund will severely impair the DEP's ability to continue maintenance on the already closed landfills and to the ability to close the upcoming ones in a safe manner; posing a threat to the health and safety of our citizens. Putting public health at risk for West Virginians is a bad policy choice, and one that I cannot endorse.”

Committee Substitute for Senate Bill 264

SHORT TITLE: Requiring courts to order restitution to crime victims where economically practicable.

CODE REFERENCE: West Virginia Code §61-11A-4 – NEW.

This bill:

(1) requires courts to order restitution, where applicable, to crime victims “to the greatest extent economically practicable” and

(2) clarifies that courts may order restitution to the Victim’s Compensation Fund when said fund has already compensated the victim.

Pursuant to current law, a court may deny restitution on the basis that restitution is “wholly or partially impractical.”

Further, current law provides that restitution may be due to a “person” who compensates the victim for a loss. However, it is unclear whether the West Virginia Crime Victims Compensation Fund is entitled to the same treatment.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Senate Bill 268

SHORT TITLE: Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

CODE REFERENCE: West Virginia Code §11-24-3 – amended

This purpose of this bill would be to incorporate an annual update in the state's corporate net income tax law to bring terms in conformity to federal law.

EFFECTIVE DATE: Passage.

DATE OF PASSAGE: February 6, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on February 27, 2019.

Senate Bill 269

SHORT TITLE: Updating terms used in WV Personal Income Tax Act.

CODE REFERENCE: West Virginia Code §11-21-9 – amended

This bill is the annual update to the West Virginia personal income tax to make it conform to federal tax code.

EFFECTIVE DATE: Passage.

DATE OF PASSAGE: February 5, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on February 27, 2019.

Committee Substitute for Senate Bill 291

SHORT TITLE: Relating generally to survivor benefits for emergency response providers.

CODE REFERENCE: West Virginia Code 5H-1-1; §5H-1-2; and §5H-1-3 – amended.

The purpose of this bill is to rewrite the West Virginia Emergency Responders Survivor Benefits Act to include Division of Forestry personnel. The new law provides that Division of Forestry personnel who die during an emergency wildland fire response are eligible to receive statutory survivor benefits of \$100,000.00 in the same manner as EMS and other first responders.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Committee Substitute for Committee Substitute for Senate Bill 310

SHORT TITLE: Establishing certain requirements for dental insurance.

CODE REFERENCE: West Virginia Code §33-6-39 – NEW.

The purpose of this bill is to prohibit a health insurance contractor that covers dental services or a participating provider that has an agreement with a dentist from setting fees unless the services are covered services.

The bill provides that a health care service contractor or other person providing third party administrator services to a dentist may not require a participating provider provide services at a fee set by the health care services contractor unless the dental services are covered services. The bill provides that a dentist may not charge more for services and materials that are noncovered under a dental benefits policy than his or her usual customary rate.

Finally, the bill provides that reimbursement paid by a dental plan for covered services and materials shall be reasonable and may not be nominal in order to claim that services are covered services.

There is an effective date on or after July 1, 2019.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 4, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 316

SHORT TITLE: Preserving previously approved state Municipal Policemen's or Firemen's pensions.

CODE REFERENCE: West Virginia Code §8-22-27a - amended

This bill amends §8-22-27a to provide municipalities two options for managing overpayments where the retirement benefits were awarded prior to the 2017 legislative session. The municipality may choose to recalculate the awarded retirement benefit to comply with the actuarial method used by the city. Alternatively, the governing body of the municipality may choose to authorize, by majority vote, continued overpayment of retirement benefits awarded prior to the effective date of the 2017 legislation. Where the governing body of the municipality chooses to authorize continued overpayments, they must also authorize continued payment into the fund in the amount required by the municipality's actuarial method. This will provide municipalities the option of choosing the method of remediation which best fits their situation. In addition, Senate Bill 316 requires that where the Municipal Pensions Oversight Board issues an order under §8-22-27a, the governing body of the municipality may temporarily appoint up to four additional members to the fund's board of trustees. These new members would serve until all corrective actions required under the order are taken, or until the municipality authorizes the continued overpayments.

EFFECTIVE DATE: Passage

RESPONSIBLE ATTORNEY: Alan Nichols

DATE OF PASSAGE: March 6, 2019

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 323

SHORT TITLE: Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

CODE REFERENCE: West Virginia Code §19-1-4e – amended and §19-12A-6a – NEW.

The purpose of this bill is to establish a special revenue fund for capital improvements to Department of Agriculture's facilities. The fund is named the "Capital Improvements Fund — Department of Agriculture Facilities" the Department of Agriculture is beginning to develop plans to renovate its laboratories, and this bill is intended to provide initial funding and flexibility to begin studying the renovations.

The bill requires that moneys in the fund be used exclusively by the Commissioner of Agriculture to fund construction and capital improvements to facilities owned or occupied by the Department of Agriculture. As introduced, the source of the funding for the new fund was from any account controlled by the Department.

The bill also amends §19-12A-6a. This section creates a special revenue account for funds collected by the Department from the sale of food, the disposition of assets other than land, the lease of land or minerals or any other source under article 12A. Presently, the code requires the Department to transfer at the end of a given year half of the balance of this fund that exceeds \$2 million to the General Revenue Account. Under the bill, the transfer to General Revenue would be eliminated, and the bill allows the Secretary to transfer any or all amounts in the fund exceeding \$1 million to the newly created Capital Improvements Fund – Department of Agriculture Facilities.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 13, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on February 25, 2019.

Senate Bill 354

SHORT TITLE: Expiring funds to balance of Auditor's Office - Chief Inspector's Fund.

CODE REFERENCE: N/A

This is a supplemental appropriation requested by the State Auditor's Office. This supplemental expired \$1.5 million dollars from the Auditor's Offices' Securities Regulation fund and re appropriated them to the Auditor's Office Chief Inspector's Fund.

The need for this supplemental has arisen due to the Amnesty program that was authorized by the legislature for FY 14.

This program has granted forgiveness of just over \$740,000 in receivable balances and this combined with a current accounts receivable balance of \$381,714 which is unlikely to be collected and over \$560,000 in costs not currently covered related to fraud and fraud allegations.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 8, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor on February 19, 2019.

Committee Substitute for Senate Bill 396

SHORT TITLE: Waiving occupational licensing fees for low-income individuals and military families.

CODE REFERENCE: West Virginia Code §30-1-22 – NEW.

This bill would add a new section to the general provisions of Chapter 30 dealing with regulated boards. The bill waives the initial license fees, and only the initial license fees, for any chapter 30 license for low-income individuals and military families. Each of those terms is defined under the section.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 421

SHORT TITLE: Relating to annual legislative review of economic development tax credit.

CODE REFERENCE: West Virginia Code §5B-2E-10 – amended.

The purpose of this bill is to add reporting requirements to the currently required report by the Development Office that is due annually to the Joint Commission on Economic Development. The new requirements would include the identify of each eligible company, whether the eligible company is claiming the development project credit or the development expansion project credit, or both, a description of the project and whether the projects are certified multiple year projects.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Senate Bill 424

SHORT TITLE: Supplemental appropriation to Civil Contingent Fund.

CODE REFERENCE: N/A

This supplemental appropriation takes \$28,000,000 from fiscal year 2019 unappropriated General Revenue surplus and appropriates it to the Governor's Civil Contingency Fund.

The Governor's Civil Contingency Fund can be used at the Governor's discretion, but traditionally is used to reimburse payments made to the national guard during states of emergency, as declared by the President of the United States or Governor.

This bill was amended in committee. The committee amendment changed the amount appropriated from \$28,000,000 to \$10,000,000.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

Senate Bill 435

SHORT TITLE: Supplemental appropriation to State Department of Education and Vocational Division.

CODE REFERENCE: N/A

This supplemental appropriated \$25,000,000 from unappropriated fiscal year 2019 General Revenue surplus and reappropriated these funds to the State Department of Education – Vocational Division.

Of these funds \$5,000,000 was appropriated to Jim’s Dream Community in Schools; and \$20,000,000 was appropriated to Jim’s Dream – Vocational Training.

This bill was amended in committee. A strike and insert amendment was passed. This amendment corrected a technical issue in the bill and changed the amount of the appropriation. Jim’s Dream Community in Schools was amended to \$3,000,000 (a \$2,000,000 decrease) and Jim’s Dream – Vocational Training was amended to \$9,700,000 (a \$10,300,000 decrease).

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

Senate Bill 442

SHORT TITLE: Supplementing, amending, and decreasing appropriation to Insurance Commission.

CODE REFERENCE: N/A

The purpose of this supplementary appropriation bill is supplement and amend by decreasing an existing appropriation and adding a new appropriation of Federal Funds spending authority in the Department of Revenue. In doing so this bill proposes to decrease Fund 8883, the Insurance Commissioner, Current Expenses (Appropriation 13000) by \$10,000 and increase Fund 8883, the Department of Revenue, Personal Services and Employee Benefits (Appropriation 00100) by \$10,000. This supplementary appropriation is requested by the Executive to allow the Offices of the Insurance Commissioner to utilize federal grant dollars to enhance the implementation and planning for several of the federal market reforms and consumer protections under Part A of Title XXVII of the Public Health Service Act.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 22, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 8, 2019.

Senate Bill 443

SHORT TITLE: Supplemental appropriation of federal moneys to DHHR divisions.

CODE REFERENCE: N/A

Increases Current Expenses appropriation for Division of Health – Community Mental Health Services by \$1,400,000. Increases Personal Services appropriation for Division of Human Services – Child Care Development by \$200,000. Increases Current Expenses appropriation for Division of Human Services – Child Care Development by \$13,000,000.

EFFECTIVE DATE: Upon Passage

DATE OF PASSAGE: February 22, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by Governor on March 7, 2019.

Senate Bill 444

SHORT TITLE: Supplemental appropriation to DHHR divisions.

CODE REFERENCE: N/A

Increases Current Expense appropriation to Division of Health- Laboratory Services Fund by \$885,554. Increases Current Expense appropriation to Division of Health – West Virginia Birth-to-Three Fund by \$885,554.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 23, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 8, 2019.

Senate Bill 452

SHORT TITLE: Supplemental appropriation to Second Chance Driver's License Program.

CODE REFERENCE: N/A

Increases Current Expense Appropriation for Division of Justice – Second Chance Driver's License Program by \$100,000.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 21, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 8, 2019.

Senate Bill 461

SHORT TITLE: Relating generally to lottery prizes.

CODE REFERENCE: West Virginia Code §11-21-77 – amended and §29-22-15a – amended.

The primary purpose of this bill is to clarify taxation of lottery winnings. It clarifies that “gross prizes” as newly defined in this bill are subject to personal income tax withholding. The bill also sets out that all lottery prizes are to be taxed as “source income” subjecting them to all state and federal income tax laws so withholding of state taxes occurs whenever federal taxes are required to be withheld. The code makes it clear that taxes are withheld regardless of the manner in which the lottery winnings are distributed – lump sum, installments, annuity and winnings.

Additional provisions of the bill relate to anonymity of lottery winners. A proviso has been added to code to allow the West Virginia Lottery to disclose name and personal contact information to any court of record or administrative forum pursuant to lawful legal process. This would include any taxing agency and agencies of other states participating in multistate or multi-jurisdictional lottery. There is a prohibition added that does not make this information subject to the Freedom of Information Act. The fee of 5% to remain anonymous has been eliminated.

A provision has been added with respect to a group or pool of lottery winners that states that only those winners who individually win more than a \$1,000,000 grand prize may elect to remain anonymous.

Finally, the Lottery Director is granted rulemaking authority to effectuate the anonymity provisions of this bill and there are definitions added for “annuity”, “gross prize” and “lottery pool.”

The bill also sets an internal effective date.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 499

SHORT TITLE: Amending WV tax laws to conform to changes in partnerships for federal income tax purposes.

CODE REFERENCE: West Virginia Code §11-10-3, §11-10-4, §11-10-7, §11-10-14, §11-10-15, §11-10-16, §11-21-3, §11-21-51a, §11-21-59, §-21-71a and §11-24-20 – amended; and §11-10-18c, §11-21-37a, §11-21-37b, §11-21-37c, §11-21-59a, §11-21A-1, §11-21A-2, §11-21A-3, §11-21A-4, §11-21A-5, §11-21A-6, §11-21A-7, §-11-21-8, §11-21A-9, §11-21A-10, §11-21A-11 and §11-21A-12 – NEW.

The purpose of this bill is to modify West Virginia's tax code as it relates to taxation of partnerships due to changes made to federal law. The United States Congress changed how the Internal Revenue Service will audit and collect additional federal income taxes owed by partners and equity owners of other pass-through entities for federal income tax purposes. This became effective for tax years beginning on and after January 1, 2018.

In the past, when a federal audit changed the distributive share a partner or equity owner of a pass-through entity, the partner or equity owner was required by W. Va. Code § 11-21-59 or W. Va. Code § 11-24-20 to report the federal audit adjustments to the Tax Commissioner and pay any additional West Virginia income taxes due. Under the new federal partnership audit regime, the Internal Revenue Service will assess the partnership, or other pass-through entity, an imputed federal income tax liability. The partners, and equity owners of other passthrough entities, will not be reporting federal audit adjustments to the Tax Commissioner and paying additional West Virginia income taxes.

This bill would update the West Virginia Personal Income Tax and Corporation Net Income Tax sections of our code to allow the Tax Commissioner to collect revenue the State would have received prior to the changes in the federal partnership audit regime, but not with the federal changes and the current structure of our code. These amounts will not be collected without enactment of this legislation.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 502

SHORT TITLE: Exempting sales of investment metal bullion and coins.

CODE REFERENCE: West Virginia Code §11-15-9q – NEW.

This bill adds a new section to the code exempting the sale of investment metal bullion and investment coins from the state sales and use tax. “Investment metal bullion” means any elementary precious metal which has been put 4 through a process of smelting or refining, including gold, silver, platinum, and palladium, and 5 which is in such a state or condition that its value depends upon its content and not its form. 6 “Investment metal bullion” does not include precious metal which has been assembled, fabricated, 7 manufactured, or processed in one or more industrial, professional, aesthetic, or artistic uses. “Investment coins” means numismatic coins or other forms of money and legal tender 9 manufactured of gold, silver, platinum, palladium, or other metal and of the United States or any 10 foreign nation with a fair market value greater than any nominal value of such coins. “Investment 11 coins” does not include jewelry or works of art made of coins, nor does it include commemorative 12 medallions.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on Marcy 27, 2019.

Senate Bill 519

SHORT TITLE: Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

CODE REFERENCE: West Virginia Code §24-6-5 – amended.

The purpose of this bill is to add to the training requirements of persons working as a dispatcher in a county emergency dispatch center. It adds the requirement that they have training in emergency cardiovascular care for telephonic cardiopulmonary resuscitation. The training is required to be conducted by a nationally recognized trainer and must be renewed every two years.

The bill contains an internal effective date of January 1, 2020 for existing employees and for employees hired after July 1, 2019, within one year of the employment date.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 5, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 26, 2019.

Committee Substitute for Committee Substitute for Senate Bill 522

SHORT TITLE: Creating Special Road Repair Fund

CODE REFERENCE: West Virginia Code §17-3-11 – NEW. And §17-30-1 through 5 – NEW.

Purpose: The bill would create a new special revenue account and a new program relating to road repair.

§17-3-11 – This new section would create a new sub-account in the State Road Fund, to be known as the “Special Road Repair Fund.” The moneys in the fund must be expended solely for the purposes of the new program described below “for the maintenance and repair of the state’s roads and highways.” Funding would be from funds which the Commissioner is authorized to transfer into the fund. He or she is given authority to transfer no more than \$80 million to this sub-account from the State Road Fund in any fiscal year for the sole purpose of repairs of non-federal aid eligible roads.”;

§17-30-1 et seq. – This new article would create a new program, to be known as the “Enhanced Road Maintenance Program,” to be administered by the Division of Highways (DOH). Under Section 2, the DOH “county supervisor in each county in consultation with the county commission of each county and any currently elected member of the Legislature whose district overlaps any portion of the county may submit to the Division of Highways a list of road repair and maintenance projects in need of repair in their county . . . listed in priority order according to [DOH] average daily traffic counts and the county commission’s determination of the roads’ level of disrepair.” DOH may award funding for these projects.

Subsection (d) of Section 2 provides that the DOH “shall contract with a private contractor or private contractors to perform nonfederal aid road repairs and maintenance activities if 70 percent of the core maintenance projects proposed for completion in the previous year have not been completed and based upon the award allocation and for the projects as submitted to the Division of Highways” Subsection (e) provides that DOH “shall contract with vendor contractors to complete repair and maintenance activities for any district if 70 percent of the core maintenance projects proposed in that district for completion in the previous year have not been completed.” Subsection (f) provides that DOH “shall ensure that, alongside roads being paved, all drainage work, including any necessary ditching and installation of culverts, if necessary, has been performed in the state’s rights-of-way prior to such paving work.”

Section 3 requires that funding for “the grants shall be proportionately based upon the total mileage of nonfederal aid eligible county routes in each district, excluding where core maintenance was completed within the previous year, as those figures are maintained by the Division of Highways: Provided, That no county shall receive less than \$1,000,000 of the available funding” and DOH must promulgate emergency rules “to develop a funding mechanism proportionately based upon the nonfederal aid mileage in each county.”

Section 4 requires the Commissioner of DOH to allocate the funds in the new Special Road Repair Fund “for the payment of vendor contracts among the districts for repair and maintenance of nonfederal aid roads.” It also provides that DOH “must use the funds for the purpose of contracting with a vendor to perform certain repair and maintenance activities in the district as set

forth in this article.”

The section also allows DOH to “provide supplemental funds to a district in need if additional funds are available in the Special Road Repair Fund. Any additional funds shall be used for completion of the projects originally submitted by the county commission.”

Section 5 requires DOH to report annually on the program to the Joint Committee on Government and Finance and requires the Legislative Auditor to conduct biennial audit reports that review the program.

The bill also has a provision which directs the State Auditor to develop a public website that provides information as to all state road repair projects and the money allocated to pay for them.

EFFECTIVE DATE: July 1 ,2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“The purpose of the bill, while well-intentioned, is problematic because it represents a legislative encroachment into executive functions. The bill would have the county supervisor, with consultation of the county commission and the legislators representing that county to compile a list of secondary roads projects in the county and prioritize those projects.

Maintaining our state and secondary roads system, including assigning priority to particular projects, is without question an executive function. "The separation of powers provision of the State Constitution, which prohibits any one department of the State government from exercising the powers of the others, is not merely a suggestion; it is part of the fundamental law of the State, and as such, it must be strictly construed and closely followed." *State ex rel West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee*, 213 W.Va. 255 (2003). Much like the authority of presiding officers of both houses to appoint members to the Economic Development Grant Committee, which the court found to be a legislative assertion of post-enactment control over executive branch decisions, allowing sitting legislators to assume an executive role and assist in making decisions about which roads deserve attention and in what order certainly Violates the separation of powers.”

Committee Substitute for Senate Bill 539

SHORT TITLE: Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

CODE REFERENCE: §15-2A-6 (amend)

The purpose of this bill is to amend the provisions of the West Virginia Code relating to retirement benefits of the West Virginia State Police Retirement System (Plan B) administered by the Consolidated Public Retirement Board (CPRB). The bill increases the multiplier by which retirement annuity is determined from 2.75% of the member's final average salary multiplied by the number of years of service, to 3%. This increase also applies to current retirants.

In addition, the bill adds a member to the Consolidated Public Retirement Board who is a member, annuitant, or retirant of the West Virginia State Police Retirement System Part B.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for Committee Substitute for Senate Bill 543

SHORT TITLE: Relating generally to automobile warranties and inspections.

CODE REFERENCE: West Virginia Code §46A-6-407a – amended.

This bill deal with the applicable warranties that relate to used cars and provides for “As Is” sales of used motor vehicles. The bill would allow all used motor vehicles to be sold “As Is” if:

- (1) The vehicle is inoperable and a total loss;
- (2) The vehicle has been custom built or modified for show purposes or racing; or
- (3) The vehicle is the following:
 - (A) Sold for less than \$4,000;
 - (B) Driven more than 100,000 miles at the time sold; or
 - (C) Seven years of age or older as calculated from January 1 of the designated model year of the vehicle.

If the vehicle meets the criteria of (3) above, i.e., is sold for less than \$4,000; driven more than 100,000 miles at the time sold; or 7 years of age or older, then the buyer has the right to cancel the sale if he or she returns the vehicle to the point of sale by the end of the dealer’s third business day following the sale; but in order to cancel, the vehicle must also “have a significant mechanical issue or issues that can be reasonably expected to have existed at the time of the sale.” There are no provisions for cancelling a sale of a vehicle that meets the criteria of (1) or (2) above, i.e., the vehicle is inoperable and a total loss; or the vehicle has been custom built or modified for show purposes or racing.

The bill provides the “disclaimer” language that the seller must provide on the front page of the contract of sale. The “merchant” must “describe in writing any defects or malfunctions, if any, disclosed to the merchant by a previous owner of the used motor vehicle or discoverable by the merchant after an inspection of the used motor vehicle; and provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle.

The bill also states that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties upon which the consumer relied in entering into the transaction.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 544

SHORT TITLE: Increasing salaries for members of WV State Police over three-year period.

CODE REFERENCE: West Virginia Code §15-2-5 – amended.

This bill would increase the scheduled annual salaries of members of the West Virginia State Police, beginning July 1, 2019, in the amount of \$2,370. The amendment, which provides a one-time permanent increase in those annual salaries, does not provide an increase in the members' annual longevity pay.

The \$2,370 salary increase equals the one-time salary increase for all state employees funded in the Budget Bill, which is approximately equal to 5% of the average of all state employees' (including State Police) aggregate salaries.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Committee Substitute for Senate Bill 546

SHORT TITLE: Creating tax on certain acute care hospitals.

CODE REFERENCE: W.Va. Code §11-27-39 – NEW

This bill imposes a tax increase on specified acute care hospitals to maximize federal funding in order to increase practitioner payment for employed practitioners.

The bill applies to providers of inpatient and outpatient hospital services, this bill imposes an additional tax of 0.13 percent on the gross receipts received or receivable by eligible acute care hospitals and health systems that provide inpatient and outpatient hospital services in the state. The bill excludes:

- A state owned or designed facility
- A critical access hospital
- A licensed long-term acute care hospital

The term practitioner means a physician licensed pursuant to the provisions of §30-3-1 and §30-14-1 of this code.

The tax may not be collected until each of the following:

- WV BMS incorporates the payment methodology into the appropriate contracts and agreements; and
- The WV BMS receives the necessary approvals from CMS
- All fees shall be deposited into a dedicated eligible acute care practitioner enhancement fund.

Disbursements from the eligible acute care fund may only be used to support increasing practitioner payment fee schedules for practitioners employed by eligible acute care hospitals and health systems.

The collection of the tax shall be suspended on any of the following:

- The effective date of any action by Congress that would disqualify the taxes imposed by this section from counting toward state Medicaid funds to be used to determine federal participation;
- The effective date of any decision or other determination by the Legislation, court, or other body that disqualifies the tax from counting toward state Medicaid funds to be used to determine federal participation; And
- If the funds are not used to effectuate the provisions of this section

If the fund is suspended, then the funds are transferred to the Medical services fund and subject to the discretion of BMS.

The bill contains an internal effective date of on or after July 1, 2019, and a sunset date of on or after June 30, 2021.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Senate Bill 564

SHORT TITLE: Expanding comprehensive coverage for pregnant women through Medicaid.

CODE REFERENCE: West Virginia Code §5-16B-6d – amended and §9-5-12 – amended.

This bill comprehensive benefit plan for pregnant women under the Children's Health Insurance Program – CHIP – for women between 185% of the federal poverty and up to 300% of the federal poverty level. The Committee on Health and Human Resources added the provision that this would occur if funding is available after all children up to 300 percent of the federal poverty level are covered. A similar change is made to the Medicaid Program by expanding coverage from the current level of 150% of the federal poverty level to 185% of the federal poverty level. The bill also provides for 60 days postpartum care as part of the coverage.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 587

SHORT TITLE: Relating to PEIA reimbursement of air ambulance providers.

CODE REFERENCE: West Virginia Code §5-16-8a – amended.

This bill establishes the amount the West Virginia Public Employees Insurance Agency will reimburse air-ambulance providers for the transportation of individuals covered by its plans, consistent with *Air Evac EMS, Inc. v. Cheatham*, 910 F.3d 751 (4th Cir. 2018). The bill provides that the plan reimburse a provider the amount in effect for the federal Medicare Program, including any Geographic Practice Cost Index. Further, the bill clarifies that where 49 U.S.C. §41713(b) (the ADA fee schedule) applies to reimbursement of a provider under §5-16-8a, any administrative, civil, or criminal penalties of the WV Code are inapplicable.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 6, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for Committee Substitute for Senate Bill 632

SHORT TITLE: Improving student safety.

CODE REFERENCE: West Virginia Code §18-5-48 and §18-20-11 - NEW; and §18A-2-8 and §18A-3-6 – amended.

Safety and Security Measures for school facilities

- Requires county boards and multi-county vocational centers to annually assess the safety and security of each of its school facilities.
- Requires safety and security measures of each facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of the students within each facility.
- Requires each county board to report annually the safety and security measures it has put in place, including upgrades to those measures, to the department of education; and requires the department of education to compile the information from the county boards annually, and report the information to LOCEA.
- Creates a "Safe Schools Fund", and requires that, subject to appropriation, the funds be distributed to the county board and multi-county vocational centers, with the funding amount per school determined by dividing the total annual appropriation by the total number of public schools throughout the state.

Video Cameras In Special Education classrooms

- Provides that a county board of education place video cameras in self-contained classrooms as set out in board policy.
- Defines necessary terms. Which includes a definition of "self-contained classroom" which is a classroom at a public school where the majority of the students are provided special education instruction.
- County boards are required to provide a camera for each self-contained classroom and the principal of the school is the custodian of the records made by the camera.
- Public schools who receive the camera are required to operate and maintain the camera. Any interruption in operation requires a written explanation submitted to the school principal and the country board.
- Requires that a video camera placed in a self-contained classroom be capable of monitoring all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes; and recording audio from all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes.
- Prohibits a video camera placed in a self-contained classroom from monitoring a restroom or any other area in the self-contained classroom where a student changes his or her clothes.

- Provides that a video camera placed in a self-contained classroom is not required to be in operation during the time in which students are not present in the self-contained classroom.
- Requires that before a public school places a video camera in a self-contained classroom, the public school provide written notice of the placement to the parent or legal guardian of a student who is assigned to the self-contained classroom; the county board; and the school employee(s) who is assigned to work with one or more students in the self-contained classroom.
- Sets out that the video shall be retained for three months unless:
 - There is a request to view the video then it must be retained until the video is reviewed. A person who requests to review must be available within thirty days of the request being granted.
 - The exhaustion of all appeals if the recording results in an investigation or administrative or legal proceedings.
- There are provisions relative to liability. There is no waiver of immunity from liability for a public school district or employee and no cause of action is created by the enactment of the section.
- Prohibitions are set out prohibiting a public school or school district from allowing regular, continuous, or continual monitoring of the video; using the video for teacher evaluations or any purpose other than the promotion of the health, well-being, and safety of students receiving special education and related services in a self-contained classroom.
- Provides that a video recording of a student is confidential and shall not be released or viewed except as provided in the bill.
- Requires that within seven days of receiving a request, a public school or school district allow viewing of a video recording by a public school or school district employee who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district; a parent or legal guardian of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district; an employee of a public school or school district as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the public school or school district; a law-enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law-enforcement agency; or DHHR as part of a child abuse and neglect investigation so long as FERPA is complied with.
- Prohibits the use of any video showing a violation of a school's disciplinary code in disciplining a student when the infraction was found while monitoring the video in the course of an investigation of an incident.
- Provides that it is not a violation of the confidentiality requirements if a contractor or other employee of a public school or school district incidentally views a video recording if the contractor or employee of a public school or school district is performing job duties related to the installation, operation, or maintenance of video equipment or retention of video recordings.
- Provides that these provisions do not limit the access of a student's parent or legal guardian to a video recording regarding the student under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.

- Requires a public school or school district to: (1) Take necessary precautions to conceal the identity of a student who appears in a video recording but is not involved in the alleged incident documented by the video recording for which the public school allows viewing; and (2) provide procedures to protect the confidentiality of student records contained in a video recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.
- Allows a person who is eligible to make a request for a video camera to appeal to the state board any action by a public school or school district that the person believes to be in violation of these provisions; and requires the state board to grant a hearing on an appeal within 45 days of receiving the appeal.
- Allows a public school or school district to use funds from the “Safe Schools Fund” to fulfill a request made pursuant to these provisions; and allows a public school or school district to accept gifts, grants, or donations to fulfill a request.
- Allows the state board to promulgate a rule to clarify these requirements and address any unforeseen issues that might arise relating to the implementation of these requirements.

Suspension and Dismissal of School Personnel

- Adds to the justifications for suspending or dismissing a school employee: A finding of abuse by DHHR, or a conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee’s job.
- Allows suspension or dismissal of any person at any time should the health, safety, and welfare of students be jeopardized, or the learning environment of students has been impacted.
- Requires the state superintendent to maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of students.

Grounds for Revocation of Certificates

- Adds to the justifications for revoking a teacher’s certificate: a finding of abuse by DHHR; and provides for automatic revocation in such case.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 656

SHORT TITLE: Relating to electronic filing of tax returns.

CODE REFERENCE: West Virginia Code §11-10-5t & -5z – amended and §11-13V-7 - amended

The purpose of this bill is to increase the threshold at which a taxpayer is required to pay a tax liability electronically (“if the amount owed for the tax during the preceding tax year was less than \$25,000), or at which a taxpayer is required to file a tax return electronically (“any person...who had total annual remittance for any single tax equal to or greater than \$25,000 during the immediately preceding tax year”), from \$25,000 to \$50,000. Senate Bill 656 also removed reference in the code to taxes no longer being imposed.

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Senate Bill 677

SHORT TITLE: Supplemental appropriation to Division of Health and Division of Human Services.

CODE REFERENCE: N/A

Supplemental bill increasing appropriations for the Division of Health by \$1,000,000 for Health Right Free Clinics and by \$269,202 for an Office of Medical Cannabis. The bill also increases funding to Division of Human Services by \$23,579,700 for Social Services.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

Senate Bill 678

SHORT TITLE: Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology.

CODE REFERENCE: N/A

Creates new items of appropriation in the Office of Technology to fund Cyber Security in the amount of \$4,200,000, an Enterprise Data Center in the amount of \$12,000,000, and Enterprise Technology Modernization in the amount of \$2,225,000.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

Senate Bill 679

SHORT TITLE: Supplemental appropriation to Division of Finance.

CODE REFERENCE: N/A

Supplemental appropriation to the Division of Finance in the amount of \$298,000 for Enterprise Resource Planning Systems.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor March 14, 2109.

Senate Bill 680

SHORT TITLE: Supplemental appropriations to various divisions in DMAPS.

CODE REFERENCE: N/A

Supplemental to the Department of Military Affairs and Public Safety, Current Expenses in the amount of \$345,247 and SIRN in the amount of \$421,214.

EFFECTIVE DATE: Upon Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor March 14, 2019.

Senate Bill 681

SHORT TITLE: Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority.

CODE REFERENCE: N/A

Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority in the amount of \$7,358,890 for Capital Outlay and Maintenance.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor March 14, 2019.

Committee Substitute for House Bill 2001

SHORT TITLE: Relating to exempting social security benefits from personal income tax.

CODE REFERENCE: West Virginia Code §11-21-12 – amended.

PROPOSED LAW PRESENTED TO THE COMMITTEE: The purpose of this bill is to eliminate taxation on social security benefits starting with tax year January 1, 2020. The implementation would be phased in over the next three years as follows:

1. In tax years beginning after 1/1/2020 qualified taxpayers are permitted to modify their federal adjusted gross income for the taxable year by 35%;
2. In tax years beginning after 1/1/2021 qualified taxpayers are permitted to modify their federal adjusted gross income for the taxable year by 65%;
3. In tax years beginning after 1/1/2022 qualified taxpayers are permitted to modify their federal adjusted gross income for the taxable year by 100%.

The adjustment would also be allowed on railroad retirement. Railroad employees do not contribute into Social Security.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2020

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

House Bill 2009

SHORT TITLE: Creating a new category of Innovation in Education grant program.

CODE REFERENCE: West Virginia Code §18-5E-8 - New

House Bill 2009 creates a new category of Innovation in Education schools under the Innovation in Education Act. The new category is for those schools interested in undertaking the transition into mastery-based education. The bill creates a multistep process to assist interested schools, in conjunction with the State Board of Education and other interested parties, in developing awareness of mastery-based education, assessing the capability and readiness of interested schools to undertake transition, and to create an incubator process between interested schools for continuing support of the programs.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for House Bill 2010

SHORT TITLE: Relating to foster care.

CODE REFERENCE: West Virginia Code § 9-5-27- NEW; §49-1-206 – amended; §49-2-107 – amended; §49-2-111a – NEW; §49-2-111b – NEW; §49-2-113; §49-2-708; §49-4-108; §49-4-406; §49-4-413; §49-4-604; §49-4-608; §49-4-711; §49-4-714 and §49-4-724 – all amended.

This bill updates the regulation of foster care. The foster care system has approximately 6,400 children with that population increasing significantly in the last 2 years.

This bill does nine things:

1. Mandates the transition of the foster care population into managed care:

- The bill requires that the DHHR transition the foster care system into a managed care system by **January 1, 2020**. A bill to do this was introduced in the House (HB4241) to transition foster children to managed care but it did not make it out of the House.
- This transition would require payments for eligible services including home and community-based services to be made using a managed care model
- In designing the program, DHHR shall ensure:
 - Reduces fragmentation and offers a seamless approach to meeting needs
 - Delivers needed supports and services in the most integrated, appropriate, and cost-effective way possible;
 - Offers a continuum of acute care services, which includes an array of home and community-based options;
 - Includes a comprehensive quality approach across the entire continuum of care services; and
 - Consults with stakeholders in the program development process, and the managed care organization that is awarded the contract shall create a voluntary advisory group of foster parents which shall meet every six months to discuss issues they are encountering with managed care
- The dept. shall evaluate the transition to managed care by **July 1, 2022** and report its findings to LOCHHRA and the Foster Care Ombudsman
- The transition to foster care shall terminate on **June 30, 2024** unless cancelled at earlier
- The bill prohibits employees of the department who as a function of that employment have engaged in the development of any functions of the department may not for a two-year period be employed by a contract or agency that has benefitted or stands to benefit directly or indirectly from a contract between the department that agency or company.
- The bill provides that 80% of composition of the managed care company's workforce allocated to manage foster care children in WV must have a primary work place in WV.

2. Creates a foster care child and parent ombudsman:

The bill provides for the creation of a foster care ombudsman whose job it is to advocate for foster children and foster parents, participate in any procedure to investigate and resolve complaints filed on behalf of the foster child, monitor development of federal and state legislation with respect to foster care services, establishing and maintaining a statewide uniform reporting system to collect data relating to complaints. The ombudsman shall participate in on-going training.

3. Implements performance-based contracting:

The bill requires DHHR to enter into performance-based contracts with child placing agencies. DHHR will be required to annually evaluate its child placing agencies based upon certain negotiated contractual factors. Those factors include safety outcomes, permanency outcomes, well-being outcomes, incentives earned, and recruitment and retention of foster parents. The implementation dates are currently, **December 31, 2019** to issue the RFP, notify successful bidders **June 30, 2020** and have the contracts in place **December 1, 2020**.

4. Studies kinship care:

The bill requires DHHR to conduct a study and make recommendations for improving services provided to kinship foster families. This shall include at a minimum: (1) a review of the best practices in other states; (2) a proposal for an alternative system of regulation for kinship foster care that includes the same reimbursement as other foster care families as well as a reasonable time for obtaining certification; (3) an evaluation of what training and supports are needed to ensure that kinship care homes are successful; the results shall be shared by **October 1, 2019**

5. Requires DHHR to review and update their legislative rule to a reasonably prudent parent standard and to ensure normalcy for the foster child.

- The bill extends the time a foster family is certified from 1 year to 3 years, unless a substantial change occurs. A new criminal background check will occur at the time of recertification process. A home safety assessment is performed at least annually. DHHR has the sole authority to determine if a substantial change has occurred.
- The bill provides that the rules may not prevent the placement or cause the removal of a foster child for cosmetic damage to a home. The bill provides that the rule shall permit the use of dedicated sleeping spaces as appropriate for the child's needs, age, and similar to other household members. The bill provides rules shall be updated while considering normalcy and the reasonable and prudent parent standard. The rule must be revised and submitted for rulemaking by **October 31, 2019**.

6. Clarifies the amount that DHHR will pay for court ordered services:

- To provide better cost certainty for DHHR, 2 provisions were added to the code. If a service is currently covered by Medicaid, the court may not order DHHR to pay more than the Medicaid rate for that service. For example, if a court ordered a session with a psychologist, the court then could not order the DHHR to pay more than the Medicaid rate for that session.

- The same is true for a service not covered by Medicaid and the court orders the service. An example is a drug test. The department shall create a policy which will determine how much more it will pay for the drug test and the court may not order the department to pay more.
 - An exception is placed in both of those sections. The exception permits the court to order a higher rate to be paid, if the services are not paid within 30 days. If the department disagrees, then the department may request a hearing
7. Changes policies with respect to child residential providers with the goal of retaining placement of children in WV and returning children to WV currently in out-of-state placement.
- The bill changes 2 policies which will affect how foster children are placed in a residential care facility. Residential care facilities are a live-in, out-of-home care placement in which staff are trained to work with children and youth whose specific needs are best addressed in a highly structured environment. These placements are time limited and offer a higher level of structure and supervision than what can be provided in the home.
 - The bill requires a residential child care center to accept a foster child if the child meets their program criteria. These types of facilities are licensed by tiers or levels. A child placed in a tier 1 facility needs less service than a child placed in a tier 3 facility. This change would require a facility which holds itself out as a tier 3 facility to accept all children who need tier 3 services.
 - The bill provides that any residential child care center who has entered into a contract with DHHR may not discharge any child in its program without the consent of the DHHR and the approval of the court. If DHHR does not consent, the residential care provider may petition the court to present evidence that the child does not meet the center's program criteria.
 - The bill provides the court may not order a child to be placed in an out-of-state facility unless the child is diagnosed with a health issue that no in-state facility or program serves, unless a placement out of state is in closer proximity to the child's family for the necessary care or the services are provided in a more timely manner.
8. Clarifies the type of assessment performed on a foster child.
- The code did not differentiate between the type of assessment provided to a juvenile offender and the assessment provided to a foster child. This definition change clarifies that a different assessment should be given to each. A foster child will receive a Child and Adolescent Needs and Strengths Assessment (CANS). The CANS assessment is a multi-purpose assessment developed for children's services to support decision making, including level of care and service planning.
 - Juvenile offenders are assessed with the Youth Level of Service Assessment (YLS) Assessment.
9. States that the use of Medication Assisted Treatment may not be the sole reason parental rights may be terminated.

The bill permits DHHR to consolidate any additional waivers as appropriate and provides that this provision does not apply to the Aged and Disabled Waiver, the Intellectual/Development Disabilities Waiver, and the Traumatic Brain Injury Waiver.

The bill provides for additional reporting be made to LOCHHA including, the number claims submitted, the number of claims approved, the number of claims denied, the number of claims appealed, the resolution of the appealed claims, the average time of the appeal, the average length of stay in a child residential care center, and health outcomes. The initial report shall be filed July 1, 2021 and the final report shall be filed July 1, 2023.

The bill provides that the ombudsman shall have experience in the area of child welfare.

The bill provides that an employee of the department who as a function of that employment has engaged in the development of any contract developed pursuant to the requirements of this section may not for a period of two years thereafter be employed by any agency or company. This narrows the earlier language which applied to any contract and related to not only the development of the contract but the establishment, procurement, maintenance or execution of the contract.

Lastly, the bill provides that the DHHR may issue the request for proposal for performance-based contracting on July 1, 2020 and successful bidders will be notified no later than September 1, 2020.

EFFECTIVE DATE: Passage.

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 26, 2019.

Committee Substitute for House Bill 2020

SHORT TITLE: Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

CODE REFERENCE: N/A

This is the budget bill for fiscal year 2020. The total estimate for General Revenue for fiscal year 2020, as provided in the Governor's six-year plan was 4,675,820,000. The Committee Substitute for House Bill 2020 appropriates 4,630,408,972 leaving just under \$46,000,000 unappropriated for the fiscal year. Throughout this summary the Committee Substitute for House Bill 2020 is referred to as HB 2020.

A number of bills that completed legislative action increased or decreased the final general revenue estimate for fiscal year 2020:

1. **S. B. 30** - Eliminating tax on annuity considerations collected by life insurer. The bill provides that for the taxable years beginning on or after January 1, 2021, the tax imposed by W.Va. Code §33-3-15 is discontinued. That section requires every life insurer transacting insurance in West Virginia to report annually to the Insurance Commissioner the gross amount of annuity considerations collected and received by it during the previous calendar year on its annuity business transacted in this state. Such amount is then taxed 1% of the gross amount of the annuity considerations, less annuity considerations returned and less termination allowances on group annuity contracts.
2. **S. B. 36** - Allowing adjustment of gross income for calculating personal income liability for certain retirees. The bill would provide protections for any person who retires under an employer-provided defined benefit pension plan. If that pension plan terminates prior to or after the retirement of that person and the pension plan is covered by a guarantor whose maximum benefit guarantee is less than the maximum benefit to which the retiree was entitled, the protection triggers. That protection is in the form of the retiree being able to adjust their income tax by an amount equal to the difference from the money that retiree should have received, and the maximum annual pension benefit received.
3. **S. B. 502** - Exempting sales of investment metal bullion and coins. Added a new section to the code exempting the sale of investment metal bullion and investment coins from the state sales and use tax. "Investment metal bullion" means any elementary precious metal which has been put through a process of smelting or refining, including gold, silver, platinum, and palladium, and which is in such a state or condition that its value depends upon its content and not its form.
4. **H. B. 2001** - Relating to exempting social security benefits from personal income tax. This bill added \$48 million dollars to the general revenue estimate for fiscal year 2020. The changes that were made by the legislature phased this tax exemption in over a three-year period. Originally, the provisions of this bill reduced general revenue by \$50 million, and implemented a complete elimination of the Social Security tax. This figure was figured into the fiscal year 2020 revenue estimate

5. **H. B. 2807** - Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking. This bill would provide an additional modification reducing the West Virginia adjusted gross income for shareholders of S corporations in the banking business for tax years beginning on or after January 1, 2019. The shareholders proportional share of all items of income, loss, deduction or credit of the S corporation can be further reduced in the calculation of their West Virginia adjusted gross income by the percentage of the S corporations' assets. This bill was vetoed by the Governor on March 27, 2019, but we believe that it will be placed on a revised call to the special session for reconsideration.
6. **H. B. 2829** - Relating to the termination of severance taxes on limestone and sandstone. This bill eliminated the severance tax on limestone and sandstone mining in the state.
7. **H. B. 3142** - Relating to reducing the severance tax on thermal or steam coal. The bill would reduce the regular severance tax on thermal or steam coal to 2% over a three-year period. The first year of reduction would be at 35% of the 2%, the second year would be at 65% of 2% and in the final year it would increase to the full 2%.

A breakdown of General Revenue improvements and reductions for each Department follows:

SECTION I – GENERAL REVENUE

#1 Senate –

Governor's Proposed Budget: \$5,952,206

- No Change

HB 2020 signed by Governor: \$5,952,206

#2 House of Delegates –

Governor's Proposed Budget: \$8,904,031

- \$500,000 was added at the request of the House of Delegates for remodeling and renovation projects.

HB 2020 signed by Governor: \$9,404,031

#3 Joint Expenses –

Governor's Proposed Budget: \$8,140,457

- \$1,000,000 was added to the Joint Committee on Government and Finance at the request of the Joint Committee.
- \$500,000 was removed from the Legislative Printing, this was a voluntary reduction taken by the Joint Committee.
- \$600,000 was added to a new appropriation to pay for Legislative Fees and Dues at the request of the Joint Committee.

HB 2020 signed by Governor: \$9,240,457

Items #1-3 Legislature - Total Spend HB 2020: \$24,596,694

#4 Judicial –

Governor's Proposed Budget: \$136,150,000

- \$2,917,344 was added for non-judicial staff pay raises.
- \$5,000,000 was removed for the Intermediate Court of Appeals as legislation to establish this court did not complete legislative action and this appropriation was included in the Governor's proposed budget.
- \$10,000,000 was removed from Current Expenses this was a voluntary reduction made by the Supreme Court of Appeals.
- \$86,425 was removed from BRIM Premium as indicated by a letter of adjustment from BRIM.
- \$300,000 was added to a new line item for the Mental Health and Military Court Program (SB 40).

HB 2020 signed by Governor: \$124,322,344

Item #4 Judicial – Total Spend HB 2020: \$124,322,344

#5 Governor's Office –

Governor's Proposed Budget: \$4,466,829

- No Change

HB 2020 Signed by Governor: \$4,466,829

#6 Governor's Office – Custodial Fund

Governor's Proposed Budget: \$ 569,451

- No Change

HB 2020 Signed by Governor: \$ 569,451

#7 Governor's Office – Civil Contingent Fund

Governor's Proposed Budget: Budget Language Only

- No Change

HB 2020 Signed by Governor: Budget Language Only

#8 Auditor's Office – General Administration

Governor's Proposed Budget: \$ 2,823,095

- No Change

HB 2020 Signed by Governor: \$ 2,823,095

#9 Treasurer's Office –

Governor's Proposed Budget: \$ 3,325,352

- \$310,000 was added to Current Expenses to cover costs in providing banking services for medical cannabis (HB 2538).

HB 2020 Signed by Governor: \$ 3,635,352

#10 Department of Agriculture –

Governor's Proposed Budget: \$ 10,292,373

- \$ 800,000 was added at the request of the Department to cover a number of remodeling and renovation projects that have been put off for a number of years. These include the repair of several refrigeration units and the repairs to a warehouse loading dock.

HB 2020 Signed by Governor: \$ 11,092,373

#11 West Virginia Conservation Agency –

Governor's Proposed Budget: \$ 10,023,235

- \$ 1,000,000 was added for dam maintenance and repair.

HB 2020 Signed by Governor: \$ 11,023,373

#12 Agriculture – Meat Inspection Fund

Governor's Proposed Budget: \$ 757,725

- No Change

HB 2020 Signed by Governor: \$ 757,725

#13 Agriculture – Agriculture Awards Fund

Governor's Proposed Budget: \$ 54,250

- No Change

HB 2020 Signed by Governor: \$ 54,250

#14 WV Agricultural Land Protection Authority –

Governor's Proposed Budget: \$ 100,497

- No Change

HB 2020 Signed by Governor: \$ 100,497

#15 Attorney General –

Governor's Proposed Budget: \$ 4,953,457

- No Change

HB 2020 Signed by Governor: \$ 4,957,457

#16 Secretary of State –

Governor's Proposed Budget: \$ 957,597

- No Change

HB 2020 Signed by Governor: \$ 957,597

#17 State Election Commission –

Governor's Proposed Budget: \$ 7,508

- No Change

HB 2020 Signed by Governor: \$ 7,508

Items #5 - 17 Executive – Total Spend \$ 40,411,366

#18 Administration – Office of the Secretary

Governor's Proposed Budget: \$ 15,740,252

- No Change

HB 2020 Signed by Governor: \$ 15,740,252

#19 Consolidated Public Retirement Board –

Governor's Proposed Budget: Budget Language Only

- No Change

HB 2020 Signed by Governor: Budget Language Only

#20 Division of Finance –

Governor's Proposed Budget: \$ 753,000

- No Change

HB 2020 Signed by Governor: \$ 753,000

#21 Division of General Services –

Governor's Proposed Budget: \$ 30,769,219

- No Change

HB 2020 Signed by Governor: \$ 30,769,219

#22 Division of Purchasing –

Governor's Proposed Budget: \$ 1,064,477

- No Change

HB 2020 Signed by Governor: \$ 1,064,477

#23 Travel Management –

Governor's Proposed Budget: \$ 1,260,842

- No Change

HB 2020 Signed by Governor: \$ 1,260,842

#24 Commission on Uniform State Laws –

Governor's Proposed Budget: \$ 45,550

- No Change

HB 2020 Signed by Governor: \$ 45,550

#25 West Virginia Public Employees Grievance Board –

Governor's Proposed Budget: \$ 1,124,712

- No Change

HB 2020 Signed by Governor: \$ 1,124,712

#26 Ethics Commission –

Governor's Proposed Budget: \$ 719,844

- No Change

HB 2020 Signed by Governor: \$ 719,844

#27 Public Defender Services –

Governor's Proposed Budget: \$ 34,485,646

- \$ 325,000 was added to Public Defender Corporations at the request of the agency
- \$ 325,000 was removed from Appointed Counsel Fees at the request of the agency

HB 2020 Signed by Governor: \$ 34,485,646

#28 Committee for the Purchase of Commodities and Services from the Handicapped –

Governor's Proposed Budget: \$ 4,055

- No Change

HB 2020 Signed by Governor: \$ 4,055

#29 Public Employees Insurance Agency –

Governor's Proposed Budget: \$ 21,000,000

- No Change

HB 2020 Signed by Governor: \$ 21,000,000

#30 WV Prosecuting Attorneys Institute –

Governor's Proposed Budget: \$ 246,653

- No Change

HB 2020 Signed by Governor: \$ 246,653

#31 Real Estate Division –

Governor's Proposed Budget: \$ 831,866

- No Change

HB 2020 Signed by Governor: \$ 831,866

Items #18 – 31 Administration – Total Spend HB 2020 \$ 108,046,116

#32 West Virginia Tourism Office –

Governor's Proposed Budget: \$ 14,000,000

- \$ 5,000,000 was reduced from Brand Promotion, this was a discretionary cut from the Legislature.
- \$ 750,000 was reduced from Public Relations, this was a discretionary cut from the Legislature.
- \$ 250,000 was reduced from Events and Sponsorships, this was a discretionary cut from the Legislature.
- \$ 250,000 was reduced from Industry Development, this was a discretionary cut from the Legislature.
- \$ 750,000 was reduced from State Parks and Recreation Advertising, this was a discretionary cut from the Legislature.

HB 2020 Signed by Governor: \$ 7,000,000

#33 Division of Forestry –

Governor's Proposed Budget: \$ 3,422,658

- No Change

HB 2020 Signed by Governor: \$ 3,422,658

#34 Geological Survey –

Governor's Proposed Budget: \$ 2,917,247

- No Change

HB 2020 Signed by Governor: \$ 2,917,247

#35 West Virginia Development Office –

Governor's Proposed Budget: \$ 11,263,525

- No Change

HB 2020 Signed by Governor: \$ 11,263,525

#36 Division of Labor –

Governor's Proposed Budget: \$ 1,843,176

- No Change

HB 2020 Signed by Governor: \$ 1,843,176

#37 Division of Natural Resources –

Governor's Proposed Budget: \$ 23,248,350

- No Change

HB 2020 Signed by Governor: \$ 23,248,350

#38 Division of Miner's Health, Safety and Training –

Governor's Proposed Budget: \$ 11,625,820

- No Change

HB 2020 Signed by Governor: \$ 11,625,820

#39 Board of Coal Mine Health and Safety –

Governor's Proposed Budget: \$ 355,599

- No Change

HB 2020 Signed by Governor: \$ 355,599

#40 WorkForce West Virginia –

Governor's Proposed Budget: \$ 59,363

- No Change

HB 2020 Signed by Governor: \$ 59,363

#41 Commerce – Office of the Secretary

Governor's Proposed Budget: \$ 607,461

- \$500,000 was added and will be transferred to the Broadband Enhancement Fund. These funds will be used to bring broadband internet to rural areas of the state. These funds were a discretionary addition from the Legislature.

HB 2020 Signed by Governor: \$ 1,107,461

#42 Office of Energy –

Governor's Proposed Budget: \$ 1,244,267

- No Change

HB 2020 Signed by Governor: \$ 1,244,267

#43 State Board of Rehabilitation – Division of Rehabilitation Services

Governor's Proposed Budget: \$ 14,886,464

- No Change

HB 2020 Signed by Governor: \$ 14,886,464

Items #32 – 43 Commerce – Total Spend HB 2020 \$ 57,087,466

#44 State Board of Education – School Lunch Program

Governor's Proposed Budget: \$ 2,466,907

- No Change

HB 2020 Signed by Governor: \$ 2,466,907

#45 State Department of Education –

Governor's Proposed Budget: \$ 92,973,420

- \$120,000 was added to help supplement the cost of AP exams for low-income students. This was a discretionary addition made by the Legislature.
- \$ 125,000 was added for Mastery Based Education (HB 2009).
- \$ 5,372,000 was removed from the Teachers' Retirement Savings Realized item. The Governor in his Line item veto letter changed this amount stating that "the above appropriation includes funding above what is necessary as certified by the Consolidated Public Retirement Board."

HB 2020 Signed by Governor: \$ 87,846,420

#46 State Board of Education – Aid for Exceptional Children

Governor's Proposed Budget: \$ 32,364,379

- No Change

HB 2020 Signed by Governor: \$ 32,364,379

#47 State Aid to Schools –

Governor's Proposed Budget: \$ 1,844,146,508

- \$ 833,301 was added to Step 4 to cover the costs to install both rear and front facing cameras on school buses (SB 623)
- Steps 7a, 7b, 7c and 7d were all adjusted based on Certificates of Valuation that the State Board of Education received from local county assessors. These adjustments increased the total local share of the State Aid Formula to \$478,449,993. Fifty percent of the growth in local share is captured through various step 7 calculations, so the net savings to the State in basic aid funding is \$2,385,739.
- Other various adjustments were made based on letters received from TRS, PEIA and the State Board of Education.
- The funds for the teacher and school support staff pay raises can be found in Steps 1, 2 and 5 of the state aid formula. The State Board of Education will be authorized to disperse these funds when future legislation is passed changing the table tables that are found in the West Virginia Code. If no legislation is passed before the end of fiscal year 2019 these funds will revert to the General Revenue fund.

HB 2020 Signed by Governor: \$ 1,844,083,470

#48 Vocational Division –

Governor's Proposed Budget: \$ 43,859,817

- \$4,000,000 was reduced from Jim's Dream

HB 2020 Signed by Governor: \$ 39,859,817

#49 State Board of Education – West Virginia School for the Deaf and Blind

Governor's Proposed Budget: \$ 14,677,888

- No Change

HB 2020 Signed by Governor: \$ 14,677,888

Items #44 – 49 Public Education – Total Spend HB 2020 \$ 2,021,298,881

#50 Division of Culture and History –

Governor's Proposed Budget: \$ 5,275,381

- No Change

HB 2020 Signed by Governor: \$ 5,275,381

#51 Library Commission –

Governor's Proposed Budget: \$ 1,640,790

- No Change

HB 2020 Signed by Governor: \$ 1,640,790

#52 Educational Broadcasting Authority –

Governor's Proposed Budget: \$ 3,830,691

- No Change

HB 2020 Signed by Governor: \$ 3,830,691

Items # 50 – 52 Arts, Culture and History Total Spend HB 2020 - \$10,746,862

#53 Environmental Quality Board –

Governor's Proposed Budget: \$ 113,486

- No Change

HB 2020 Signed by Governor: \$ 113,486

#54 Division of Environmental Protection –

Governor's Proposed Budget: \$ 6,498,479

- No Change

HB 2020 Signed by Governor: \$ 6,498,479

#55 Air Quality Board –

Governor's Proposed Budget: \$ 76,053

- No Change

HB 2020 Signed by Governor: \$ 76,053

Items #53 – 55 Department of Environmental Protection Total Spend HB 2020 - \$6,688,015

#56 Department of Health and Human Resources - Office of the Secretary

Governor's Proposed Budget: \$ 667,244

- No Change

HB 2020 Signed by Governor: \$ 667,244

#57 Division of Health – Central Office

Governor's Proposed Budget: \$ 78,074,136

- \$200,000 was added in Current Expenses for the Division of Health to appropriate to the Potomac Center located in Romney, WV. This was a discretionary spend added by the Legislature.
- \$ 1,500,000 was added for Local Boards of Health bringing the total appropriated for fiscal year 2020 to \$14,160,490. This was a discretionary addition made by the Legislature.
- \$ 1,000,000 was removed from the Healthy Lifestyles appropriation. Reducing the appropriation from \$2,000,000 to \$ 1,000,000. This was a discretionary cut made by the Legislature.

HB 2020 Signed by Governor: \$ 78,774,136

#58 Consolidated Medical Services Fund –

Governor's Proposed Budget: \$ 229,083,154

- \$ 1,000,000 was reduced from the Jim's Dream appropriation. This was a discretionary reduction made by the Legislature.

HB 2020 Signed by Governor: \$ 228,083,154

#59 Division of Health – West Virginia Drinking Water Treatment

Governor's Proposed Budget: \$ 647,500

- No Change

HB 2020 Signed by Governor: \$ 647,500

#60 Human Rights Commission –

Governor's Proposed Budget: \$ 1,419,645

- No Change

HB 2020 Signed by Governor: \$ 1,419,645

#61 Division of Human Services –

Governor's Proposed Budget: \$ 1,006,590,583

- \$ 50,749,802 was reduced from the Medical Services appropriation.
 - o Two reductions were made to this line:
 - First, \$53,000,000 was reduced, HB 3148 was meant to “prefund” this cut. The Governor vetoed this bill citing that Medicaid is predicted to end fiscal year 2020 with a surplus of nearly \$190 million, so the bill was unnecessary.
 - Second, several special revenue sweeps were made. This money was transferred to the medical services line via a directed transfer in budget language thus again allowing for a deduction to be made in the same amount. These special revenue transfers can be found in Section 12 of the Budget Bill document. The total of these revenue sweeps was \$ 8,749,802.
 - o One addition was made to this line of \$ 11,000,000 to make up for a cut of \$11,000,000 in the Medical Services line in the Excess Lottery Fund. (SB 13)

HB 2020 Signed by Governor: \$ 955,840,781

Items #56-61 Department of Health and Human Services – Total Spend HB 2020 \$ 1,265,432,460

#62 Military and Public Safety – Office of the Secretary

Governor's Proposed Budget: \$ 1,953,843

- No Change

HB 2020 Signed by Governor: \$ 1,953,843

#63 Adjutant General – State Militia

Governor's Proposed Budget: \$ 15,934,268

- No Change

HB 2020 Signed by Governor: \$ 15,934,268

#64 Adjutant General – Military Fund

Governor's Proposed Budget: \$ 157,775

- No Change

HB 2020 Signed by Governor: \$ 157,775

#65 West Virginia Parole Board –

Governor's Proposed Budget: \$ 1,386,282

- No Change

HB 2020 Signed by Governor: \$ 1,386,282

#66 Division of Homeland Security and Emergency Management –

Governor's Proposed Budget: \$ 4,332,952

- No Change

HB 2020 Signed by Governor: \$ 4,332,952

#67 Divisions of Corrections and Rehabilitation – Central Office

Governor's Proposed Budget: \$ 562,366

- No Change

HB 2020 Signed by Governor: \$ 562,366

#68 Divisions of Corrections and Rehabilitation – Correctional Units

Governor's Proposed Budget: \$ 239,385,451

- No Change

HB 2020 Signed by Governor: \$ 239,385,451

#69 Divisions of Corrections and Rehabilitation – Bureau of Juvenile Services

Governor's Proposed Budget: \$ 43,774,795

- No Change

HB 2020 Signed by Governor: \$ 43,774,795

#70 West Virginia State Police –

Governor's Proposed Budget: \$ 104,165,475

- \$ 2,930,000 was added to cover the increase in benefit to the State Police Retirement System Plan B (SB 539)

HB 2020 Signed by Governor: \$ 107,091,475

#71 State Fire Commission –

Governor's Proposed Budget: \$ 64,021

- No Change

HB 2020 Signed by Governor: \$ 64,021

#72 Division of Justice and Community Services –

Governor's Proposed Budget: \$ 9,966,605

- No Change

HB 2020 Signed by Governor: \$ 9,966,605

#73 Division of Protective Services –

Governor's Proposed Budget: \$ 3,579,704

- No Change

HB 2020 Signed by Governor: \$ 3,579,704

#74 Division of Administrative Services –

Governor's Proposed Budget: \$ 704,339

- No Change

HB 2020 Signed by Governor: \$ 704,339

Items #62 – 74 Department of Military and Public Safety – Total Spend HB 2020 \$ 420,559,187

#75 Department of Revenue – Office of the Secretary

Governor's Proposed Budget: \$ 614,099

- No Change

HB 2020 Signed by Governor: \$ 614,099

#76 Tax Division –

Governor's Proposed Budget: \$ 29,253,392

- \$100,899 was added to current expenses to cover a number of administrative costs incurred by the division by the passage of a number of pieces of legislation. Most notable HB 2001 had a cost of \$51,000 to the tax division for its administration.

HB 2020 Signed by Governor: \$ 29,354,291

#77 State Budget Office –

Governor's Proposed Budget: \$ 696,141

- No Change

HB 2020 Signed by Governor: \$ 696,141

#78 West Virginia Office of Tax Appeals –

Governor's Proposed Budget: \$ 553,445

- No Change

HB 2020 Signed by Governor: \$ 553,445

#79 Division of Professional and Occupational Licenses – State Athletic Commission

Governor's Proposed Budget: \$ 36,811

- No Change

HB 2020 Signed by Governor: \$ 36,811

Items #75 – 79 Department of Revenue – Total Spend HB 2020 \$ 31,254,787

#80 State Rail Authority –

Governor's Proposed Budget: \$ 2,120,894

- No Change

HB 2020 Signed by Governor: \$ 2,120,894

#81 Division of Public Transit –

Governor's Proposed Budget: \$ 2,262,989

- No Change

HB 2020 Signed by Governor: \$ 2,262,989

#82 Aeronautics Commission –

Governor's Proposed Budget: \$ 775,117

- No Change

HB 2020 Signed by Governor: \$ 775,117

Items #80 – 82 Department of Transportation – Total Spend HB 2020 \$ 5,159,000

#83 Department of Veterans' Assistance –

Governor's Proposed Budget: \$ 10,748,094

- No Change

HB 2020 Signed by Governor: \$ 10,748,094

#84 Veterans' Home –

Governor's Proposed Budget: \$ 1,263,855

- No Change

HB 2020 Signed by Governor: \$ 1,263,855

Items #83 – 84 Department of Veterans' Assistance – Total Spend HB 2020 \$12,011,949

#85 Bureau of Senior Services –

Governor's Proposed Budget: \$ 29,950,955

- No Change

HB 2020 Signed by Governor: \$ 29,950,955

Item #85 Bureau of Senior Services – Total Spend HB 2020 \$ 29,950,955

#86 WV Council for Community and Technical College Education – Control Account

Governor's Proposed Budget: \$ 8,750,090

- \$ 10,034,748 was added for the "West Virginia Invest Grant Program". This money will be used as a "last dollar in" program to help those who qualify obtain an education in a variety of vocational programs (SB 1).

HB 2020 Signed by Governor: \$ 18,792,838

#87-95 State Community and Technical Colleges –

Governor's Proposed Budget: \$ 59,130,819

- #87 Mountainwest CTC – additional \$ 800,000 (total \$ 6,489,307)
- #88 New River CTC – additional \$ 150,000 (total \$ 5,864,886)
- #89 Pierpont CTC – additional \$ 300,000 (total \$ 7,820,129)
- #90 Blue Ridge CTC – additional \$ 2,500,000 (total \$ 7,830,842)
- #91 West Virginia University at Parkersburg – additional \$ 400,000 (total \$ 10,319,284)
- #92 Southern West Virginia CTC – same as Governor's proposed (total \$ 8,241,823)
- #93 West Virginia Northern CTC – additional \$ 150,000 (total \$ 7,285,825)
- #94 Eastern West Virginia CTC – additional \$ 300,000 (total \$ 2,179,912)
- #95 BridgeValley CTC – additional \$ 400,000 (total \$ 8,098,811)
- These improvements were discretionary additions made by the Legislature.

HB 2020 Signed by Governor: \$ 64,130,819

Items #86 – 95 Community and Technical Colleges – Total Spend HB 2020 \$ 82,923,657

#96 HEPC – Administration – Control Account

Governor's Proposed Budget: \$ 72,918,433

- \$ 182,000 was added for the "Mental Health Provider Student Loan Repayment Fund" (HB 2674)

HB 2020 Signed by Governor: \$ 73,100,433

#97 West Virginia Network for Educational Telecomputing (WVNET) –

Governor's Proposed Budget: \$ 1,747,826

- No Change

HB 2020 Signed by Governor: \$ 1,747,826

#98 West Virginia University – School of Medicine – Medical School Fund

Governor's Proposed Budget: \$ 20,946,037

- No Change

HB 2020 Signed by Governor: \$ 20,946,037

#99 West Virginia University – General Administrative Fund

Governor's Proposed Budget: \$ 109,242,558

- \$ 1,000,000 was added for the administration of the Tele-Stroke program. This was a discretionary addition made by the Legislature.
- \$ 500,000 was added for WVU – Potomac State. This was a discretionary addition made by the Legislature.

HB 2020 Signed by Governor: \$ 110,742, 558

#100 Marshall University – School of Medicine

Governor's Proposed Budget: \$ 13,648,213

- No Change

HB 2020 Signed by Governor: \$ 13,648,213

#101 Marshall University – General Administration Fund

Governor's Proposed Budget: \$ 48,232,632

- \$ 1,000,000 was added as a discretionary appropriation by the Legislature.

HB 2020 Signed by Governor: \$ 49,232,632

#102 West Virginia School of Osteopathic Medicine –

Governor's Proposed Budget: \$ 9,596,404

- No Change

HB 2020 Signed by Governor: \$ 9,596,404

#103 - 109 Colleges and Universities –

Governor's Proposed Budget: \$ 67,686,114

- #103 – Bluefield College – additional \$553,000 (total \$ 6,383,221)
- #104 – Concord University – additional \$ 1,625,000 (total \$ 10,476,415)
- #105 – Fairmont State University – additional \$ 3,000,000 (total \$ 18,600,341)
- #106 – Glenville State College – additional \$ 247,000 (total \$ 6,446,942)
- #107 – Shepherd University – additional \$ 2,700,000 (total \$ 12,683,829)
- #108 – West Liberty University – additional \$ 1,015,000 (total \$ 9,102,662)
- #109 – West Virginia State University – additional \$ 1,160,000 (total \$ 14,292,704)

HB 2020 Signed by Governor: \$ 77,986,114

Items #96 – 109 Colleges and Universities – Total Spend HB 2020 \$ 357,000,217

TOTAL SECTION I SPEND – GENERAL REVENUE HB 2020 (INCLUDING CLAIMS AGAINST THE STATE) - \$ 4,630,408,972

TOTAL SECTION II SPEND – STATE ROAD FUND HB 2020 (INCLUDING CLAIMS AGAINST THE STATE) - \$ 1,384,161,478

Actual claims against the state were \$ 2,546,854 lower than what was estimated by the Governor. This excess in funds were placed in appropriation 23701, Nonfederal Improvements, within the Division of Highways.

TOTAL SECTION III SPEND – OTHER FUNDS HB 2020 (INCLUDING CLAIMS AGAINST THE STATE) - \$ 1,519,650,363

TOTAL SECTION IV SPEND – LOTTERY NET PROFITS HB 2020 - \$ 127,808,000

TOTAL SECTION V SPEND – EXCESS LOTTERY REVENUE FUND HB 2020 - \$ 290,257,000

TOTAL SECTION VI SPEND – FEDERAL FUNDS HB 2020 - \$ 5,189,543,394

TOTAL SECTION VII SPEND – FEDERAL BLOCK GRANTS HB 2020 - \$ 550,281,331

TOTAL SECTION VIII CLAIMS AGAINST THE STATE HB 2020–

- \$ 642,817 for claims against General Revenue
- \$ 212,743 for claims against Special Revenue
- \$ 1,703,146 for claims against State Road Fund

SECTION IX – GENERAL REVENUE SURPLUS ACCRUED

If the state was to see a surplus at the end of fiscal year 2019 (June 30, 2019) half of the realized surplus would be deposited into the State Rainy Day Fund. The remaining funds would then be used to fund the following appropriations in the order which they are listed in the budget:

1. WV Food Banks – Department of Agriculture	\$ 300,000
2. Safe Schools Fund – Department of Education	\$ 3,500,000
3. Shepherd University	\$ 500,000
4. Blue Ridge CTC	\$ 500,000
5. Eastern West Virginia CTC	\$ 500,000
6. West Virginia University at Parkersburg	\$ 500,000
7. Glenville State College	\$ 500,000
8. New Born Screening Testing – Division of Health	\$ 200,000
9. Sexual Assault Intervention and Prevention – Division of Health	\$ 125,000
10. Tourism – Department of Commerce	\$ 7,000,000
11. Jim’s Dream – State Board of Education	\$ 4,000,000
12. Jim’s Dream – Consolidated Medical Service Fund	\$ 1,000,000
13. Medical Services – Division of Human Services	<u>\$ 53,000,000</u>
Total:	\$ 71,625,000

SECTION X – LOTTERY SURPLUS ACCRUED

If the State Lottery Fund realizes a surplus at the end of the fiscal year (June 30, 2019) these items will be funded with the surplus funds in the order they appear in the budget.

1. Senior Nutrition Vehicle Replacement – Senior Citizens Fund	\$ 1,000,000
2. In-Home Services and Nutrition – Senior Citizens Fund	\$ 750,000
3. Senior Services Medicaid Transfer – Senior Citizens Fund	<u>\$ 16,000,000</u>
Total:	\$ 17,750,000

SECTION XI – EXCESS LOTTERY SURPLUS ACCRUED

If the State Excess Lottery Fund realizes a surplus at the end of the fiscal year (June 30, 2019) this item will be funded with the surplus funds.

1. Medical Services – Division of Human Services	\$ 17,000,000
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SECTION XII – SPECIAL REVENUE APPROPRIATIONS

Two special revenue transfers are made within HB 2020. These transfers were made with the consent of the transferring Department.

1. From the Attorney General's Consumer Protection Fund (fund 1509):
 - a. \$ 1,000,000 was transferred to the State Police – Forensics Laboratory fund; and
 - b. \$ 2,400,000 was transferred to the Department of Health and Human Resources, Division of Human Services, Medical Services Trust Fund.
2. From the Department of Administration, Premium Tax Savings Fund (fund 2367), \$ 6,149,802 was transferred to the Department of Health and Human Resources, Division of Human Services, Medical Services Trust Fund.

The total of the transfers was \$ 9,549,802.

The total appropriated in HB 2020 is \$ 13,808,142,210

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: This bill was signed by the Governor on March 14, 2019., with the following objections:

"Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2020, passed March 8, 2019, approved with the following objections:

My first objection to the Bill is contained in Item 45, page 34, line 2, which states:

"Teachers' Retirement Savings Realized	09500	\$42,954,000"
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The above appropriation includes funding above what is necessary as certified by the Consolidated Public Retirement Board. Therefore, I am reducing the appropriation by the amount of \$5,372,000 to \$37582,000.

My second objection to the Bill is contained in Item 75, page 60, line 2, which states:

"Unclassified (R)	09900	5,837"
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The above appropriation includes an indication of reappropriation which is contradictory to the directive language included below the fund. Therefore, I am striking the "(R)".

My third objection to the Bill is contained in Item 75, page 60, line 8 through line 10, which state:

“Any unexpended balance remaining in the appropriation for Unclassified — Total (fund 0465, appropriation 09900) at the close of the fiscal year 2019 is hereby reappropriated for expenditure during the fiscal year 2020.”

The appropriation for "Unclassified — Total" is not assigned to appropriation code "09900", therefore I am striking "09900" in line 9.

My fourth objection to the Bill is contained in Item 141, page 86, line 1, which states:

"Current Expenses	13000	\$42,954,000"
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Due to the reduction of appropriation contained in my first objection, spending authority for this item is reduced to reflect the difference. Therefore, I am reducing the appropriation by the amount of \$5,372,000 to \$37,582,000.

For these reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2020.”

Committee Substitute for House Bill 2191

SHORT TITLE: Relating generally to limited video lottery.

CODE REFERENCE: West Virginia Code §29-22B-321; §29-22B-503; §29-22B-504; §29-22B-903; §29-22B-1408 – all amended.

This bill amends sections of the West Virginia Code to allow operators of limited video lottery machines to be licenses as retailers in up to 10 locations. In addition, the bill increases the maximum allowable bet on these machines from \$2.00 to \$5.00 and removes code restrictions that limited the machines from accepting any denomination of bill other than \$1.00, \$5.00, \$10.00, and \$20.00. Finally, the bill fixed the state's share of gross profits from limited video lottery machines at 50%.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 12, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on February 25, 2019.

Committee Substitute for House Bill 2307

SHORT TITLE: Relating to creating a provisional license for practicing barbering and cosmetology.

CODE REFERENCE: West Virginia Code §30-27-9 – amended.

The purpose of this bill is to remove the requirements to take an examination for a license to practice barbering and cosmetology in this state by an applicant with a valid license from another state. This bill also provides the board may issue a provisional license to an applicant with an expired license and authorizes the board to set the applicable fees for a provisional license and shall not exceed half the cost of a full license.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: February 12, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on February 19, 2019.

House Bill 2311

SHORT TITLE: Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

CODE REFERENCE: West Virginia Code §11-1-9 – NEW.

The purpose of this bill is to exempt short-term holders of a permit or license to sell items from being required to submit additional information to the Tax Commissioner after the term of the permit, so long as they have submitted all appropriate information during the term of the permit. The bill provides that the Tax Commissioner may audit the books and records of the permit holder to ensure compliance. The Tax Commissioner is granted rulemaking authority to comply with the terms of the statute.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 6, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for House Bill 2405

SHORT TITLE: Imposing a healthcare related provider tax on certain health care organizations.

CODE REFERENCE: West Virginia Code §11-26-1 through 17 and §11-26-19 – Repealed; §11-27-3 – amended; and §11-27-10a – NEW.

The purpose of this bill is to impose a tiered tax on Healthy Maintenance Organizations in a manner that will permit the maximization of federal matching dollars for use in the state Medicaid program.

The tax would be imposed as follows based upon the total Medicaid member months within Tiers I, II and III and to non-Medicaid members months in Tiers IV and V:

- (1) Tier I — \$17.00 for each Medicaid member month under 250,000;
- (2) Tier II — \$15.00 for each Medicaid member month between 250,000 and 500,000;
- (3) Tier III - \$7.00 for each Medicaid member month greater than 500,000;
- (4) Tier IV — \$0.25 for each non-Medicaid member month under 150,000; and
- (5) Tier V — \$0.10 for each non-Medicaid member month of 150,000 or more.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 6, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for House Bill 2452

SHORT TITLE: Creating the West Virginia Cybersecurity Office.

CODE REFERENCE: West Virginia Code §5A-6-4a – REPEALED and §5A-6B-1 through 6 – NEW.

The bill would enact a new article of code that creates the West Virginia Cybersecurity Office within the state Office of Technology. The state's Chief Technology Officer appoints the Chief Information Security Officer to supervise the office. The powers and duties of that person are set out in the bill.

The office is to set standards for cybersecurity and is charged with managing the cybersecurity framework to assess and eliminate, reduce and recover from cyber threats to the state for all state agencies, *excluding* higher education institutions, the county boards of education, the State Police, state Constitutional officers, the Legislature and the judiciary. The bill defines key terms.

The affected agencies would be required to undergo a cyber risk assessment as directed by the Chief Information Security Officer; adhere to cybersecurity policies and standards; submit a cyber risk self-assessment report to the Chief Information Security Officer by December 31, 2020; and manage a plan of action and milestones going forward. Information that could threaten the technology infrastructure critical to government operations and services, public safety or health would be exempt from FOIA.

The bill would allow the Chief Information Security Officer to enter into agreements with state government entities exempted from this article to voluntarily participate in the cybersecurity program.

The bill would also repeal an existing code section that charges the state's Chief Technology Officer with developing policies and taking actions to ensure the security of state government information and the data communications infrastructure from unauthorized uses, intrusions or other security threats.

The Department of Administration and the Chief Technology Officer have provided the following statement with regard to this legislation:

“West Virginia was selected last year as one of four states to participate in the National Governors Association (NGA) first policy academy on cybersecurity. The Policy Academy provided resources to refine strategic goals to improve the cybersecurity protection of vital government technology resources, with a specific objective of establishing a cyber risk management service within the Executive Branch of government. This service will establish the foundation of strong cybersecurity protection to meet a growing cyber threat. The NGA Policy Academy included input from the National Guard, Division of Homeland Security, Tech Connect WV, West Virginia Forward, the WV State Privacy Office, the WV Board of Risk and Insurance Management, the WV Office of Technology, the WV Association of Counties, and national experts in the cyber security arena and private industry, as well as lawmakers and personnel from other states that have implemented similar programs.”

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

House Bill 2515

SHORT TITLE: Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

CODE REFERENCE: West Virginia Code §11-15-9i – amended.

This bill would exempt from state sales and use tax:

- The sale and installation of mobility enhancing equipment installed in a new or used motor vehicle for the use of a person with physical disabilities; and
- The sale and installation for the repair or replacement parts of mobility enhancing equipment, whether the repair or replacement parts are purchased separately or in conjunction with the mobility enhancing equipment, and whether the parts continue the original function or enhance the functionality of the mobility enhancing equipment.

West Virginia Code §11-15B-2(b)(32) defines "Mobility-enhancing equipment" as equipment, including repair and replacement parts to the equipment, but does not include "durable medical equipment", which:

- (A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
- (B) Is not generally used by persons with normal mobility; and
- (C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

Committee Substitute for House Bill 2550

SHORT TITLE: Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

CODE REFERENCE: West Virginia Code §5B-8-1 through 5 – NEW.

This bill would allow the Department of Commerce to provide 3 types of grants to eligible businesses to use as matching funds for Small Business Innovation and Research (SBIR) or Small Business Technology Transfer (SBTT) funding. To be eligible, the business must:

1. Be a for-profit WV based business;
2. Received a Phase I or Phase II award from the appropriate federal agency and indicate that they have filed the necessary final report for Phase I and fully intend to apply for Phase II;
3. Meet all SBIR and SBTT requirements;
4. May not be in receipt of duplicate funding from other sources to use as a match;
5. That at least 51% of the research for the project would be conducted in WV and that the business will remain in WV throughout the duration of the project; and
6. Must demonstrate the ability to conduct the necessary research.

The bill sets out an application process and includes necessary elements to be included on the application.

The Secretary may award a WV Phase Zero grant of \$2500 upon successful submission of an approved Phase I SBIR and SBTT proposal. A business is only eligible for one grant per federal submission, up to a maximum of five over the lifetime of the entity.

The Secretary may award grants up to a maximum of \$100,000 to match funds received through a SBIR and SBTT Phase I proposal. Seventy-five percent is granted to the business upon receipt of the SBIR and SBTT Phase I award. The additional 25% upon submission of the Phase II application. A business is only eligible for one grant per federal submission, up to a maximum of five over the lifetime of the entity.

The Secretary may award grants up to a maximum of \$100,000 to match funds received through a SBIR and SBTT Phase II proposal. Seventy-five percent of the yearly match is granted to the business upon receipt of the SBIR and SBTT Phase II award. In year two 75% of the yearly amount is awarded. The additional 25% upon submission of the Phase II final report. A business is only eligible for one grant per federal submission, up to a maximum of five over the lifetime of the entity.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 8, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for House Bill 2579

SHORT TITLE: Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

CODE REFERENCE: West Virginia Code §11-10-11 – amended and §11-15-18a amended.

The purpose of this bill is to clarify conflicts within the code and create uniformity relating to the collection of taxes, the priority of distribution of an estate, and to limit the liability of a fiduciary charged with distribution of an estate. The bill makes all taxes due and unpaid to the state subject to the priority of liens in §38-10C-1 and the priority of taxes and debts owed to the United States. Further, the bill removed provisions imposing personal liability for unpaid taxes on any trustee, receiver, administrator, executor, or any other person charged with administration of an estate.

In addition, the bill rewrites §11-15-18a of the code to provide that the consumers sales tax due and unpaid be paid from the first money available for distribution, subject to the priority of liens in §38-10C-1 and the priority of taxes and debts owed the United States. Section 11-15-8a also imposes personal liability for taxes accrued and unpaid on any person responsible for the administration of a decedent's estate.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“Enrolled Committee Substitute for House Bill 2579 destroys the trust fund nature of collected consumers sales and service taxes, withheld employer withholding taxes and collected motor fuel excise taxes held in trust for the State by a business that is in bankruptcy, foreclosure or receivership; and eliminates the personal liability of a fiduciary for failing to remit collected trust fund taxes. The bill allows these public monies to be used for purely private purposes in violation of Article X, 6 of the Constitution of West Virginia.”

House Bill 2665

SHORT TITLE: Supplemental appropriation for PEIA Rainy Day Fee.

CODE REFERENCE: N/A

This supplemental appropriated \$105,000,000 to a newly created PEIA Rainy Day. This fund was created by HB 3135.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor March 14, 2019.

House Bill 2666

SHORT TITLE: Supplemental appropriation to the Department of Veterans' Assistance.

CODE REFERENCE: N/A

This supplemental appropriated \$6,200,000 in general revenue for the fiscal year ending June 30, 2019 to the Department of Veteran's Assistance.

\$6 million of these funds went to the state's Veteran's Nursing Facility. Through a series of internal audits, a number of accounting errors were discovered, resulting in over \$5 million dollars in unpaid invoices for the hospital. These invoices were paid, but as a result the hospital's operating funds were significantly decreased. This supplemental restored the funds that were used to correct the errors that were discovered through the audit process.

The other \$200,000 will be used to purchase vans through the Veterans' Grant Program. These vans will be used to transport disabled veteran's to and from medical appointments.

The total appropriation in this bill is \$6.2 million dollars.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 20, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor on March 1,2019.

House Bill 2667

SHORT TITLE: Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

CODE REFERENCE: NA

This is a supplemental appropriation from surplus FY 19 funds to the Department of Military Affairs and Public Safety, Division of Corrections, in the amount of \$20,609,836. These funds are used to help cover the costs that regional jails are incurring from an ever-increasing inmate population.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor March 14, 2019.

House Bill 2668

SHORT TITLE: Supplemental appropriation to the Department of Administration, Public Defender Services.

CODE REFERENCE: NA

This supplemental appropriated \$15.3 million dollars from the general revenue fund to the Department of Administration – Public Defender Services. These funds will cover the of constitutionally mandated indigent defense, as well as, help reduce costly interest payments from unpaid vouchers submitted to the Public Defender’s office.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: February 20, 2019

RESPONSIBLE ANAYLST: Chris DeWitte

ACTION BY GOVERNOR: Signed by the Governor on March 1, 2019.

Committee Substitute for House Bill 2673

SHORT TITLE: Creating the Oil and Gas Abandoned Well Plugging Fund.

CODE REFERENCE: West Virginia Code §11-13A-3a – amended and §22-6-29a – NEW.

This bill Amends and reenacts §11-13A-3a and enacts a new section §22-6-29a of the Code. The bill does two things. The bill reduces the severance tax on oil and gas produced from low producing wells to reduce costs of production, helping to ensure the wells are kept in service longer. The bill then uses the reduced amount of funds paid to plug and reclaim orphaned oil and gas wells that are polluting the environment.

Amend and reenact §11-13A-3a -- The tax exemption begins for all taxable periods on or after January 1, 2019. The bill creates an exemption for wells producing natural gas at average levels of less than 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period. The current exemption is for wells producing less than 5,000 cubic feet of natural gas per day.

The proposed bill also creates an exemption for wells producing oil at average levels of less than 10 barrels of oil per day during the calendar year immediately preceding a given taxable period. There is currently an exemption for wells producing less than ½ barrel per day.

This bill strikes the expired subsection (d) from the code and then exempts the operators from filing severance tax returns for wells producing less than an average 60,000 cubic feet per day for natural gas and 10 barrels per day for oil.

Enacts a new section §22-6-29a -- After creating the tax exemption and filing exemption, the bill then implements a fee of 2.5% of gross proceeds, calculated as though it was being taxed under §11-13A-1 *et seq.* The current severance tax rate is 5%. The fee is paid to a new fund known as the Oil and Gas Abandoned Well Plugging Fund which is to be administered by the DEP and used only to plug orphaned oil and natural gas wells.

Under the statutory scheme, the DEP must first use the funds from the sister fund known as the Oil and Gas Reclamation Fund. When these funds are expended, then the DEP can begin using the newly created fund. If on June 1 of any year, the newly created fund has a balance of more than 4 million dollars, the 2.5% fee is suspended for the following calendar year, thus effectively eliminating all taxes on these wells producing an average of less than 60,000 cubic feet and 10 barrels of oil per day. The DEP must spend the money to plug wells or temporarily lose the revenue stream. The bill further specifies that these funds in the Oil and Gas Abandoned Well Plugging Fund cannot be transferred to general revenue and may only be used to plug orphan wells to eliminate pollution to the environment.

The bill further requires the DEP to report to the governor and legislature every year regarding the balances in the two funds and the number of wells that were plugged in the previous year. Lastly, there is a civil penalty of \$1500 dollars maximum to be paid by any operator that fails to pay the required 2.5% fee by March 31st each year.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“The goal of providing additional needed funding to the Department of Environmental Protection to plug abandoned oil and gas wells and reclaim property disturbed by the plugging is a goal that needs to be pursued and achieved. However, this needed funding should come from general revenues generated by the current severance tax rate, among other sources, rather than from significantly diminished revenues generated by a 50% tax rate cut, which, under the bill, effectively becomes a 100% tax rate cut when \$4 million is in the Fund. I believe it would be to the detriment of the State and to the many causes to which general revenues are put to allow for such an increase in the amount of natural gas and oil produced with an effective tax rate of 0% once \$4 million has been deposited to the Fund, in order to direct funding to a purpose more efficiently funded from general revenues.

Further, there is potential conflict regarding the dedication of the severance tax proceeds from the privilege of producing oil and natural gas. Currently, 10% of the severance tax attributable to the severance tax on oil and natural gas is dedicated for the use and benefit of the counties and municipalities of the State, and of that amount 75% is to go to the oil and natural gas producing counties. As enacted, this bill would affect the amount available for these distributions needed to provide funds to counties and municipalities throughout the State.”

Committee Substitute for House Bill 2674

SHORT TITLE: Creating a student loan repayment program for a mental health provider.

CODE REFERENCE: West Virginia Code §18C-3-3 – amended

This bill creates a loan repayment program. The loan repayment program shall repay student loans for a mental health provider who resides and works in WV in an underserved area of WV for five years beginning January 1, 2020. The bill creates a special revenue fund account for the Higher Education Policy Commission known as the “Mental Health Provider Student Loan Repayment Fund”. The bill gives the Higher Education Policy Commission rulemaking authority to implement the provisions of this section. The bill also adds a HRSA grant to the funds available to the Higher Education Policy Commission.

The bill provides that the program is administered by the Higher Education Policy Commissioner and that the loan is available for up to three years beginning in January 1, 2020 for mental health providers who provide counseling services in underserved areas. They are entitled to receive up to \$30,000 to be dispensed in a program award of up to \$10,000 each year in exchange for completing one year of counseling in an underserved area. A participant may not receive more than three years of practice. A participant must direct each award toward repayment of their educational loans. The amendment provides rulemaking.

The bill also creates a second program for primary care physicians practicing in WV. This program creates a non-resident medical student partial tuition waiver as a means of recruiting practicing physicians to underservice areas and to primary care and practitioner shortage areas in WV. It will be known as the non-resident medical student tuition regularization program to be administered by the vice chancellor for Health Sciences in cooperation with the three medical schools in the state. Two non-resident medical students from each medical school in the state are selected annually to participate in the program subject to exceptions noted in the bill. Each student is charged the state resident tuition for each academic year and has the cost differential between the resident and non-resident rates waived by the institution at which he or she is enrolled. For each academic year he or she participates in the program, he or she shall commit to render services for one calendar year as a medical doctor or a doctor of osteopathy in this state in a medically under-served area or in a primary care or specialty practice field in which there is a shortage of physicians. The bill sets forth eligibility for the program, penalties for failure to satisfy service commitment, and provides for rulemaking.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: The Governor vetoed the bill on March 27, 2019. The Governor stated:

“The bill is technically flawed because its title is defective. See *State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically; the title notes that the bill authorizes legislative rules to be promulgated, but the bill authorizes the Commissioner of the Higher Education Policy Commission to promulgate rules.”

Committee Substitute for House Bill 2703

SHORT TITLE: Relating to refunds of excise taxes collected from dealers of petroleum products.

CODE REFERENCE: West Virginia Code §11-14C-30 – amended.

This bill increases the percentage cap applied to applications for refunds of the excise taxes collected from dealers of petroleum products for gallons lost due to evaporation. The cap is increased from one-half of one percent to one percent.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019.

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“Although I appreciate the intent of this bill, it is technically flawed because its title is defective, See State ex rel. Davis v. Oakley, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill’s contents). Specifically, the bill amends W.Va. Code §11-14C-30, but the title states that the bill amends W.Va. Code §11-14-10.”

Committee Substitute for House Bill 2734

SHORT TITLE: Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

CODE REFERENCE: West Virginia Code §11-13-3f; §11-13F-1; §11-13F-2; §11-13F-3; §11-24-11; §24-2A-5; and §24-3-2 - all amended.

This bill authorizes the Public Service Commission to allow privately-owned sewer or combined sewer and water utilities to provide reduced service rates qualified low-income customers. It also allows those utilities providing reduced rate services to receive a credit against their business and occupation tax and its corporate income tax. A utility may not recover more than the revenue deficiency resulting from the provision of reduced rate services.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 5, 2019.

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“Enrolled Committee Substitute for House Bill 2734 is technically flawed because its title is defective. See State ex rel. Davis v. Oakley, 156 W. Va. 154, 1919 S.E.2d 610 (requiring bill titles to provide notice of a bill 's content). Specifically, the title does not mention that credits are allowable for taxable years beginning on and after January 1, 2019 or that the bill defines certain terms. Additionally, there are other technical flaws in the bill. The bill includes erroneous code references. The language in §11-13F-3(a) and (b) in the bill erroneously refers to §24-13-1 et seq. when the correct reference is to §11-13-1 et seq. Additionally, within the bill, §11-13F-2(a)(2) and §11-13F-3(a) refer to §24-2A-3 when they should refer to §24-2A-3.”

Committee Substitute for House Bill 2737

SHORT TITLE: Relating to training of State Tax Division employees.

CODE REFERENCE: West Virginia Code §11-1-1b – NEW.

The bill would amend the provisions of the WV Code by adding a new section relating to the training of employees of the State Tax Division. The bill would provide that the State Tax Division may provide additional training and instruction to its employees to ensure adequate standards of public service and to promote the development and retention of a skilled workforce. The Tax Commissioner would be authorized to provide additional training or instruction for an employee in his or her field or vocation, at a place he or she deems suitable, upon the approval of the Secretary of Revenue. The Commissioner is also authorized to pay for tuition, materials or enrollment fees from available state funds, if any. The Commissioner would be authorized to promulgate rules providing for the implementation of the section.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 2, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 19, 2019.

House Bill 2743

SHORT TITLE: Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

CODE REFERENCE: West Virginia Code §8-22-11a – amended.

House Bill 2743 deletes provisions of the code relating to restrictions on policemen and firemen pension and relief funds contained in §8-22-11a. Restrictions on investments in policemen and firemen pension and relief funds were previously moved to §8-22-22a.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 1, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 22, 2019.

Committee Substitute House Bill 2807

SHORT TITLE: Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

CODE REFERENCE: West Virginia Code §11-21-12j and §11-21-17a – amended.

This bill would provide an additional modification reducing the West Virginia adjusted gross income for shareholders of S corporations in the banking business for tax years beginning on or after January 1, 2019. The shareholders proportional share of all items of income, loss, deduction or credit of the S corporation can be further reduced in the calculation of their West Virginia adjusted gross income by the percentage of the S corporations' assets that are the following:

1). Numerator = sum of the average of the monthly beginning and ending account balances during the taxable year. The account balances is determined at cost in the same manner that obligation, investments, and loans are reported on Schedule L of Federal Form 1120S of the following:

A). Obligations or securities of the U.S. for the purpose of implementing objectives of national policy;

B). Obligations or securities of the state;

C). Investments or loans secured by mortgages, etc. on residential property located in the state and occupied by non-transients; and

D). Loans secured by a lien or security agreement on residential property in the form of a mobile home, modular home or double-wide located in the state and occupied by non-transients.

2). Denominator = average of the monthly beginning and ending account balances of the total assets of the taxpayer shown on Schedule L of Federal Form 1120S.

There is a proviso that precludes this adjustment if adjustments are otherwise allowed pursuant to WVC §11-21-12.

The final provision of the bill makes the provisions retroactive to tax years beginning after January 1, 2018.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“Enrolled Committee Substitute for House Bill 2807 includes numerous technical flaws. For example, while attempting to update W. Va. Code §11-21-17a to incorporate the current way of citing to the West Virginia Code, a technical error was made in the bill -- the bill changed references to subsections (b), (c) and (d) of W. Va. Code §11-21-12, to reference §11-21-12b, §11-21-12c, and §11-21-12d, thereby changing the meaning of Bill §11-21-17a. The reference to the definition of "financial organizations" is also incorrect, as are other Code sections referenced in the bill.”

Committee Substitute for House Bill 2813

SHORT TITLE: Relating generally to collection of use tax.

CODE REFERENCE: West Virginia Code §11-15A-1 – amended and §11-15A-6b – NEW.

PROPOSED LAW PRESENTED TO THE COMMITTEE:

The bill would provide definitions for the administration of the collection of West Virginia use taxes from out-of-state retailers that do not have a physical presence in this state and who have not voluntarily agreed to collect West Virginia use taxes but have an economic nexus with this State, as defined in this bill, on sales to consumers in this State. The bill would also require certain out-of-state retailers known as “marketplace facilitators” to collect West Virginia use tax. A marketplace facilitator, in essence, contracts with third party sellers to promote their sale of physical property, digital goods, and services through the marketplace. The bill specifically provides an exclusion for marketplace facilitators who serve simply as a payment pass through and does not deal specifically with the sale of goods or services.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

House Bill 2828

SHORT TITLE: Relating to Qualified Opportunity Zones.

CODE REFERENCE: West Virginia Code §11-21-12j and §11-24-6b – NEW; §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, §31-15D-5, §31-15D-6, and §31-15D-7- all NEW); and §33-3-14e – NEW.

This bill is an economic development bill that, in conjunction with available federal programs, incentivizes business investment in West Virginia's low-income areas.

The bill improves upon the Federal Opportunity Zone program that was passed as a part of the Tax Cuts and Jobs Act. It offers an additional state incentive in the form of reduced corporate and personal income tax for business owners or investors willing to invest in approved Opportunity Zones throughout the state.

The bill also creates a new program modeled off the successful Federal New Markets Tax Credit program, which was preserved with the Tax Cuts and Jobs Act. This state policy will drive up to \$60,000,000 of private investment into small businesses located in areas of high poverty and low income. Different from every other state New Markets program, West Virginia's program adds a job creation requirement for investors that is enforceable by a backend penalty that can recoup up to 100% of the tax credits awarded to attract the private investment.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

"While Enrolled House Bill 2828 certainly has laudable purposes, it contains numerous technical flaws. For example, the title of the Bill is materially defective because it (1) does not state that the Bill creates an insurance premiums tax credit for qualified community development entities making qualified equity investments; (2) does not refer to the 60-million-dollar limit on certification for qualified equity investments; and (3) does not say that under certain circumstances the credit can be recaptured by the Insurance Commissioner. Within new article 31- I SD in the Bill there are several references to 26 U.S.C. §45D, as amended, This is an unconstitutional delegation of the Legislature's authority to the United States Congress. See Syl. Pt. I, *State v. Grinstead*, 157 W. Va. 1001, 206 S.E.2d 912 (1974). Additionally, while the Bill allows credit for qualified community development entities making qualified investments, only insurance companies pay the insurance premiums tax to the Insurance Commissioner, which makes the credit impossible to administer as written."

House Bill 2829

SHORT TITLE: Relating to the termination of severance taxes on limestone and sandstone.

CODE REFERENCE: West Virginia Code §11-136A-3 – amended.

The purpose of this bill is to terminate the severance tax on limestone and sandstone. The elimination would be effective on July 1, 2019.

A review of the Severance Tax on limestone and sandstone mining the past three fiscal years shows that the state collected an average of \$1.2 million in revenue. It is estimated the General Revenue Fund will lose roughly \$1.1 million in funding from the loss of Severance Tax on sandstone and limestone mining in FY2020 and \$1.2 million for each fiscal year, thereafter.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 1, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

Committee Substitute for House Bill 2831

SHORT TITLE: Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

CODE REFERENCE: Claims Commission Bill – Not Codified

The bill directs payment of moral obligations of state agencies, approved by the West Virginia Legislative Claims Commission, for claims against the State which, but for the constitutional immunity of the State from suit, or other legal restriction, could be maintained in the regular courts of this State and have been determined by the Legislative Claims Commission to be those that the State “should in equity and good conscience discharge and pay.” W. Va. Code §§14-2-12 and 13

The total amount of the claims itemized in the bill is directed to be paid from various state funds as follows:

GENERAL REVENUE FUND:	\$ 460,512.67
GENERAL REVENUE REAPPROPRIATED FUNDS:	\$ 106,378.00
STATE ROAD FUND:	\$ 2,703,145.61
SPECIAL REVENUE FUND:	\$ 212,742.70
TOTAL:	\$ 3,482,778,98

EFFECTIVE DATE: Passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 26, 2019.

Committee Substitute for House Bill 2848

SHORT TITLE: Relating to the West Virginia ABLÉ Act.

CODE REFERENCE: West Virginia Code §11-21-12i – NEW; §16-48-3 - amended; and §16-48-6 – amended.

This bill amends various provisions of the West Virginia Code relating to savings accounts created pursuant to the “Achieving a Better Life Experience in West Virginia Act”, or ABLÉ accounts.

The bill amends the definition section by adding definitions for the terms “ABLÉ Act” and “attorney in fact.” “Eligible individual” is amended to take out the specific age requirement of 26 by when the disability must have occurred, but instead uses the age requirement that is in the federal ABLÉ Act (which is currently 26). The bill also authorizes a parent or attorney to open and manage an ABLÉ account for a beneficiary who lacks capacity to enter a contract. Previously, only beneficiaries, conservators and guardians to open and manage accounts. The bill specifically excludes DHHR from being eligible to manage an account. The federal employer identification number is required of the person or entity opening or managing an ABLÉ account on behalf of a beneficiary.

The bill also removes provisions which allowed moneys in an ABLÉ account to be subject to a claim by Medicaid after the beneficiary’s death, and instead states that moneys in the account, as well as, qualified withdrawals are to be disregarded for purposes of determining eligibility for public assistance; are not subject to claims by DHHR; and upon the death of the beneficiary, any moneys left in the account shall be transferred to the estate of the beneficiary.

Lastly, the bill creates a new exemption from federal adjusted gross income for purposes of calculating WV personal income tax equal to the amounts contributed to an ABLÉ account, but only to the extent the amount is not allowed as a deduction in determining federal adjusted gross income in the first place. Any unused amount may be carried forward to the next 5 tax years. In addition, amounts deposited in an ABLÉ account which are subsequently withdrawn and not used for a qualified disability expense are to be added to federal adjusted gross income for use in determining WV personal income tax liability.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 1, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

House Bill 2853

SHORT TITLE: Establishing the West Virginia Program for Open Education Resources.

CODE REFERENCE: West Virginia Code §10-1-14a – NEW.

House Bill 2853 creates a new program, the West Virginia Program for Open Education Resources, under the State Library Commission. The Library Commission, in consultation with the Higher Education Policy Commission, the Community and Technical Colleges Commission, and the State Superintendent, will work to identify free or low-cost teaching, learning, and resource materials for use in West Virginia schools and institutions of higher education. These groups will establish a clearing house that will function as a publicly-accessible database for the materials and develop strategies to further leverage open resource materials.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 26, 2019.

House Bill 2854

SHORT TITLE: Exempting sales from the consumers sales and service tax and use tax by not for profit volunteer school support groups raising funds for schools.

CODE REFERENCE: West Virginia Code §11-15-9q – NEW.

This bill exempts sales by not-for-profit volunteer school support groups from the consumers sales and service tax and the use tax when the sale is for the purpose of raising funds for schools, regardless of whether the organization holds, or does not hold, an exemption under §501(c)(3) or §501(c)(4) of the Internal Revenue Code. The bill limits the fundraisers to no longer than 14 consecutive days and not more often than 18 times during any 12-month period.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 1, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 19, 2019.

House Bill 2992

SHORT TITLE: Relating to governmental websites

CODE REFERENCE: West Virginia Code §5F-1-7 – NEW; §7-1-3rr – amended and §8-39-1 – NEW.

The purpose of this bill is to set out standard content on all state web pages. Beginning December 31, 2019, each website shall include:

1. The office contact information;
2. The contact information of each staff member;
3. An organizational chart;
4. A list of administrative agency officials;
5. A list of governing statutes and legislative procedural rules;
6. Meeting minutes;
7. Annual reports;
8. All agency forms; and
9. Frequently asked questions and answers.

The bill provides that all county commissions may maintain a website beginning with specific information and shall update the required information and shall update the information within 30 days of any change and report the information to the Office of Technology who shall be responsible for providing a mechanism for updating the county information.

Additionally, all state municipalities may create and maintain a website that provides:

1. The title and name of each elected office holders;
2. The contact information of each office holder;
3. An electronic means of contacting each officer holder;
4. A copy of each municipal ordinance;
5. A copy of the approved meeting minutes; and
6. A schedule of regular meeting days for each calendar year.

Municipalities shall report the information to the Office of Technology who shall be responsible for providing a mechanism for updating the municipality information.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: The Governor vetoed this bill on March 27, 2019. The Governor stated:

“This bill is overly broad in its application, requiring "contact information of each staff member, including office location." There is no exception for employees who are engaged in undercover law enforcement operations, for employees whose office location is their personal residence, or for employees whose safety would be at risk by publishing their office location.

I understand the importance of providing the public with readily accessible information about state and local government, as intended by this bill. However, the bill should provide some flexibility for those employees to protect their safety, the safety of their coworkers or the integrity of law enforcement operations. I encourage the Legislature to revisit this bill and present it for signature with the exemptions necessary to protect certain employees.”

Committee Substitute for House Bill 3021

SHORT TITLE: Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

CODE REFERENCE: West Virginia Code §19-23-14 – amended.

The purpose of this bill is to reprioritize civil penalties imposed by stewards or the racing commission. Current law provides that the funds are to be utilized for medical care and funeral expenses for a death as a result of the discharge of a permit holder's duties under the jurisdiction of the racing commission. The bill would make the primary use of those funds to be post mortem examinations for thoroughbreds who are euthanized following a breakdown on a racetrack or who expire while stabled at the track.

The bill also contains provisions which provide that at the end of a fiscal year when there is greater than \$10,000 in the fund less any obligations that the funds may be spent as follows:

1. Aid, rescue, retraining and rehabilitation of a thoroughbreds who are no longer about to compete; and
2. For medical care and funeral expenses for a death as a result of the discharge of a permit holder's duties under the jurisdiction of the racing commission unless he or she is covered by workers compensation or other insurance policy providing full or partial hospitalization.

Finally, the bill provides that civil penalties levied against a greyhound racing licensee permit holder is to be placed into a fund for greyhound adoption programs for whelped dogs.

The Racing Commission is given rulemaking authority.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 5, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2019.

House Bill 3045

SHORT TITLE: Exempting certain complimentary hotel rooms from hotel occupancy tax.

CODE REFERENCE: West Virginia Code §7-18-2 – amended.

PROPOSED LAW PRESENTED TO THE COMMITTEE: This bill would exempt from the hotel occupancy tax any room that is provided complimentary to guests by a hotel operator. The State Auditor believes the bill will reduce local governmental tax collections related to the Hotel Occupancy Tax.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 5, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 19, 2019.

House Bill 3095

SHORT TITLE: Establishing a minimum monthly retirement annuity for certain retirants.

CODE REFERENCE: West Virginia Code §5-10-22l and §18-7A-26w - amended

The purpose of this bill is to provide a minimum monthly benefit of \$750 for retirants or beneficiaries of retirants of PERS or TRS that have 25 or more years of service.

The bill also provides some exclusions. For PERS, service as an elected public official and a temporary legislative employee would not be counted toward the 25 years of service requirement. For TRS, service as an employee of an institution of higher education when the employee's salary was capped at \$4,800 per year would not be counted toward the 25 years of service requirement. These limitations are like the limitations in the current provisions providing a minimum monthly benefit of \$500 for retirants with 20 or more years of service.

Additionally, the bill provides a minimum monthly benefit of \$375 for a beneficiary of a retirant that chose the joint and survivor annuity option.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 5, 2019

RESPONSIBLE ATTORNEY: Alan Nichols

ACTION BY GOVERNOR: Signed by the Governor on March 19, 2019.

House Bill 3135

SHORT TITLE: Expiring funds to the balance of the Department of Commerce, Development Office.

CODE REFERENCE: N/A

The Bill expires \$500,000 from the Auditor's Office – Purchasing Card Administration Fund and moves that money into the Development Office's Entrepreneurship and Innovation Investment Fund

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 7, 2019

RESPONSIBLE ANALYST: Ben Agsten

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

House Bill 3139

SHORT TITLE: Relating to funding of the Public Employees Health Insurance Program

CODE REFERENCE: West Virginia Code §5-16-25 – amended; §5-16-27 - NEW and §11B-2-15a - NEW.

This bill creates the Public Employees Insurance Agency (PEIA) Rainy Day Fund. It begins by requiring the PEIA Finance Board to maintain in the reserve fund an actuarially recommended amount of no less than 10% of projected plan costs. It also removes the requirement to transfer moneys resulting from plan savings into the reserve fund as well as the cap in reserve fund of 15% before a transfer to the Retiree Health Benefit Trust Fund.

The bill also creates a special revenue account administered by the Secretary of Revenue. He or she is granted authority to transfers funds in the account to PEIA for specified purposes. These purposes are set out in the bill. These include:

1. Reduce or prevent benefit cuts;
2. Reduce premium increases; or
3. Any combination thereof.

The Secretary is given the authority to seek assistance from the Investment Management Board and the Board of Treasury Investments.

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 14, 2019.

House Bill 3142

SHORT TITLE: Relating to reducing the severance tax on thermal or steam coal.

CODE REFERENCE: West Virginia Code §11-13A-3, §11-13A-6 and §11-13A-6a – amended

The bill would reduce the regular severance tax on thermal or steam coal to 2% over a three-year period. The first year of reduction would be at 35% of the 2%, the second year would be at 65% of 2% and in the final year it would increase to the full 2%.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

House Bill 3144

SHORT TITLE: North Central Appalachian Coal Severance Tax Rebate Act.

CODE REFERENCE: West Virginia Code §§114-13EE-1 through 16 – NEW.

PROPOSED LAW PRESENTED TO THE COMMITTEE: The bill would provide a rebate for capital investment in new machinery, equipment, and improvements to real property directly used in severing coal for sale, profit or commercial use and coal preparation and processing facilities placed in service or use on or after the effective date of this article. The rebate amount would be 35% of the cost of the new machinery, equipment, or improvements to real property. The rebate amount is limited to 80% of the State portion of the severance taxes attributable to the additional coal produced as a result of the new machinery, equipment, or improvements to real property. A taxpayer who fails to use the machinery, equipment, or improvements to real property for at least 5 years in the production of coal in this state shall pay a “recapture tax” equal to the amount of rebate received for the years the machinery, equipment, or real property were prematurely removed from service.

EFFECTIVE DATE: 90 days from passage.

DATE OF PASSAGE: March 9, 2019

RESPONSIBLE ATTORNEY: Jeff Johnson

ACTION BY GOVERNOR: Signed by the Governor on March 27, 2019.

House Bill 3148

SHORT TITLE: Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

CODE REFERENCE: N/A

This supplemental appropriation took \$53,000,000 from unappropriated surplus in Fiscal Year 2019 and re-appropriated it to the Division of Human Services – Medical Services line item appropriation (appropriation 18900).

EFFECTIVE DATE: Passage

DATE OF PASSAGE: March 4, 2019

RESPONSIBLE ANALYST: Chris DeWitte

ACTION BY GOVERNOR: This bill was vetoed by the Governor on March 14, 2019.

SENATE COMMITTEE ON FINANCE



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